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Ref:

16 November 2015

Southern Region Planning Panel
C/- Joint Regional Planning Panel Secretariat
GPO Box 39
SYDNEY NSW 2001



Dear Sir/Madam

DA No 2014.430 Proposed Marina Development, Cattle Bay, Eden. Panel reference 2015STH003

Please find enclosed the report in respect to the above proposed development.

I understand that the Panel meeting will be held on Tuesday 1 December 2015 at the Bega Valley Shire Council offices, Bega.

Should you require further details please contact me on 6499 2190.

Regards,

Keith Tull

Manager, Planning Services



JOINT REGIONAL PLANNING PANEL
(Southern Region)

JRPP No	2011STH026
DA Number	2014.430
Proposed Development	Staged 154 berth marina, wave attenuator and piles in the waters of Cattle Bay and land based ancillary carparking, offices and amenities.
Applicant	Eden Resort Hotel Pty Ltd
Report by	Keith Tull Manager for Planning Services Robert Slapp Senior Planner Bega Valley Shire Council

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ASSESSMENT REPORT AND RECOMMENDATION

1.0 EXECUTIVE SUMMARY

Eden Resort Hotel Pty Ltd is the proponent for the proposed marina development.

The proponent has long had a vision to develop a marina development in association with a mixed use tourist and residential development within the former Heinz Cannery site and on adjoining lands.

The development of the cannery site and surrounding lands has been subject to a Major Project Concept Approval (05_0032) issued by the Minister for Planning on 22 August 2008. The approval has been subsequently modified on two separate occasions and is still active.

A marina development (land/water based components) did not form part of the Major Project Concept Approval issued by the Minister.

The proposal involves the staged construction of a 154 berth marina comprising three floating pontoon arms, fixed wave attenuator, refurbishment of the existing wharf, land based carparking and temporary buildings to house marina administration and toilet facilities.

The subject land (land and water) comprises the foreshore land upon which the former Heinz Cannery factory occupied, the old cannery wharf and encompasses parts of the Cattle Bay and Twofold Bay marine environs.

Access between the land and water based components of the marina would be over a public reserve created as part of the Major Project Concept Approval (05_0032) and subsequently vested in the ownership of Council through the subdivision of land.

The proposed marina development constitutes designated development for the purposes of the Environmental Planning and Assessment Act 1979 (Schedule 4A) and Environmental Planning and Assessment Regulations 2000 (Schedule 3). Accordingly, the application is to be assessed by the Bega Valley Shire Council (BVSC) and submitted to the Southern Region Joint Regional Planning Panel (SRJRPP) for consideration and determination.

The development application has been assessed in accordance with the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) and relevant legislation and Council adopted Policy.

The application has been subject to two separate public consultation processes. In response, Council has received in total 25 submissions comprising:

- Six submissions in support of the proposed marina development;
- Fifteen submissions objecting to the proposed marina development;
- Three submissions supporting the marina development but raising concern: and
- One submission expressing an undecided opinion.

The application through the assessment process has also been subject to internal and external referrals to relevant State Agencies and Council Staff.

Based on the Section 79C assessment detailed in this report and the merits of the application, the proposed development is recommended for approval subject to the conditions detailed in the attached Draft Consent.

2.0 INTRODUCTION

The proposal to develop a marina in association with a mixed tourist and residential development initially commenced in 2000 with the purchase of the old Heinz Cannery site by the proponent.

A Major Project Concept Approval (05_0032) for mixed tourist and residential development was issued in August 2008. However, a marina did not form part of the application (see Appendix 1).

A planning proposal for the construction of a marina was submitted in 2010 to the Department of Planning for the Minister's consideration under Part 3A of the Environmental Planning and Assessment Act 1979.

The proposal was subsequently withdrawn by the proponent in August 2012 due to changes in planning legislation. At that time, the proponent advised the Department that an application would be prepared and lodged pursuant to Part 4 of the Environmental Planning and Assessment Act 1979.

In February 2013 the proponent sought Director General's Requirements for the construction of the now proposed marina development. The Director General's Requirements were conveyed to the proponent by letter dated 23 March 2013.

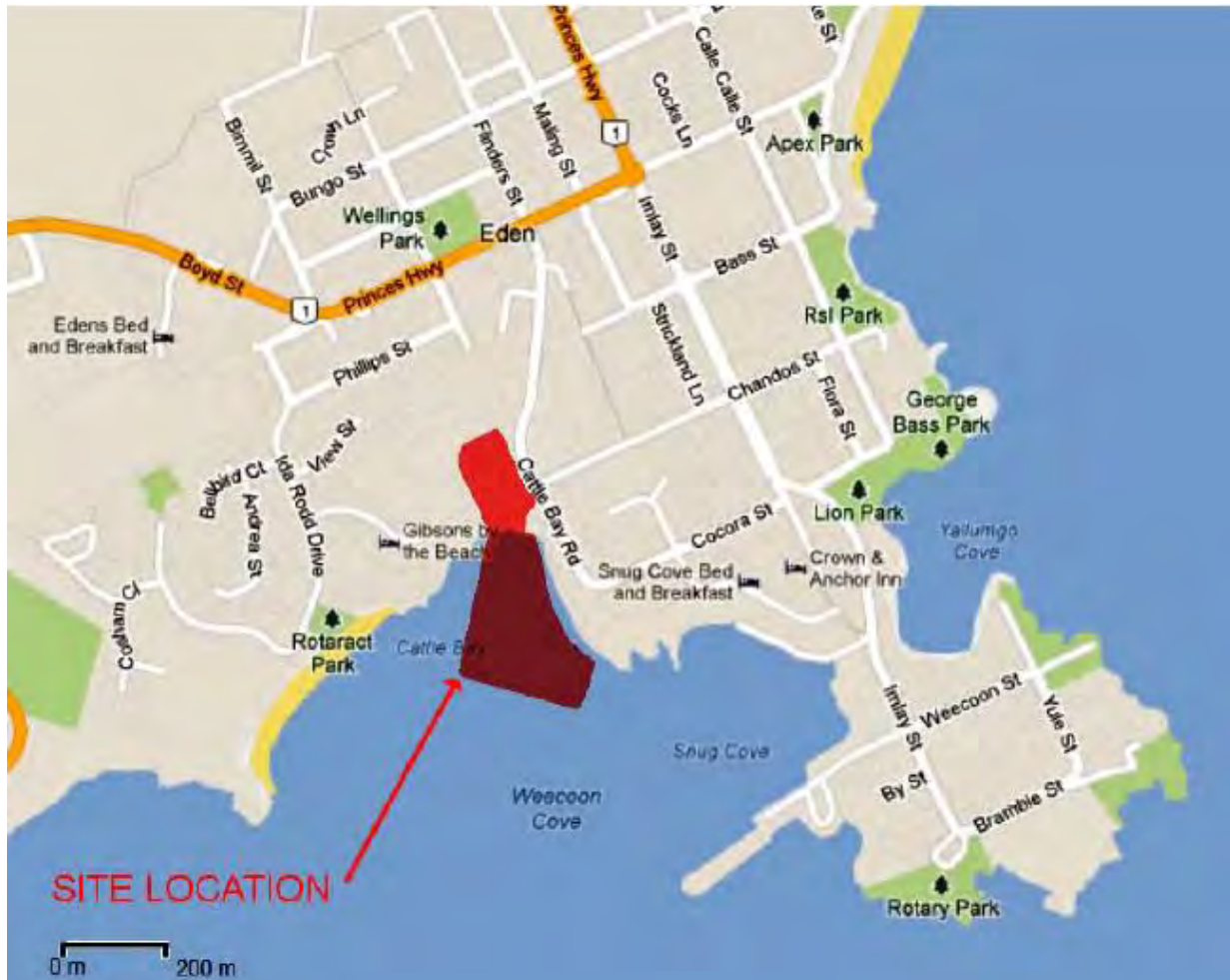
A Development Application was lodged with Council on 29 October 2014 pursuant to Part 4 of the of the Environmental Planning and Assessment Act 1979.

The application as submitted is supported by a number of technical reports addressing environmental standards and potential impacts associated with the proposed marina.

As previously advised, the Southern Region Joint Regional Planning Panel will be the determining authority for this application.

3.0 DESCRIPTION OF THE SITE AND OWNERSHIP

The site is located approximately 1 kilometre west of the Eden Town Centre on the NSW south coast. Both the land and water based components of the development are located within the Bega Valley Shire Local Government area.



Source: *Environmental Impact Statement Royal Haskoning DHV August 2014*

The site adjoins Cattle Bay Road to the east and encompasses part of Cattle Bay to the south being within the marine environs of Twofold Bay.



Site Plan – Source: Environmental Impact Statement Royal Haskoning DHV August 2014

The site comprises a land based component and an area within Cattle Bay surrounding and encompassing the existing wharf structure.

The land component comprises Lot 2 and part Lot 4 DP1138056. Lot 2 is owned by the proponent. Lot 4 has been dedicated in subdivision as public reserve and is vested in Council's ownership.

A copy of the deposited plan is attached in Appendix 2 to this report.

The water based component of the site, inclusive of the existing wharf, is Crown land. The area to be occupied is approximately 7.5 hectares (subject to survey and final design and footprint of the wave attenuator). The Department of Trade and Investment - Crown Lands has issued land owner's consent enabling the lodgement of the application.

Advice has been received by Council from both the proponent and Crown Lands that the proponent is currently negotiating directly with Crown Lands to secure legal tenure arrangements over the waterway component inclusive of the existing wharf structure.

3.1 Existing Development – Land Component

The site (Lot 2 DP 1138056) retains a series of level concrete slabs and service conduits being remnant to the previous occupation of the land by the Heinz Cannery. There are no buildings and/or other structures on the subject land other than security fencing.



View internal to the site looking south over subject site towards Cattle Bay - Source: Bega Valley Shire Council September 2015.

Lot 4 DP 1138056 comprises an area of public reserve land immediately adjoining the foreshore. The land is characterised by concrete slabs, an old cannery building (partly demolished), service conduits, pits and sumps. Its foreshore interface is protected by a sea wall.



View internal to the site looking west over Council's public reserve and site generally – Source: Bega Valley Shire Council September 2015.



A more detailed view internal to the site looking west over Council's public reserve - Source: Bega Valley Shire Council September 2015.



View from existing wharf looking west over Cattle Bay foreshore area. Note seawall location and construction – Source: Bega Valley Shire Council September 2015.



View internal to the site looking east over Council's foreshore public reserve area towards disused cannery building – Source: Bega Valley Shire Council September 2015.



View internal to the site looking south over concrete slab area and towards Cattle Bay – Source: Bega Valley Shire Council September 2015.

With the exception of the proposed 6 metre wide access corridor, no other part of Lot 4 is to be used in association with the proposed marina development.

There is no significant vegetation on the land or habitat opportunities.

All service infrastructure is available.

3.2 Existing Development – Water Component

Approximately 7.5 hectares of the site comprises the waters of Cattle Bay surrounding the existing wharf.



View from existing wharf looking south east over the proposed water way area to the new jetty component of the marina – Source: Bega Valley Shire Council September 2015.

Approximately 24 leased swing moorings are located within the proposed marina footprint area.

Cattle Bay comprises a protected sandy beach contained between rocky headlands. The beach and the existing wharf offer significant public recreational opportunities and contribute to the amenity of surrounding residential development.

Cattle Bay's main aquatic habitats are:

- Bare sandy habitats (the beach, shallow intertidal sands and offshore sands). The sub tidal sand habitat supports shallow inshore seagrass beds or patches becoming more sparse and irregular in deeper water.
- Rock habitats (intertidal rocky shores and shallow to deep rock reefs or boulder reefs).
- Constructed habitat (wharf support piles, mooring tackle and pipelines).
- Discarded timber, tyres and metal rubbish possibly associated with the old cannery.

Cattle Bay offers habitat opportunities to a diverse range of fish, polychaete worms, molluscs and crustacean species.

Marine mammals (whales, dolphins and seals) make use of Twofold Bay, predominantly seasonal but also year round. A number of introduced marine species are also present in Twofold Bay.

Further detail is presented in Section 10.3 of this Report.

3.3 Surrounding Development

The site is surrounded by a corridor of vegetated elevated land to the north, east and west.

Areas above the vegetation corridor are predominantly characterised by low density residential development comprising a mix of one and two storey dwellings.

A number of these properties enjoy views (some expansive) out over Twofold Bay and to a lesser extent, Cattle Bay.

Cocora Beach and a commercial aquaculture (mussel) farm are to the west. Cocora Beach is a long, wide sandy beach which offers excellent recreational opportunities. It is separated from Cattle Bay by a rocky headland.



View looking north from the end of the existing wharf showing the elevated nature of the topography surrounding the development site – Source: Bega Valley Shire Council September 2015.



View looking south west from the end of the existing wharf showing Cocora Beach profile – Source: Bega Valley Shire Council September 2015.



View looking south west from Cocora Beach towards its headland and mussel farm beyond – Source: Bega Valley Shire Council September 2015.

To the east of Cattle Bay is Eden Harbour, a base for commercial fishing and other maritime activities. The foreshore between Cattle Bay and Eden Harbour is characterised by a rocky headland, gravel shoreline and rock seawalls.



View looking south-west over Cattle Bay and Cattle Bay Jetty to Cocora Beach



Rocky outcrop at the northern end of Cocora Beach separating this beach from Cattle Bay. Cattle Bay Jetty is visible in the background

Source: Environmental Impact Statement Royal Haskoning DHV August 2014



View looking west from Eden Harbour to the rocky headland and gravel beach (2012).



View of rock seawall within Eden Harbour (2012).

Source: Environmental Impact Statement Royal Haskoning DHV August 2014

4.0 DESCRIPTION OF PROPOSAL

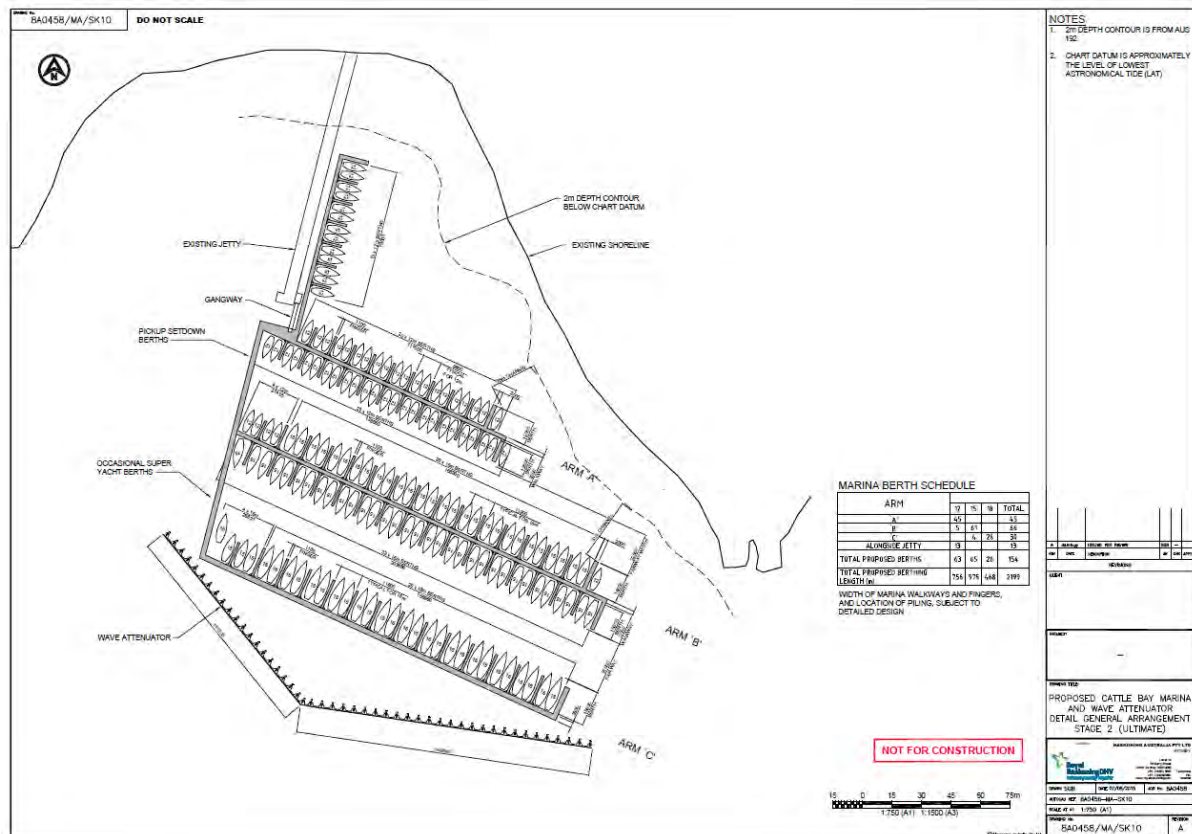
The application seeks approval for the staged construction of a marina development comprising both land and water based components.

Stage 1 comprising:

- Construction of the wave attenuator;
- Refurbishment of existing wharf;
- Marina main arm;
- Part marina berthing arms; and
- Land based facilities.

Stage 2 comprising:

- Completion of the marina berthing arms.



Source: Proposed Cattle Bay Marina Development and Wave Attenuator Stages 1 and 2 – Royal Haskoning DHV 7 August 2015

In summary, the proposal comprises:

- A total of approximately 154 berths in three floating pontoon arms restrained by piles;

- A mix of berth sizes from 12 metres to 28 metres to cater for a range of watercraft from small local recreational vessels to large international super yachts. The exact mix of berths to be determined in the preparation of final designs.
- A cranked, fixed wave attenuator immediately adjacent the southern pontoon arm of the marina;
- Refurbishment of the existing wharf;
- Provision of power, lighting, water, firefighting equipment, mobile 'muck truck' and security access controls to the pontoons and births;
- Connection to existing potable water, sewer and power supplies to service proposed temporary buildings and firefighting;
- Refurbishment and temporary use of existing stormwater drainage system incorporating the provision of a new gross pollutant trap;
- Temporary on-site carparking for 97 vehicles and 3 loading/unloading spaces. The carparking spaces would be located on, and use, the existing concrete slabs and stormwater drainage system remnant to the old cannery until such time as the land based, mixed tourist/residential development is constructed. At that time, the required on-site carparking and servicing arrangements for the marina would be incorporated into the design and construction of the land based development;
- Access to the site would be provided from Cattle Bay Road over the existing entry/exit driveway;
- A temporary (portable) building is to be located on the site to house the marina administration and toilet facilities.
- A suitable pedestrian and service vehicle access 6 metres wide is to be constructed over the existing public reserve corridor which is located immediately adjacent the foreshore. The access is required to provide linkage between the land and water based components of the marina development.
- Provision of two mobile sewage pump out "muck truck" units for sewage pump out purposes.
- Modification to an underwater rock pinnacle within the marina footprint to ensure safe navigation.

Plans of the proposed marina development are included in Appendix 3 of this report.

4.1 Design Approach – temporary buildings and on-site carparking.

Access to the site would be provided from Cattle Bay Road over the existing access driveway.

Existing concrete slab surfaces would be restored as necessary to facilitate the effective use of the area for on-site carparking and associated driveways. All driveways would be compliant with the Building Code of Australia and AS 2890.6 2009 Parking Facilities – off-street parking for people with disabilities.

All on-site carparking would be made available to marina staff, patrons and the general public.

The proposed temporary marina administration and facilities building would be located in the south-east corner of the site on an approximate building line of 35 metres to the Cattle Bay Road frontage.

The building would be located on the existing slab area and in close proximity to the proposed access corridor linking the land and water based components of the development.

The building would comprise two separate single storey 'atco' style buildings, structurally connected by a covered deck. Access to the building would be in accordance with AS 1428.1 2009 – Design for Access and Mobility.

4.2 Design Approach – Marina Development

The proposed marina and wave attenuator have been designed and located in accordance with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas' and AS 4997 – 2005 'Guidelines for the Design of Maritime Structures'.

The Standard sets out guidelines for the design of marinas for vessels up to 50 metres in length. It applies to fixed berth and floating pontoon marina systems, single pontoon and floating wave attenuators. Guidance is also given in relation to on-shore facilities such as dry boat storage, boat ramps and the like.

4.2.1 Floating Marina

The position and layout of the proposed marina has been influenced by a range of factors:

- Available natural water depth (avoidance of dredging);
- Connection to existing wharf (Access to the foreshore and land based components of the development)
- Incident wave climate at the site (wave height, period and direction):
- Existing navigation channel and swing basin associated with the use of Eden Harbour by commercial vessels;
- The location of the proposed Port of Eden Marina development;
- Minimum dimensions for marina berths, channels and fairways.

4.2.2 Berth Schedule

The berth schedule proposed at the site is set out below:

Berth Length (m)	Number	%
12	63	41
15	65	42
18	26	17
	154	100%

Source: Environmental Impact Statement Royal Haskoning DHV August 2014

4.2.3 Type and Layout of Berths

The proposed marina has been positioned to ensure that adequate natural water depths comply with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'. Dredging will not be required. However, an underwater rock pinnacle within the marina footprint will need be to lowered/removed to ensure safe navigation.



Underwater rock pinnacle – Source: Environmental Impact Statement Royal Haskoning DHV August 2014

The marina berths would comprise a floating system of walkways, with finger units at right angles to the walkway to create the individual berthing pens with access to the port or starboard side of the vessel.

The floating berths would be secured in place by vertical concrete piles or concrete and steel composite piles driven or potted (presence of rock) into the seabed. The

concrete and steel composite piles being required where there is an increase in water depth or where loading conditions dictate.

Intermediate mooring piles may be required to those double berths along the more exposed southern arm of the marina. The additional piles being required to aid vessel manoeuvrability and mooring security in the event of wind generated waves or boat wake, exceeding 300mm in height.

Subject to final design, walkway and finger unit widths will vary from 1 metre to 3 metres being compliant with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'.

A 30 metre section on the western side of the main north-south walkway will be designated as a pick up and set down area designed to cater for two to three vessels. This area would be mostly used by local commercial, tourist and visiting recreational vessels. The area would also be available for use by law enforcement and emergency service vessels as required.

The southern end section of the main north-south walkway would be available for occasional super yacht berthing. A nominal length of 100 metres would be provided which would cater for two to three vessels depending on vessel size.

4.2.4 Wave Attenuator

The primary purpose of the wave attenuator is to moderate ocean swells and local wind waves generated across Twofold Bay by strong winds from the south/south-west in order to provide safe mooring facilities within the marina in accordance with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas' and AS 4997 – 2005 'Guidelines for the Design of Maritime Structures'.

No construction plans have been submitted as part of the current application. However, detail in the current application has confirmed that the final alignment of the attenuator is 'cranked' as opposed to that initially documented. The change in the alignment of the attenuator was considered necessary to provide a moderate wave climate for vessels moored in its lee and to minimise potential adverse environmental impacts along Cocora Beach.

The current application provides a general overview of the design and construction methods for the attenuator. The structure would comprise a series of vertical and raked piles with an insitu or precast concrete cap, supporting precast concrete panels that span between the pile caps and extend a sufficient distance below the water level to provide the required wave attenuation performance standards.

The crest height of the attenuator would be reflective of sea/tide levels being:

- 0.8 metres above the highest astronomical tide level; which equates to
- 1.9 metres above mean sea level (which approximates AHD) and which is the height for approximately 50% of the time; which equates to
- 2.9 metres above the lowest astronomical tide (Chart Datum).

As a comparison, the height of the existing wharf is 2 metres AHD.

The attenuator would extend to depth of approximately 6 to 8 metres below water level. A clearance to the seabed of 4 to 6 metres would be maintained subject to design.

The attenuator can be readily designed for survivability against severe storm/wave events and/or sea level rise.



Photo A: Construction of fixed panel wave attenuator – showing fixed panel being lifted into place by floating crane.



Photo B: Construction of fixed panel wave attenuator – showing fixed panel being positioned onto pile caps



Photo C: View along pile caps showing fixed panels in place.



Photo D: View of completed wave attenuator and floating marina.

Example of fixed wave attenuator construction – Source: Environmental Impact Statement Royal Haskoning DHV August 2014

4.3 Public Access

A pedestrian and service vehicle access 6 metres wide is to be constructed over the existing public reserve to provide a linkage between the land and water based components of the marina development.

Access across all elements of the marina would be designed and constructed in accordance with the Building Code of Australia and relevant Australian Standards.

Public access over Council's public reserve (Lot 4 DP 1138056) and foreshore area to Cattle Bay would be maintained at all times.

There is no lawful public access to the existing wharf at the present time. Public access is to be formalised given its new role and its recreational and tourism potential. However, any formal access arrangement would be managed by the marina operator in the interests of safety and security.

Advice has been received by Council from both the proponent and Crown Lands that the proponent is currently negotiating directly with Crown Lands for the purpose of securing legal tenure arrangements by way of lease over the waterway component inclusive of the existing wharf structure.

Public access to the marina would be made available during normal day light hours throughout the year. An access security gate would be installed at the head of the access gangway leading to the floating component of the marina. The gate would be locked at night to preclude public access.

After hours access for boat owners and marina staff would be provided by the use of a security key card system.

4.4 Swing Mooring Relocation

There are approximately 40 swing moorings in Cattle Bay and Snug Cove. Approximately 24 of these mooring will need to be relocated in order to accommodate the proposed marina and wave attenuator.

There are options available to relocate the affected moorings which will need to be fully investigated in consultation with affected licence holders, the proponent and relevant State Agencies.

Currently, existing moorings are under licence issued by Roads and Maritime Services.

A swing mooring relocation strategy will need to be prepared separate to this application for endorsement by NSW Trade and Investment – Crown Lands, Roads and Maritime Services and affected lease holders.

4.5 Refurbishment of Existing Wharf

The existing wharf is to be retained. To ensure its safe and effective use, its structure is to be refurbished involving the replacement of piles, headstocks and girders and decking as part of the proposed marina development.



Existing wharf – Source: Environmental Impact Statement Royal Haskoning DHV August 2014

A detailed condition report and underwater inspection would be required as part of the finalisation of the refurbishment scope of works.

Ongoing maintenance of the wharf would be undertaken as required and in accordance with any subsequent lease agreement with NSW Trade and Investment – Crown Lands.

4.6 Service Infrastructure

Subject to design and construction, all public utility services are available to both the land and water based components of the proposed marina development.

The supply of fuel would not be available at the marina. Vessel re-fuelling facilities are available from existing suppliers in Eden Harbour.

4.6.1 Lighting, Potable Water, Power and Communications

These services would be provided to both the land and water based components of the marina in accordance with the requirements of the relevant authorities.

Services would be made available to individual marina berths by low height (approximately 900mm) service pedestals. The service pedestals would be strategically located along the floating arms of the marina.

4.6.2 Fire Fighting

Fire fighting capability would be provided in accordance with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'.

The equipment would include a fire hydrant, hose reels and extinguishers.

A fire hydrant would be installed at the end of the existing wharf at its junction with the new floating marina component. The hydrant would have its own water supply service from Council's reticulated water main infrastructure in Cattle Bay Road.

Fire hose reels would also be serviced from Council's reticulated water main infrastructure but separate to the hydrant service.

Extinguishers would be strategically located and would be selected on the basis of suitability of fighting fire hazards which are not capable of being contained by water.

4.6.3 Sewage Pump Out

Sewage is proposed to be removed from the holding tanks of vessels at the marina berth and disposed of to an on-land sewerage system by means of two 90 litre mobile sewage pump out units (Muck Trucks).

The operation of the Muck Truck involves:

- The trolley is wheeled to the required point adjacent to the vessel and a flexible discharge hose is attached to the holding tank on the vessel;
- The unit is connected to the power supply at the service pedestal. The pump out unit is also fitted with a battery backup in the event of a power failure;
- The pump evacuates the sewage from the vessels holding tank into the mobile unit (90 litre capacity) which would accommodate the majority of vessels permanently moored at the marina. The unit is fitted with an automatic tank overfill protection which shuts the pump off should the holding tank of the vessel exceed the size of the pump out unit.
- The mobile unit is wheeled to an on-land connection point for discharge to Council's reticulated sewage system.
- The muck truck would be operated by suitably skilled marina staff.
- A minimum of two muck trucks would be deployed at the marina.

Mobile sewage pump out systems are widely and successfully used in marina developments nationwide. They do not rely on the vessel's owner accessing a static dedicated berthing area and pump out facility at the marina. It enables the marina operator to be more proactive in compliance with operational standards of any subsequent environmental protection licence and operational environmental management plan.



Example of Muck Truck – Source: Environmental Impact Statement Royal Haskoning DHV August 2014

4.6.4 Bilge Water Pump Out

All marina berth tenants would be inducted in the use of and supplied with, a bilge water absorbing pad as part of the marina's operational standards. The pad(s) will effectively absorb water and oil from the bilge of the vessel.

The pad would then be disposed of by way of a certified collection agent.

The direct discharge of bilge water within the berthing area would be prohibited under the marina's operational standards. Appropriate signage would be displayed at the marina.

A floating boom would be maintained at the marina for the purpose of spill containment and treatment.

4.6.5 Site Preparation and Construction Overview

Construction activities would involve a variety of different types of construction methods and equipment. The principle activities would comprise:

- the erection of temporary building;
- refurbishment of the existing wharf;
- removal of swing moorings;
- installation of piles and pontoons;
- Installation of gangways and services.

A construction program of approximately 16 weeks is proposed with piling taking place over an 8 week period.

Construction hours would be restricted to:

- Monday to Friday 7.30am to 5.00pm
- Saturday 7.30am to 1.00pm
- No work on Sundays or Public Holidays

Wharf refurbishment

The extent of the work required to refurbish the existing wharf would become more apparent following a detailed structural investigation. Timber piles to be removed or secured would be dealt with in a controlled manner. A turbidity control barrier would be deployed and maintained during the process.

Materials recovered may be suitable for re-cycling off-site. Unsuitable materials would be removed and transported to an authorised waste disposal facility.

Work would most likely to be carried out by barge mounted crane, transport barge, work boats and hand held power tools.

Pile transportation and installation

All piles would be delivered to the site by barge and installed from the water using a piling barge. A turbidity control barrier would be deployed and maintained during the process.

Installation of pontoons

The pontoon units would be manufactured off-site and transported to the site by road, then launched from the Eden harbour by crane and towed and guided into their correct position using GPS technology.

5.0 OTHER MARINA DEVELOPMENT

Currently there are no marina developments located within Eden or Twofold Bay. However, there are two planned marinas which have reached different stages in design and development being the Boydtown Marina Development and the Port of Eden Marina proposal (POEM).



Geographical locations of Boydtown Marina and POEM developments in context with Cattle Bay Marina proposal – Source: Environmental Impact Statement Royal Haskoning DHV August 2014

- The Boydtown Marina proposal, eight kilometres to the south west of Eden.

The marina proposal is linked to the development of a residential estate at Boydtown.

The proposal secured development approval from the Minister of Planning (DA 89.1440) in November 1990 and has been physically commenced to the satisfaction of the Department of Planning.

In summary it comprises:

- The construction of break walls to form an artificial harbour;
 - Timber jetty;
 - Sheltered water harbour mooring – 40 vessels;
 - 250 wet berths;
 - Fuelling berths, sewerage and bilge pump out facilities and firefighting facilities;
 - Repair and maintenance facilities;
 - Dry storage facilities – 100 vessels;
 - Boat launching facilities and associated carparking; and
 - Marine village including general store, shops and offices.
- The Port of Eden Marina (POEM) is proposed to be located immediately to the south east of the Cattle Bay Marina Site.

The marina development is proposed by a consortium of local interest groups, Government Agencies and other stakeholders for the purpose of securing government funding for additional marina development in Eden.

In summary, it comprises two stages:

- Stage 1: Reclamation of a portion of the northern foreshore to Snug Cove to establish a 98 berth marina incorporating a wave attenuator, floating structures, piling and services, marina amenities/administration building, pump out facility and associated 85 car parking spaces; and
- Stage 2: Additional 95 floating births and additional carparking spaces.

There is no development application currently lodged for the proposed development.

6.0 STRATEGIC OVERVIEW

There are a number of State and Council strategic policies which have relevance in the assessment and determination of the current application. They comprise:

- NSW Coastal Policy 1997;
- The South Coast Regional Strategy;
- Coastal Design Guidelines
- Twofold Bay and Hinterlands Strategy 2004;
- The Eden Structure Plan Report 2006;
- Snug Cove and Environs Master Plan 2005; and
- Bega Valley Shire Land Use Planning Strategy 2008

6.1 NSW Coastal Policy 1997

The Policy is a comprehensive goals oriented policy, designed to guide coastal zone management and planning. The Policy embraces the Principles of Ecologically Sustainable Development and contains a number of key strategic objectives and actions designed to:

- Protect, rehabilitate and improve the natural environment;
- Recognise and accommodate natural processes and climate change;
- Protect and enhance the aesthetic qualities of the coastal zone;
- Protect and preserve cultural heritage;
- Promote ecologically sustainable development and use of resources;
- Provide for ecologically sustainable human resources;
- Provide appropriate public access and use;
- Provide information to enable effective management; and
- Provide for integrated planning and management.

The EIS process has addressed the Policy in detail (see Appendix 4).

Comment

It is considered that the proposed marina development would not be inconsistent with the strategic role of the Policy and its stated objectives and actions as relevant.

6.2 The South Coast Regional Strategy 2006-2031

The South Coast Regional Strategy was prepared by the NSW Department of Planning to guide future development, infrastructure and natural resource protection requirements for the south coast region to 2031. The Strategy is specific to the Shoalhaven, Eurobodalla and Bega Valley Council areas.

The primary purpose of the Strategy is to ensure that adequate land is available and appropriately located to accommodate the projected future housing and employment needs of the region. The Strategy acknowledges that a balanced integrated approach is required and lists several key considerations to ensure sustainable growth within the region. Those being:

- The protection of the natural environment;
- Identification of natural hazards;
- Housing and settlement;
- Economic development and employment growth;
- Rural landscapes and communities;
- Water, energy and waste resources; and
- Cultural heritage.

Comment

It is considered that the proposed marina development would not be inconsistent with the strategic role of the Policy and its stated outcomes and actions.

6.3 Coastal Design Guidelines

The Guidelines consider the NSW coast in terms of a hierarchy of settlements and provides a framework for analysing and understanding the importance of relationships between settlements, natural areas and reserves.

The Key Objectives of the Guidelines are:

- To protect and enhance the cultural, ecological and visual characteristics of the locality;
- To limit coastal sprawl by establishing separation and greenbelts between settlements;
- To integrate new development with surrounding land uses;
- To integrate land use with transport;
- To protect local character;
- To encourage new coastal settlements to be appropriately located; and

- To create neighbourhoods centred around services and facilities.

Under the Guidelines, Eden would be classed as a 'Coastal Town'

Comment

It is considered that the proposed marina development would not be inconsistent with the strategic role of the Guidelines on the basis that:

- It would be integrated into a mixed tourist and residential development endorsed by a Major Project Concept Approval (05_0032).
- The maritime nature and scope of the development and its presence would be in keeping with the natural and manmade environs and Eden's maritime heritage.
- Its ecological footprint would be manageable and sustainable.
- Cultural heritage and significance would be acknowledged and respected.
- It would not contribute to coastal sprawl, being located within Eden's established township.
- It would be complementary to the Port of Eden and its role as a working port.
- It would create and maintain public access across the foreshore (inclusive of the existing wharf) and would contribute to both active and passive recreational opportunities within Eden.
- It would utilise the existing local road network requiring minor upgrades and improvements.
- It would contribute to Eden's residential lifestyle and tourism opportunities.

6.4 Twofold Bay and Hinterland Strategy 2004

The Strategy has been prepared by the Department of Infrastructure, Planning and Natural Resources and identified a series of objectives and actions for implementation for the purpose of ensuring:

- The provision of infrastructure to meet the social, educational, employment and cultural needs of the community and tourists alike;
- A healthy environment that is biologically diverse, maintains ecological processes and is resilient in the interest of the local community and tourists alike;
- A community which is fully informed and committed to the decision making and management process; and
- A viable community that enjoys a quality of life based on a lasting balance between environmental, social and economic influences.

Comment

The Strategy, in part, identifies an action to investigate the construction of boating facilities at Quarantine Bay, Cattle Bay, Ross Bay and Boydtown.

It is considered that the proposed marina development would not be inconsistent with the strategic role of the Policy and its objectives.

6.5 The Eden Structure Plan Report 2006

The Plan stems from the findings of the Twofold Bay and Hinterland Strategy 2004.

The Plan is Council's response to those Strategies as relevant to land use planning initiatives and outcomes for Eden. The Plan was adopted in the formulation of Council's current Bega Valley Local Environmental Plan 2013.

Comment

It is considered that the proposed marina development is not inconsistent with the objectives and actions contained within the Plan as it would:

- Be consistent with the desired future character direction for Eden as a harbour town;
- Complement existing marine activities and tourism opportunities;
- Improve passive and active recreational opportunities and public access to the foreshore;
- Be in keeping with the environmental integrity and natural scenic qualities of Twofold Bay given its coastal environment and maritime heritage.
- Contribute to the economic fabric of Eden whilst acknowledging the social, cultural and environmental expectations of the local community.
- Be complementary to the built form of foreshore development in the immediate area.

6.6 Snug Cove and Environs Master Plan 2005 (as amended 2014)

The area identified in the Master Plan specifically excludes Cattle Bay from any site specific investigation. However, the Plan acknowledges the presence of Cattle Bay in the Snug Cove environs and its potential to contribute to the importance of Snug Cove as a working port facility.

On that basis, Cattle Bay has been identified under the Plan as a "Future marine use investigation area".

The Plan outlines a "future character statement" for Cattle Bay as follows:

"The protection and management of vegetation, water quality and coastal processes require particular consideration as part of the future development of the site at Cattle Bay. Visual impacts associated with developing the cattle bay

site also require consideration due to its prominence when viewed from Twofold Bay.

The Former cannery site is potentially suitable for a range of future uses, including tourism, residential, commercial and marine-related industrial development. Due to its proximity to Eden's commercial centre, Snug Cove and Imlay Street a principal outcome of future development at this site should be that it promotes employment generation. When the site is developed, a new public park adjacent to Cattle Bay beach should be established to allow enjoyment of and access to the foreshores. Informal pathways between beaches and streets may be developed but only where they do not require significant vegetation clearance or land forming, otherwise pathways should be located adjacent to existing streets. A new pathway between Imlay street and Cattle Bay Road will provide easy pedestrian access to the site and foreshore park."

Comment

It is considered that the proposed marina development would be a compatible use that satisfies the desired future character statement for Cattle Bay through:

- The maritime nature and scope of the development and its presence within the natural and manmade environs;
- Compatibility with Eden's maritime heritage;
- The provision, improvement and maintenance of public access to the foreshore;
- Its compatibility with and potential contribution to Snug Cove as a working port;
- Its potential short and long term social and economic benefits to the Town of Eden and Bega Valley;

6.7 Bega Valley Shire Land Use Planning Strategy 2008

The Strategy was prepared as a summary of the planning research and background to the formulation and eventual adoption of the Bega Valley Local Environmental Plan 2013 and the Bega Valley Development Control Plan 2013.

As it related to Eden, the Strategy notes its emerging tourist focus and the importance of its Port and harbour facilities, aquaculture and related industries. The Strategy also recognises that Eden has economic challenges in replacing lost unskilled and semi-skilled employment opportunities.

Comment

The proposed marina development is generally supportive of the expectations and directions of the Strategy in that:

- As a major new development, it is located within the Eden Township and has access to necessary service and community infrastructure.

- It would have important social and economic and recreational benefits for the town;
- The nature and extent of the marina development would have minimal impact on environmental integrity through contemporary engineering and management best practice;
- It would be compatible with Eden's maritime heritage whilst acknowledging and respecting local Aboriginal cultural heritage.

7.0 STATUTORY PLANNING AND ASSESSMENT

The proposal has been assessed in accordance with the Matters for Consideration under Section 5A and Section 79C of the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000.

Legislative Framework

The legislative frame applicable to the assessment and determination of the current application is as follows:

7.1 Environment Protection and Biodiversity Conservation Act 1999

The EPBC Act enables a national scheme of environment and heritage protection and biodiversity conservation. The Act focuses on the protection of matters of national environmental significance.

The Objectives of the Act are to:

- Provide for the protection of the environment, especially matters of national environmental significance.
- Conserve Australian biodiversity.
- Provide a streamline national environmental assessment and approvals process.
- Enhance the protection and management of important natural and cultural places.
- Control the international movement of plants and animals (wildlife), wildlife specimens and products made or derived from wildlife.
- Promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources.
- Recognise the role of Indigenous people in the conservation and ecological sustainable use of Australia's biodiversity.
- Promote the use of Indigenous people's knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

The EIS has acknowledged that past and present investigations and reporting have established that the development site (land and water based components of the proposed marina) and surrounding areas either support or have the potential to support the existence of a number of listed threatened species and habitat opportunities.

The EIS has also recognised the importance of Aboriginal culture and heritage.

The EIS concludes that with appropriate mitigation actions being implemented during the construction and operational phases of the development, any potential impact can be managed.

Comment

It is considered that with appropriate mitigation measures being written into any subsequent Construction Environmental Management Plan and Operational Environmental Management Plan, the Objectives of the Act would be met.

Separate approvals under the Environmental Protection and Biodiversity Conservation Act are not considered to be required.

See Section 10.3 of this Report.

7.2 Threatened Species Conservation Act 1995

The Act identifies and protects threatened, endangered species, populations, ecological communities and habitat. It requires the preparation of a Species Impact Statement where development is of a kind which is likely to have a significant impact on the life cycle, extent and habitat of the species.

The Act requires the issue of a licence (Office of Environment and Heritage) to harm threatened species, populations or ecological communities unless authorised by the issue of development consent pursuant to part 4 of the Environmental Planning and Assessment Act 1979.

The Objectives of the Act are:

- to conserve biological diversity and promote ecologically sustainable development, and
- to prevent the extinction and promote the recovery of threatened species, populations and ecological communities, and
- to protect the critical habitat of those threatened species, populations and ecological communities that are endangered, and
- to eliminate or manage certain processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities, and
- to ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed, and

- to encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.

The EIS is supported by a number of technical reports which collectively address the potential impact of the proposed marina development on threatened fauna and flora being:

- Cattle Bay Marina Project EIS Aquatic Ecology Assessment – Marine Pollution Research Pty Ltd May 2013.

Note: This Report Includes an ecology literature review which references 10 specific reports and studies undertaken by various bodies and agencies from 1992 to 2013.

- Cattle Bay Marina Hydrographic Mapping and Marine Mammal Risk Profiles – Ocean Environmental Consulting July 2014.
- Cattle Bay Marina Responses to Agency Submissions Relating to Aquatic Ecology – Ocean Environmental Consulting March 2015
- Cattle Bay Marina Responses to Agency Submissions Relating to Aquatic Ecology #2 – Ocean Environmental Consulting June 2015

The EIS has acknowledged that past and more recent investigations and reporting have established that the development site (land and water based components of the proposed marina) and surrounding areas either support or have the potential to support the existence of a number of listed threatened species and habitat opportunities.

The EIS concludes that with appropriate mitigation actions being implemented during the construction and operational phases of the development, any potential impact can be managed.

Comment

Upon full assessment and review it is considered that the documentation submitted in support of the EIS fully quantifies and addresses the potential impacts of the proposed marina development on known listed threatened, populations and ecological communities. A Species Impact Statement is not deemed to be required.

It is considered that with appropriate mitigation measures being written into any subsequent Construction Environmental Management Plan and Operational Environmental Management Plan, the Objectives of the Act would be met.

See Section 10.3 of this Report.

7.3 Environmental Planning and Assessment Act 1979

Pursuant to Section 77A of the Act and Schedule 3 of the Environmental Planning and Assessment Regulations 2000, the proposed marina development constitutes designated development as it falls within the scope of:

“Marinas or other related land or water shoreline facilities that moor, park or store vessels (excluding rowing boats, dinghies or other small craft) at fixed or floating berths, at freestanding moorings, alongside jetties or pontoons, within dry storage stacks or on cradles on hard stand areas:

(c) that have an intended capacity of 80 or more vessels of any size.”

Section 79C(1) – Evaluation

Pursuant to Section 79C(1)(a)(iv), the proposed marina development has been assessed in accordance with the relevant sections of the Environmental Planning and Assessment Regulation 2000.

Pursuant to Section 79C(1)(a)(v) the site is not located within an adopted coastal zone management plan as identified under the Coastal Protection Act 1979.

However, as a first step in the development of a coastal zone management plan, Council has prepared a Draft Coastal Processes and Hazard Definition Study for the Shire’s coastline. The Study takes a risk management approach to the delineation of hazard lines for the current 2050 and 2100 planning horizons. The risk lines are presented for each time horizon, “most certain”, “unlikely” and “rare”. For each of the 3 planning horizons, the Study has not predicted any foreshore erosion or recession due to the presence of an existing seawall and the protected location of the site within Twofold Bay.

The primary coastal hazard to impact the marina would be storm waves, the impact of which has been extensively addressed by the EIS process.

The provisions of Sections 79C(1)(b), (c), (d) and (e) will be addressed through the body of this report:

Section 91- Integrated Development

Pursuant to Section 91 of the Act, the application constitutes “integrated development” with relevant approvals required from the Environment Protection Authority under the Protection of the Environment Operations Act 1997 and the Department of Primary Industries under the Fisheries Management Act 1994. Both these Authorities have been notified through the course of assessment. Their comments and their General Terms of Approval are attached.

See Section 12 of this Report.

7.4 State Environmental Planning Policies

State Environmental Planning Policy (State and Regional Development) 2011

SEPP (State and regional Development) 2011 applies to the whole the state. The third aim of the SEPP is to “confer functions on joint regional planning panels to determine development applications”.

In accordance with the provisions (Part 4 Regional Development) of the SEPP, the Southern Region Joint Regional Planning Panel is the determining authority for this development application.

State Environmental Planning Policy 14 (Wetlands) 1985

SEPP14 applies to the whole of the state. There are no SEPP 14 wetlands located on the site or within the immediate area.

State Environmental Planning Policy 33 (Hazardous and Offensive Developments) 1992

State Environmental Planning Policy No. 33 – “Hazardous and Offensive Development” is an enabling instrument that aims to ensure the merits of a proposal are properly assessed prior to determination.

The Policy identifies potentially hazardous and offensive development and provides for risk threshold screening and preliminary hazard analysis to determine site suitability and potential impacts.

On the assessment of the application, Council staff have concluded that both the land and water based components of the proposed marina development would not comprise any hazardous or potentially hazardous land use activity as defined by the Policy.

State Environmental Planning Policy 44 (Koala Habitat Protection) 1995

SEPP 44 applies to the whole of the State and applies to land having an area more than 1 hectare or has, together with any adjoining land in the same ownership, an area of more than 1 hectare.

The land based component of the marina development has an area of 1.66 hectares.

With the exception of small pockets of native vegetation adjacent the north western and south western boundaries of the land, the site is void of any vegetation of worth.

The remaining pockets of native vegetation have not been identified as ‘potential Koala habitat’ as defined by the Policy.

State Environmental Planning Policy 55 (Remediation of Land) 1998

The Policy applies to the whole of the state. Clause 7 details when contamination and remediation are to be considered in the determination of a development application.

Clause 7 states;

- “ (1) A consent authority must not consent to the carrying out of any development on land unless:*
 - (a) it has considered whether the land is contaminated, and*
 - (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
-

- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose."*

The EIS has acknowledged that the potential for site contamination was extensively investigated and reported on in the assessment and determination of the Major Project Concept Approval (05_0032).

The Concept Approval identifies that some site remediation would be necessary in accordance with the recommendations contained within the report prepared by Aargus dated June 2007 entitled 'Environmental Site Assessment'.

The current application does not involve the residential development of the land and only minimum site disturbance is proposed with the erection of the proposed management buildings and maintenance of carpark areas associated with the proposed marina development.

This issue is addressed in more detail in Section 4 of Appendix 10 to this report.

State Environmental Planning Policy 71 (Coastal Protection) 2002

The Policy applies to the development. The clauses of the Policy relevant to the assessment of the proposed development are outlined below, with comments provided.

Standard	Comment
Clause 2 - Aims of Policy	
(a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and	<p>The proposed marina development would be located immediately adjacent to the Cattle Bay foreshore being within the marine environs of Twofold Bay.</p> <p>The potential impact of the proposed marina development on the natural, cultural, recreational and economic attributes have been assessed in the preparation of the EIS</p> <p>It is considered that the proposed development would be consistent with the Policy given that:</p> <ul style="list-style-type: none"> • The proposal would be in keeping with the character of the foreshore and the marine environments of Two Fold Bay. • The cultural and heritage importance of Cattle Bay, Cocora Beach and the Bundian Way project has been acknowledged in the preparation of the EIS and the design of the proposed marina development. • Recreational opportunities would be established and embellished where existing. • The proposal would establish economic opportunities over the short and long term.
(b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and	<p>The land component comprises Lots 2 and part Lot 4 DP 1138056. Lot 4 has been dedicated in subdivision as public reserve and is vested in Council's ownership. The dedication of the public reserve originated from the Major Project Concept Approval (05_0032).</p> <p>As part of the proposed marina development, a 6 metre wide access for pedestrians and</p>

	service vehicles is proposed over the reserve, however any lease agreement would not preclude or restrict public access.
(c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and	As above
(d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and	<p>The EIS process relies on past investigations undertaken by the proponent's consultants South East Archaeology in 2008 in support of the mixed tourist and residential development endorsed under the Major Project Concept Approval (05_0032).</p> <p>No additional investigations have been undertaken to supplement the earlier reporting.</p> <p>The EIS has acknowledged past comments received from the Eden Local Aboriginal Land Council relating to the importance of the Bundian Way.</p> <p>A more detailed assessment is provided in Section 10.6 of this Report.</p>
(e) to ensure that the visual amenity of the coast is protected, and	<p>The visual amenity of Cattle Bay and adjoining foreshore areas would change with the construction of the proposed marina development. It is considered that its maritime presence would not be out of character with the marine environment and/or foreshore development in the locality.</p> <p>See Section 10.7 of this Report</p>
(f) to protect and preserve beach environments and beach amenity, and	<p>The EIS has addressed this issue in detail.</p> <p>The construction of the wave attenuator would result in minor changes over time to the foreshore character/alignment of Cattle Bay and Cocora Beach.</p> <p>In both cases, it is considered that the beach environment and amenity would not be adversely affected.</p> <p>See Section 10.5 of this Report</p>
(g) to protect and preserve native coastal vegetation, and	The proposal does not include the removal of coastal vegetation.

<p>(h) to protect and preserve the marine environment of New South Wales, and</p>	<p>The EIS has addressed this issue in detail.</p> <p>The site is not located within a park as identified by the Marine Parks Authority.</p> <p>The EIS concludes that aquatic ecology can be ensured during the construction and operational stages of the proposed marina provided detailed construction and operational environmental management plans are prepared, adopted and implemented.</p>
<p>(i) to protect and preserve rock platforms, and</p>	<p>Cattle Bay comprises a protected sandy beach contained between rocky headlands.</p> <p>A main component of Cattle Bay's aquatic habitat comprises intertidal rocky shores and shallow to deep rock reefs or boulder reefs.</p> <p>The design of the proposed marina acknowledges the presence of habitat and its environmental integrity. However, an underwater rock pinnacle within the marina footprint will need be to lowered/removed to ensure safe navigation. The work is considered minor having little impact.</p>
<p>(j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of Section 6 (2) of the Protection of the Environment Administration Act 1991), and</p>	<p>There is little opportunity to adopt measures to incorporate ESD principles into the design, construction and operation of the proposed marina due to the limited scope of works and operational activities.</p> <p>The ongoing operation of the marina can adopt a number of measures that reduce its environmental footprint such as recycling and reduction in water and energy consumption.</p> <p>The preparation, adoption and implementation of a water, waste and energy plan would help achieve a reasonable level of sustainability. Such a plan could form part of any subsequent construction or operational environmental management plan.</p> <p>See Section 3 of Appendix 10 to this report</p>
<p>(k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the</p>	<p>Both the land and water based components of the proposed marina have been sited and designed in context with the environmental integrity of Twofold Bay and its maritime</p>

surrounding area, and	heritage.
(l) to encourage a strategic approach to coastal management.	It is considered that the proposed marina development is consistent with State and Council strategic policies which have relevance.
Clause 8 - Matters for consideration The matters for consideration are the following:	
(a) the aims of this Policy as set out in clause 2,	As discussed in addressing the Aims of the Policy.
(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,	As discussed in addressing the Aims of the Policy.
(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,	As discussed in addressing the Aims of the Policy.
(d) the suitability of development given its type, location and design and its <i>relationship with the surrounding area</i> ,	The proposed marina development given its maritime nature, siting and design would complement existing foreshore development, the waterways of Twofold Bay and surrounding lands.
(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,	<p>Whilst there would be a visual change in the character of the area generally, established view corridors enjoyed by adjoining and adjacent residential properties would not be adversely affected.</p> <p>Overshadowing of Cattle Bay Beach and the adjoining public reserve would not occur. The exception being, the existing jetty which is to be retained as part of the proposed marina development. The shadow cast by the jetty would fall on the beach.</p> <p>There would be no impact on existing recreational opportunities currently enjoyed by the general public. It is to be noted, that there is no lawful public access to the existing jetty at the present time. The proposed marina development would</p>

	<p>establish lawful public access to the jetty.</p> <p>The acoustic amenity of the area would change during the construction stage and ongoing operation of the proposed marina.</p> <p>It is considered that any impact would be minor and manageable through the preparation, adoption and implementation of detailed construction and operational environmental management plans.</p> <p>See Section 10.8 of the Report.</p>
(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,	<p>The proposed development would be visible from both public and private locations along the coast, within and around Twofold Bay.</p> <p>The visual amenity of Cattle Bay and adjoining foreshore areas would change with the construction and operation of the proposed marina development. However it is considered that a marina would not be out of character with the marine environment and/or foreshore development in the locality.</p> <p>See Section 10.7 of this Report.</p>
(g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats,	<p>The EIS has identified and evaluated the construction and operational impacts of the proposed marina development.</p> <p>Council staff and the Office of Environment and Heritage have reviewed the EIS and supplementary supporting documentation and concluded that the biodiversity impacts have been adequately quantified and with appropriate mitigation measures (as detailed in required Construction and Operational Environmental Management Plans), the land and water based components of the proposed marina development would not have a significant impact on biodiversity.</p> <p>See Section 10.3 of this Report.</p>
(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats	<p>Department of Primary Industries - Fisheries NSW has advised that the EIS and supplementary supporting documentation addresses most, but not all, of the issues relating to construction and ongoing operation of the proposed marina development and the potential impact on</p>

	<p>aquatic habitat, fish communities, aquaculture industry and access for recreational fishers in Twofold Bay.</p> <p>Notwithstanding, the Department has advised that it is prepared to issue, subject to specific conditions, a 'Harm Marine Vegetation Permit' to enable the construction of the marina.</p> <p>The Department has also recommended specific amendments to the Construction and Operational Environmental Management Plans for the project.</p> <p>The Department's response will be addressed in more detail later in this report. See Section 12.5 for additional detail.</p>
(i) existing wildlife corridors and the impact of development on these corridors,	<p>It is considered that the land based component of the proposed marina development would not compromise the worth of the existing vegetation/wildlife corridors located adjacent the north western and south western boundaries of the subject.</p> <p>These corridors extend through the subject land and interconnect with similar habitat on adjoining and adjacent lands held under separate ownership (public and private).</p> <p>The corridors on the subject land would be retained as managed private open space should the Major Project Concept Approval (05_0032) come to fruition.</p>
(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,	<p>The proposed marina development would be exposed to and would influence coastal processes. In response, the EIS quantifies the potential impacts associated with:</p> <ul style="list-style-type: none"> • Wave climate (local wind generated waves and ocean swells). • Elevated water levels (climate change). • Water movement patterns. • Sediment movement and shoreline stability. <p>It is considered that the influence of coastal processes has been adequately investigated</p>

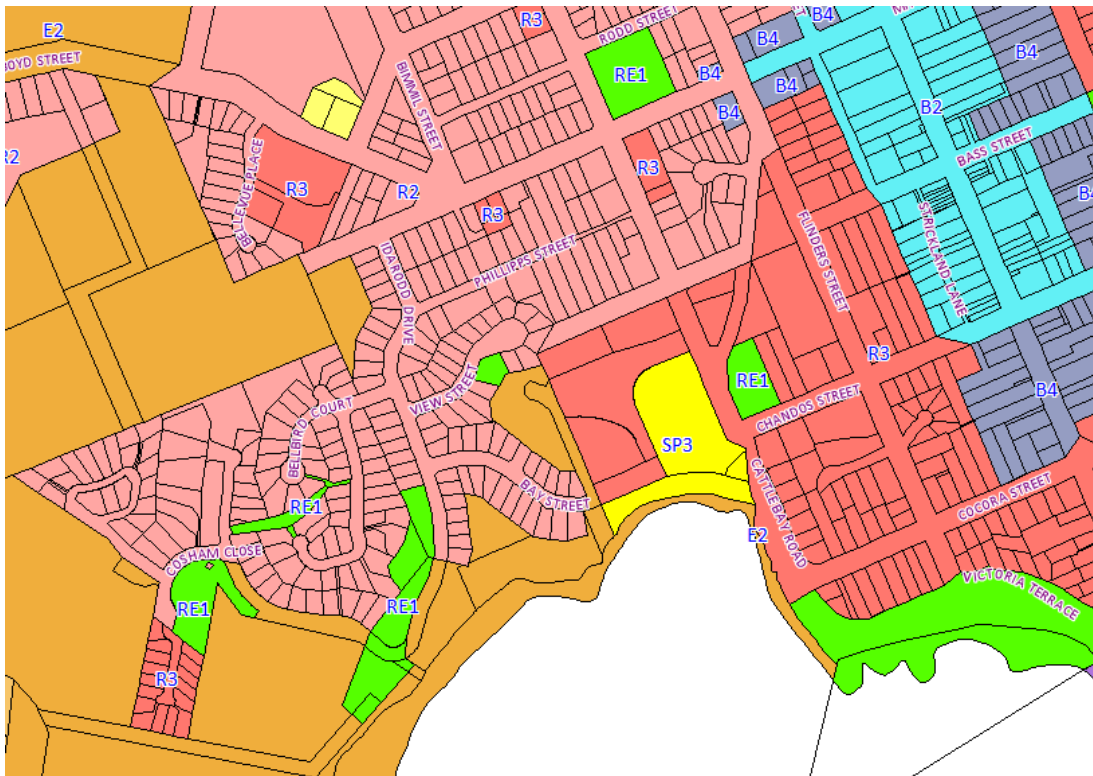
	<p>and that potential impacts would be minor and/or mitigated through siting and design and management practises during construction and operation.</p> <p>See Sections 4 of Appendix 10, 10.4 and 10.5 of this Report for additional detail.</p>
(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,	<p>The proposed marina development would require the relocation of approximately 24 existing swing moorings order to accommodate the proposed marina and wave attenuator.</p> <p>This is a matter for Crown Lands as the land owner.</p>
(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,	See Aims of the Policy
(m) likely impacts of development on the water quality of coastal waterbodies,	<p>The construction and operation of the proposed marina would have potential impacts on water quality.</p> <p>The EIS is supported by a Water Quality Management Plan. The Plan has quantified potential impacts associated with:</p> <ul style="list-style-type: none"> • Sediment plumes caused by pile driving activities or by the anchoring or movement of construction vessels. • Spills of fuel and other harmful substances from construction vessels. • Pollution of the waterway with general waste. • Toxic impacts of fuel spills on nearby aquaculture enterprises. • Stormwater runoff from hard surfaces such as carparks. • Washing of vessels • Illegal discharge from vessel holding tanks • Accidental spillage of bilge water, sewage and grey water

	<ul style="list-style-type: none"> • Fuel and substance spillages. • Increased copper in water column from anti-foul ablation. • Pollution of the waterway by general waste. • Toxic impacts of fuel, sewage spillages and antifouling on nearby aquaculture enterprises. <p>In recognition of the above, the Plan makes specific recommendations in relation to water quality management and/or mitigation measures to be employed in the construction and operation of the proposed marina.</p> <p>It is considered that the Plan's form and content are acceptable and environmentally responsible. Accordingly, the Plan should be referenced in any subsequent construction environmental management plan and operational environmental management plan for implementation.</p>
(n) the conservation and preservation of items of heritage, archaeological or historic significance,	See Aims of the Policy
(o) only in cases in which a Council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,	Not applicable to this assessment.
<p>(p) only in cases in which a development application in relation to proposed development is determined:</p> <ul style="list-style-type: none"> i. the cumulative impacts of the proposed development on the environment, and ii. measures to ensure that water and energy usage by the proposed development is efficient. <p>Note: Clause 92 of the Environmental Planning and Assessment Regulation 2000 requires the Government Coastal Policy (as</p>	<p>The proposed development involves the construction of a marina which has both land and water based components.</p> <p>The potential cumulative impact on the environment has been assessed through the EIS evaluation process and mitigation measures recommended to address identified potential impact which are supported.</p>

defined in that Clause) to be taken into consideration by a consent authority when determining development applications in the local government areas identified in that Clause or on land to which the Government Coastal Policy applies.	
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7.5 Bega Valley Local Environmental Plan 2013 (BVLEP 2013)

Clause 2.3 – Landuse Tables and Dictionary



Zoning Map Extract - Source: Bega Valley Local Environmental Plan 2013

The land component of the marina development is zoned Part SP3 – Tourist and Part E2 – Environmental Conservation with the water component unzoned land.

Council's foreshore public reserve (Lot 4 DP 1138056) is located within the SP3 – Tourist Zoning.

That section of the site located in the E2 – Environmental Conservation Zone is effectively the beach foreshore area to Cattle Bay.

The development of the site for the purpose of a marina would be permissible with consent within the SP 3 - Tourist Zone.

Under the provisions of the BVLEP 2013 a “**marina**” is defined as:

“a permanent boat storage facility (whether located wholly on the land, wholly on a waterway or partly on land and partly on a waterway), and includes any of the following associated facilities:

- a) any facility for constructing, repairing, maintenance, storage, sale or hire of boats,*
- b) any facility for providing fuelling, sewage pump-out or other services for boats,*
- c) any facility for launching or landing boats, such as slipways or hoists,*
- d) any carparking or commercial, tourist or recreational or club facility that is ancillary to the boat storage facility,*
- e) any, berthing or mooring facility.”*

The existing wharf (which is to be integrated into the design of the proposed marina development) spans that section of the foreshore which is zoned E2 – Environmental Conservation.

Under the provisions of the BVLEP 2013 a **“jetty”** would be a permissible use within the E2 – Environmental Conservation Zone, with consent.

A **“jetty”** is defined as:

“a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.”

It is considered that the land based component of the marina development would be a permissible use within both the SP 3 – Tourist Zone and E2 – Environmental Conservation Zone.

Clause 2.4 - Unzoned land

The water based component of the marina development is Unzoned.

Under the provisions of the Clause, the development of land may only be carried on unzoned land with consent.

Before granting development consent, the consent authority must:

- (a) consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
- (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

The objective of the SP3 Tourist Zone is:

“To provide for a variety of tourist-orientated development and related uses.”

The objectives of the E2 – Environmental Conservation Zone are:

“To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.”

“To prevent development that could destroy, damage or otherwise have an adverse effect on those values”

It is considered that the proposed marina development is consistent with the objectives of the Zones on the basis that:

- The proposed marina development has been designed for integration into a mixed tourist and residential development. The concept of which has been endorsed by a Major Project Concept Approved (05_0032).
- The EIS and assessment process has identified and addressed the potential impacts of the proposed marina development on environmental integrity.
- The proposed marina development would be in keeping with the natural environment and scenic qualities of Twofold Bay and its associated maritime heritage.
- The proposed marina development would be complementary to the built form of foreshore development in the immediate area, more specifically the Port of Eden and Snug Cove.
- Cultural heritage would be respected.

In addition to the above, the following provisions of the BVLEP 2013 apply and are identified below with staff comment:

- Clause 1.2 Aims of Plan
- Clause 4.3 Height of building
- Clause 5.5 Development within the coastal zone
- Clause 5.7 Development below mean high watermark
- Clause 5.10 Heritage Conservation
- Clause 6.3 Flood planning
- Clause 6.4 Coastal risk planning
- Clause 6.6 Riparian Lands and watercourse

Standard	Comment
Clause 1.2 - Aims of Plan (a) to protect and improve the economic, natural and social resources of Bega Valley through the principles of ecologically sustainable	The proposed development would contribute to the Eden's economic base by expanding tourism and employment opportunities. It would contribute to lifestyle choice by providing additional recreational benefits to the

<p>development, including conservation of biodiversity, energy efficiency and taking into account projected changes as a result of climate change,</p> <p>(b) to provide employment opportunities and strengthen the local economic base by encouraging a range of enterprises, including tourism, that respond to lifestyle choices, emerging markets and changes in technology,</p> <p>(c) to conserve and enhance environmental assets, including estuaries, rivers, wetlands, remnant native vegetation, soils and wildlife corridors,</p> <p>(d) to encourage compact and efficient urban settlement,</p> <p>(e) to ensure that development contributes to the natural landscape and built form environments that make up the character of Bega Valley,</p> <p>(f) to provide opportunities for a range of housing choice in locations that have good access to public transport, community facilities and services, retail and commercial services and employment opportunities,</p> <p>(g) to protect agricultural lands by preventing land fragmentation and adverse impacts from non-agricultural land uses,</p> <p>(h) to identify and conserve the Aboriginal and European cultural heritage of Bega Valley,</p> <p>(i) to restrict development on land that is subject to natural hazards,</p> <p>(j) to ensure that development has minimal impact on water quality and environmental flows of receiving waters.</p>	<p>local community and Shire generally.</p> <p>Its visual prominence would be in keeping with the natural environment and scenic qualities of Twofold Bay and its associated maritime heritage.</p> <p>The proposed development has been designed for integration into a mixed tourist and residential development. The concept of which has been endorsed by a Major Project Concept Approval (05_0032).</p> <p>The impact on cultural heritage (Aboriginal and European) has been acknowledged and respected.</p> <p>The proposed development would not be adversely affected by natural coastal hazards nor is it likely to impact on coastal processes.</p> <p>The proposed development would have manageable impacts on water quality.</p> <p>Generally, the development supports the Principles of Ecologically Sustainable Development (ESD) albeit limited given its characteristics and scope.</p> <p>Given the above, it is considered that the proposed marina development would be consistent with the objectives of the Plan</p>
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<p>Clause 4.3 Height of buildings</p> <p>(1) The objectives of the Clause are:</p> <p>(a) to retain the existing character and landscape of the locality and encourage a low-set building form,</p> <p>(b) to protect residential amenity, views, privacy and solar access.</p> <p>(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.</p>	<p>The maximum height of building nominated on the Height of Building Map is 10 metres.</p> <p>The proposed temporary management and facilities building would have a height of approximately 3 metres and would be located within the disturbed area of the old cannery site.</p> <p>The proposed building would not impact on the existing amenity of adjoining residential areas.</p> <p>Given the above, the proposed marina development would be consistent with these objectives.</p>
<p>Clause 5.5 - Development within the coastal zone</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to provide for the protection of the coastal environment of the State for the benefit of both present and future generations through promoting the principles of ecologically sustainable development,</p> <p>(b) to implement the principles in the NSW Coastal Policy, and in particular to:</p> <p>(i) protect, enhance, maintain and restore the coastal environment, its associated ecosystems, ecological processes and biological diversity and its water quality, and</p> <p>(ii) protect and preserve the natural, cultural, recreational and economic attributes of the NSW coast, and</p> <p>(iii) provide opportunities for pedestrian public access to and along the coastal foreshore, and</p>	<p>The proposed marina development would be located within the coastal zone.</p> <p>The proposal is consistent with the key strategic objectives and actions of the NSW Coastal Policy.</p> <p>Public access to the Cattle Bay foreshore would be improved and secured.</p> <p>Access across all components of the proposed marina development would comply with the provisions of the Building Code of Australia as it relates to access for persons with disabilities.</p> <p>Biodiversity impacts have been quantified and appropriately addressed.</p> <p>The proposed marina development, given its maritime presence, would not be out of character with the marine environment and/or foreshore development in the locality.</p> <p>The impact on cultural heritage (Aboriginal and European) has been acknowledged and respected.</p> <p>The land and water based components of the proposed marina development would be sited and designed to reduce their potential impact on the scenic quality of the foreshore, waterways and adjoining and adjacent residential lands.</p> <p>Both the land and water based components of the proposed marina have been sited and designed in context with the environmental integrity of Twofold Bay its foreshore and</p>

<ul style="list-style-type: none"> (iv) recognise and accommodate coastal processes and climate change, and (v) protect amenity and scenic quality, and (vi) protect and preserve rock platforms, beach environments and beach amenity, and (vii) protect and preserve native coastal vegetation, and (viii) protect and preserve the marine environment, (ix) ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and (x) ensure that decisions in relation to new development consider the broader and cumulative impacts on the catchment, and (xi) protect Aboriginal cultural places, values and customs, and (xii) protect and preserve items of heritage, archaeological or historical significance. <p>(2) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority has considered:</p> <p>(a) existing public access to and along the coastal foreshore for pedestrians (including persons with a disability) with a view to:</p> <ul style="list-style-type: none"> (i) maintaining existing public access and, where possible, improving that access, and (ii) identifying opportunities for 	<p>maritime heritage.</p> <p>The proposed development would contribute to the Eden's economic base by expanding tourism and employment opportunities.</p> <p>The coastal foreshore amenity would not be adversely impacted on by way of loss of view from public and/or private lands or overshadowing.</p> <p>The proposed development would not be adversely affected by natural coastal hazards nor is it likely to impact adversely on coastal processes.</p> <p>Stormwater from the site is to be collected and channelled through existing stormwater infrastructure and a new gross pollutant trap for discharge to the Cattle Bay.</p> <p>The potential cumulative impact on the environment has been assessed through the EIS evaluation process and as relevant, mitigation measures have been recommended and/or provided to address potential impact.</p>
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<p>new public access, and</p> <p>(b) the suitability of the proposed development, its relationship with the surrounding area and its impact on the natural scenic quality, taking into account:</p> <ul style="list-style-type: none"> (i) the type of the proposed development and any associated land uses or activities (including compatibility of any land-based and water-based coastal activities), and (ii) the location, and (iii) the bulk, scale, size and overall built form design of any building or work involved, and <p>(c) the impact of the proposed development on the amenity of the coastal foreshore including:</p> <ul style="list-style-type: none"> (i) any significant overshadowing of the coastal foreshore, and (ii) any loss of views from a public place to the coastal foreshore, and <p>(d) how the visual amenity and scenic qualities of the coast, including coastal headlands, can be protected, and</p> <p>(e) how biodiversity and ecosystems, including:</p> <ul style="list-style-type: none"> (i) native coastal vegetation and existing wildlife corridors, and (ii) rock platforms, and (iii) water quality of coastal waterbodies, and (iv) native fauna and native flora, and their habitats, can be conserved, and 	
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<p>(f) the cumulative impacts of the proposed development and other development on the coastal catchment.</p> <p>(3) Development consent must not be granted to development on land that is wholly or partly within the coastal zone unless the consent authority is satisfied that:</p> <p>(a) the proposed development will not impede or diminish, where practicable, the physical, land-based right of access of the public to or along the coastal foreshore, and</p> <p>(b) if effluent from the development is disposed of by a non-reticulated system, it will not have a negative effect on the water quality of the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(c) the proposed development will not discharge untreated stormwater into the sea, or any beach, estuary, coastal lake, coastal creek or other similar body of water, or a rock platform, and</p> <p>(d) the proposed development will not:</p> <ul style="list-style-type: none"> (i) be significantly affected by coastal hazards, or (ii) have a significant impact on coastal hazards, or (iii) increase the risk of coastal hazards in relation to any other land. 	
<p>Clause 5.7 Development below mean high water mark</p> <p>(1) The objectives of this Clause is to ensure appropriate environmental assessment for development carried</p>	<p>Development application lodged seeking consent.</p>

<p>out on land covered by tidal waters.</p> <p>(2) Development consent is required to carry out development on any land below the mean high water mark of any body of water subject to tidal influence (including the bed of any such waters).</p>	
<p>Clause 5.10 Heritage Conservation</p> <p>The relevant provisions of the Clause are:</p> <p>(1) Objectives</p> <p>The objectives of this clause are as follows:</p> <ul style="list-style-type: none"> (a) to conserve the environmental heritage of Bega Valley, (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views, (c) to conserve archaeological sites, (d) to conserve Aboriginal objects and Aboriginal places of heritage significance. <p>(2) Requirement for consent</p> <p>Development consent is required for any of the following:</p> <ul style="list-style-type: none"> (a) demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance): <ul style="list-style-type: none"> (i) a heritage item, (ii) an Aboriginal object, (iii) a building, work, relic or tree within a heritage conservation area, 	<p>The land does not contain European heritage items and is not within the heritage conservation area.</p> <p>Section 10.6 of this report addresses Aboriginal places of heritage significance.</p> <p>Given the above, the proposed marina development would not be inconsistent with this Clause.</p>

<p>(b) altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,</p> <p>(c) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,</p> <p>(d) disturbing or excavating an Aboriginal place of heritage significance,</p> <p>(e) erecting a building on land:</p> <ul style="list-style-type: none"> (i) on which a heritage item is located or that is within a heritage conservation area, or (ii) on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance, <p>(3) Effect of proposed development on heritage significance</p> <p>The consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).</p> <p>(4) Heritage assessment</p> <p>The consent authority may, before granting consent to any development:</p> <p>(a) on land on which a heritage item is</p>	
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<p>located, or</p> <p>(b) on land that is within a heritage conservation area, or</p> <p>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</p> <p>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</p> <p>(5) Heritage conservation management plans</p> <p>The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.</p> <p>(6) Archaeological sites</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order under the <u>Heritage Act 1977</u> applies):</p> <p>(a) notify the Heritage Council of its intention to grant consent, and</p> <p>(b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.</p> <p>(7) Aboriginal places of heritage significance</p> <p>The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance:</p>	
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<p>(a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and</p> <p>(b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.</p>	
<p>Clause 6.3 – Flood planning</p> <p>6.3 Flood planning</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to minimise the flood risk to life and property associated with the use of land,</p> <p>(b) to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,</p> <p>(c) to avoid significant adverse impacts on flood behaviour and the environment.</p> <p>(2) This clause applies to land at or below the flood planning level.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is compatible with the flood hazard of the land, and</p> <p>(b) is not likely to significantly adversely affect flood behaviour resulting in</p>	<p>Whilst the site is periodically affected by localised flooding during major storm events, it is not mapped as flood liable under the provisions of the BVLEP 2013.</p> <p>The EIS recommends the preparation, adoption and implementation of a 'flood emergency response plan'.</p> <p>The preparation of a flood emergency response plan is considered justified and reasonable given the circumstances of the case.</p> <p>See Section 4 of Appendix 10 to this report</p>

<p>detrimental increases in the potential flood affectation of other development or properties, and</p> <p>(c) incorporates appropriate measures to manage risk to life from flood, and</p> <p>(d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and</p> <p>(e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.</p> <p>(4) A word or expression used in this clause has the same meaning as it has in the <i>Floodplain Development Manual</i> (ISBN 0 7347 5476 0) published by the NSW Government in April 2005, unless it is otherwise defined in this clause.</p> <p>(5) In this clause, <i>flood planning level</i> means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard.</p>	
<p>Clause 6.4 – Coastal risk planning</p> <p>(1) The objectives of this clause are as follows:</p> <p>(a) to avoid significant adverse impacts from coastal hazards,</p> <p>(b) to ensure uses of land identified as coastal risk are compatible with the risks presented by coastal hazards,</p> <p>(c) to enable the evacuation of land identified as coastal risk in an emergency,</p> <p>(d) to avoid development that increases the severity of coastal hazards.</p> <p>(2) This clause applies to:</p>	<p>See Section 4 of Appendix 10 and 10.4 and 10.5 of this Report</p>

<p>(a) land in the coastal zone below the 3 metre AHD contour, or</p> <p>(b) land at or below the level of a 1:100 ARI (average recurrent interval) coastal inundation or erosion event.</p> <p>(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:</p> <p>(a) is not likely to cause detrimental increases in coastal risks to other development or properties, and</p> <p>(b) is not likely to alter coastal processes and the impacts of coastal hazards to the detriment of the environment, and</p> <p>(c) incorporates appropriate measures to manage risk to life from coastal risks, and</p> <p>(d) is likely to avoid or minimise adverse effects from the impact of coastal processes and the exposure to coastal hazards, particularly if the development is located seaward of the immediate hazard line, and</p> <p>(e) provides for the relocation, modification or removal of the development to adapt to the impact of coastal processes and coastal hazards.</p> <p>(4) A word or expression used in this clause has the same meaning as it has in the <i>NSW Coastal Planning Guideline: Adapting to Sea Level Rise</i> (ISBN 978-1-74263-035-9) published by the NSW Government in August 2010, unless it is otherwise defined in this clause.</p> <p>(5) In this clause, coastal hazard has the same meaning as in the <u>Coastal Protection Act 1979</u>.</p>	
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<p>Clause 6.6 – Riparian land and watercourses</p> <p>(1) The objective of this clause is to protect and maintain the following:</p> <ul style="list-style-type: none"> (a) water quality within watercourses, (b) the stability of the bed and banks of watercourses, (c) aquatic and riparian habitats, (d) ecological processes within watercourses and riparian areas. <p>(2) This clause applies to the following land:</p> <ul style="list-style-type: none"> (a) land identified as “Watercourse” on the <u>Riparian Lands and Watercourses Map</u>, (b) all land that is within 40 metres of the top of the bank of each watercourse on land identified as “Watercourse” on that map. <p>(3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:</p> <ul style="list-style-type: none"> (a) whether or not the development is likely to have any adverse impact on the following: <ul style="list-style-type: none"> (i) the water quality and flows within the watercourse, (ii) aquatic and riparian species, habitats and ecosystems of the watercourse, (iii) the stability of the bed and banks of the watercourse, (iv) the free passage of fish and other aquatic organisms within or along the watercourse, (v) any future rehabilitation of the watercourse and riparian 	<p>The subject land is traversed by 2 defined gully systems which discharge to Twofold Bay.</p> <p>The subject land forms part of a much larger stormwater catchment which generally extends to the north.</p> <p>The gullies and watercourses are mapped by BVLEP 2013 and as such, the provisions of the Clause have relevance.</p> <p>As previously indicated, the area of the land, subject to this application, has been extensively disturbed by past cannery buildings, infrastructure and activities.</p> <p>The water courses have been piped and are located under the existing concrete slab area. The pipe at the present time discharges through a primitive gross pollutant trap adjacent the existing seawall before discharging directly to the Twofold Bay.</p> <p>The land based component of the marina development comprises the erection of a temporary building, service infrastructure and the renovation of the concrete slabs to facilitate the on-site provision of carparking.</p> <p>Refurbishment and temporary use of existing stormwater drainage system incorporating the provision of a new gross pollutant trap is also proposed for the purpose of accommodating the development.</p>
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<p>areas, and</p> <p>(b) whether or not the development is likely to increase water extraction from the watercourse, and</p> <p>(c) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.</p> <p>(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:</p> <p>(a) the development is designed, sited and will be managed to avoid any significant adverse environmental impact, or</p> <p>(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or</p> <p>(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.</p>	
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8.0 BEGA VALLEY DEVELOPMENT CONTROL PLAN 2013

The Development Application has been assessed in accordance with relevant provisions of the Plan including:

- Social and Economic Impacts
- Sustainable Design Principles
- Ecology
- Stormwater Management
- Hazards

This application is generally consistent with the Plan, however draft conditions are recommended in the draft consent to enforce the provisions. A full assessment of the DCP 2013 is included as Appendix 10 to this report.

9.0 BEGA VALLEY SECTION 94 AND 94A CONTRIBUTIONS PLAN 2014

The Plan was adopted by Council on 4 February 2015 and came into effect on 17 February 2015.

Whilst the current development application was lodged on 29 October 2014, the Plan applies to applications which have been submitted, but not determined on or before the date on which the Plan took effect.

Under the plan, a Section 94A contribution levied at the rate of 1% of the estimated cost of the development is payable.

The estimated project value (including land) as shown on the application is \$5.5 million. Based on the above criteria, a contribution of \$55,000 would be applicable.

The proponent has formally requested any subsequent contribution be waived on the basis that:

- The proponent has provided a massive material public benefit in the form of dedicating over 6500m² of prime waterfront land to Council as public reserve which has a value far in excess of the contribution payable.
- The proposal, if approved, would secure lawful public access to the existing wharf component of the marina which has a material public benefit which could be credited against the contribution payable.
- The marina does not generate any significant demand for infrastructure and facilities nominated in the Plan.

Under the Plan, Council may reduce the amount of the development contribution payable based on the circumstances of the case. However, the proponent must make a formal request justifying the variation/waiver.

The proponent has not submitted a valuation in support of the waiver.

Comment

The dedication of the foreshore public reserve (Lot 4 DP 1138056) was required as part of the Major Project Concept Approval (05_0032) for a mixed tourist and residential development.

The marina proposal is a separate development application and subject to Council's adopted Section 94 and 94A Contribution Plan.

The following condition is recommended:

- **Payment to Council of the following contributions pursuant to *Section 94 or 94A of the Environmental Planning and Assessment Act and Bega Valley Section 94 and 94A Contributions Plan 2014* prior to the release of the Construction Certificate.**

Contribution type	\$ Total	Allocation No.
Section 94A contribution	\$55,000.00	11320.1600.1612

Indexation: Where the monetary contribution is not paid before the first anniversary of the date of this development consent, the contribution amount must be indexed between the date of the consent and the date of payment, in accordance with annual movements in the Consumer Price

Index (All Groups Index) for Sydney published by the Australian Statistician.

Time for payment: Deferred payments of contributions may be accepted in certain circumstances and will need to be secured by bank guarantee. Refer to the contributions plan for Council's policy on deferred payments.

10.0 ASSESSMENT OF KEY ISSUES

Council staff and State Agencies have assessed and reviewed the EIS and accompanying information having regard to relevant Legislation, Agency requirements, Council Policy and current Best Practice Principles.

The key issues are highlighted below followed by staff comments.

10.1 Justification

The issue of justifying the need for the development of a marina has been addressed as part of the EIS process.

The EIS is supported by a detailed report prepared by Coriolis Marine entitled “Eden Marina Project Report” dated June 2012.

The Report focuses on a number of key elements being:

- Boating supply and demand analysis in relation to the proposed Eden marina;
- Suggested berth mix and staging options;
- Suggested pricing point for sale and renting marina berths;
- An anticipated budget for the marina;
- Design considerations in reference to land/water interface;
- Possible management model and fee structure for mobilisation and ongoing management of the facility; and
- Indicative price for construction of the marina and operating budget.

The Report concludes that:

- Like most marina projects, the capital investment required in the construction of a marina basin is significant and as a standalone facility, associated cost can make a business case unviable unless Government support is secured to assist in the capital costs of long term core infrastructure such as wave protection or creation of the marina basin;
- The proposed marina development would be of significant public benefit contributing to public access, infrastructure and recreational opportunities;
- Likely markets for the proposed marina are located within a 100km catchment to Eden and from Canberra making it a significant regional development providing employment and investment opportunities in the greater community.

Comment

The EIS acknowledges the report by Coriolis Marine and that the proposed marina development would deliver a modern boating facility which would have manageable environmental impact whilst contributing to the social and economic fabric of the local Eden community, the Shire and Region generally.

The EIS concludes that there are sufficient grounds to justify the proposed marina development, which is supported by Council staff.

10.2 Access

Access linking the land and water based components of the marina would be provided over Council's foreshore public reserve.

This arrangement is to be secured over the short term by the issue of a licence by Council under the provisions of the Local Government Act 1993 and ultimately through the reclassification of the access corridor from 'community land' to 'operational land'. Once re-classified as operational land, an easement for access would to be created and registered over the constructed corridor. At that time the licence would terminate.

At the present time, the proponent is negotiating with Council over the content of the licence. It is expected that the licence would enable the short term access and use by the proponent for the provision of public utilities and associated works.

Concurrently, Council is in the process of reclassifying that part of Lot 4 DP 1138056 required to facilitate access from 'community land' to 'operational land'. Council is supportive of the reclassification.

The Department of Planning and Environment's projected time line to effect the reclassification is scheduled for August 2016.

Based on this timeline a decision on the reclassification of the land would not be made prior to the determination of the current development application for the marina.

On that basis, it is considered that any approval for the marina development be as a 'Deferred Commencement'.

Part A of any subsequent consent could read:

Deferred Commencement - Part A

This is a 'Deferred Commencement Consent' under section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended). This Consent does not become operative until the proponent has satisfied the following requirements:

- (a) The proponent shall, at his or her expense, and in consultation with Council, secure an easement of access 6 metres wide over Council's foreshore public reserve (Lot 4 DP1138056). A copy of the registered plan of easement shall be submitted to Council upon registration at the Office of Land and Property Information.**

All issues shall be satisfactorily resolved within a period of 12 months from the 'Determination Date', as shown on this Consent.

Upon compliance with the issues specified, and written confirmation from Council to that effect, the Consent shall become operative from a 'Consent to Operate Date' (to be included on the written confirmation) subject to the conditions listed in Part B to this Consent and any additional conditions arising from the requirement of Part A.

The proponent's intentions to formalise public access to the existing wharf is commendable and is supported by Council and Department of Primary Industries – Fisheries NSW. On that basis, a suitable condition should be imposed on any subsequent consent securing the same. However, it is to be acknowledged that the proponent will need to engage the Department of Trade and Investment Crown Lands for the purpose of negotiating a lease over the structure.

The following conditions are recommended:

- Prior to the issue of any subsequent construction certificate, the proponent shall negotiate with and enter into a lease arrangement with the Department of Trade and Investment – Crown Lands which, among other things, shall secure lawful public access over the existing wharf component of the proposed marina development. A copy of the endorsed lease shall be submitted to Council within 3 months of its endorsement date to give effect to this condition.**
- Unrestricted public access to the existing wharf component of the marina shall be maintained at all times to Council's satisfaction unless closure is in the interest of public safety and/or security.**

Public access to the floating component of the marina shall be maintained between the hours of 7am to 6pm (Summer daylight saving) and 7am to 5pm (non daylight saving) to Council's satisfaction unless closure is in the interest of public safety and/or security.

Reason: These conditions are required to ensure public access to the marina development.

10.3 Biodiversity Assessment

The very nature of the proposed marina development has the potential to adversely impact on the ecology of the Twofold Bay through the construction stage and its operation over the long term.

In recognition, the EIS process has acknowledged the potential resulting in the preparation and submission of a number of specialist reports namely:

- Cattle Bay Marina Project EIS - Aquatic Ecology Assessment prepared by Marine Pollution Research Pty Ltd dated May 2013.
- Cattle Bay Marina – Hydrographic Mapping and Marine Mammal Risk profiles prepared by Ocean Environmental Consulting dated July 2014.
- Cattle Bay Marina - Response to Agency Submissions Relating to Aquatic Ecology prepared by Ocean Environmental Consulting dated 30 March 2015.
- Cattle Bay Marina – Responses to Agency Submissions Relating to Aquatic Ecology #2 June 2015

Comment

Collectively, the reports acknowledge that the oceanic nature of Twofold Bay provides habitat opportunities for some 63 listed species (including 26 threatened species) identified under the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act), NSW Threatened Species Conservation Act 1995 (TSC Act) and NSW Fisheries Management Act 1994 (FM Act).

In particular, Twofold Bay and the immediate coastal waters offshore provide migratory corridors, staging and feeding resources for whales (Humpback and Southern Right whales), dolphins (Common and Bottlenose dolphins) and seals (Australian fur seal and New Zealand fur seal).

The Bay may also support a resident population of indo-pacific bottlenose dolphins.

Twofold Bay, given its maritime heritage also hosts numerous introduced species including several priority-listed species such as the Mediterranean fan worm.

The reports have established the presence of 3 species of seagrass (Posidonia, Heterozostera and Zostera) within the aquatic habitat of Cattle Bay and that seabed sediments are not contaminated to the detriment of aquatic life.

The reports also establish that Cattle Bay does not support permanent populations or individual fish or shark species or threatened marine mammals, reptiles, shore and wading birds listed under the aforementioned Acts.

However, the reports indicate that individuals of listed threatened species could be expected to utilise the habitat opportunities offered by Cattle Bay and more broadly Twofold Bay from time to time.

The reports also establish that protected species such as seahorses, sea-dragons and pipe fish are expected to reside in the habitat opportunities offered by Cattle Bay and that species such as dolphins, little penguins and a variety of sea birds utilise Cattle Bay and foreshore for feeding and roosting.

Terrestrial habitat may also be utilised by marine/migratory bird species. In this regard, the reports acknowledge that the land based component of the site is highly disturbed with some regrowth and exotic vegetation and that the surrounding headlands are well represented vegetation communities in the region.

Accordingly, it is not expected that the land based component of the marina development would provide any significant breeding, shelter or feeding opportunities for protected or migratory bird species.

The reports identify potential construction and operational impacts and make specific recommendations to mitigate those impacts. Those being:

Construction Impact

In summary, direct impacts of construction include:

- seabed disturbance associated with remediation works to the existing wharf;
- placement of piles associated with the construction of the wave attenuator, floating component of the new marina and fixing floating plant during construction and remediation works;
- the anchoring of floating plant during construction and remediation works; and
- works associated with the relocation of existing swing moorings

In summary, indirect impacts of construction include:

- construction noise;
- cable strike, propeller wash; and
- liquid and solid material spills.

Operational Impacts

Operational impacts are associated with the physical marine structure with marina and vessel operation in and outside the marina footprint.

In summary, potential operational impacts include:

- shading from structures and vessels;
- impacts associated with water circulation and wave attenuation;
- decrease in water quality;
- increased settlement of introduced marine species;
- impacts from marina noise and lighting; and
- consequences of marina breakup – fire, vessel collision and structural failure.

In response, the EIS concludes that the aquatic ecology of Twofold Bay and Cattle Bay can be effectively protected during the construction and operation of the marina by the preparation and implementation of construction and operational environmental management plans.

The EIS makes the following recommendations for inclusion in the construction and operational environmental management plans:

- the preparation and implementation of a construction vessel mooring, anchoring and vessel wake minimisation plan;
- the preparation and implementation of a introduced marine species protocol for the relocation and removal of swing moorings;
- the preparation and implementation of a construction marine mammal protection plan;
- the preparation and implementation of a construction marine debris clearance plan to remove and dispose of the accumulated hard substratum rubbish under the existing wharf;
- the preparation and implementation of an operational water, beach and seabed rubbish collection and disposal plan;
- the preparation and implementation of an operational marine mammal protection plan incorporating protocols for assessing likely daily marine mammal encounters via a network of marina, tourist and agency stakeholders;
- the preparation of an Environmental Harm Minimisation Publication for distribution to marina patrons during induction and to any vessel accessing the marina; and
- the development and implementation of appropriate Environmental Harm Minimisation signage for the marina.

Draft Construction and Operational Management Plans have been submitted as part of the current application which, among other matters, address the above recommendations.

The Plans have been prepared by Royal Haskoning DHV and are titled:

- Cattle Bay Marina Operational Environmental Management Plan dated March 2013 (see Appendix 6).
- Cattle Bay Marina Construction Environmental Management Plan dated April 2015 (see Appendix 7).

Comment

The Draft Management Plans have been evaluated by relevant Council Staff and State Agencies and a number of amendments have been considered warranted to ensure appropriate actions and measures are established and implemented to mitigate identified potential impacts.

Accordingly it is considered that conditions should be imposed on any subsequent consent to initiate the required amendments.

The following conditions are recommended:

- **Prior to the issue of any subsequent construction certificate by the Principal Certifying Authority, a Construction Environmental Management Plan shall be prepared in consultation with all relevant authorities and submitted to Council for endorsement. The form and content of the Plan shall be compliant with the Plan prepared by Royal Haskoning DHV - Cattle Bay Marina Construction Environmental Management Plan dated April 2015 and shall include (but not all inclusive) the following amendments:**
 - (a) **Section 1.3 of the CEMP being amended to address the scope of works associated with:**
 - **the final alignment of the wave attenuator inclusive of documentation being submitted by Royal Haskoning and/or Cardno which certifies that the final design and location of the attenuator is consistent with the modelled design in the report prepared by Cardno 'Cattle Bay Marina, Eden – Wave Modelling' dated 28 July 2014 and subsequent correspondence by Royal Haskoning DHV entitled "Cattle Bay Marina – Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts" dated 8 April 15; and**
 - **the renovation and landscaping of the carpark area and site generally as required by this consent.**

- (b) Section 1.4 of the CEMP being amended to reference and to ensure compliance with the South Australian Government Department of Planning Transport and Infrastructure Underwater Piling Noise Guidelines 2012.
- (c) Section 4.5 of the CEMP being amended to acknowledge the presence of the *Posidonia australis* weed bed to the east of the marina site and to facilitate its location on-site as an exclusion zone during construction.
- (d) Section 4.8 of the CEMP being amended in relation to the public notification to the effect that an introductory letter (inclusive of the construction program and sketches of the project) shall be circulated to all residences within a 250 metre radius of the construction site as measured from the end of the existing wharf structure.
- (e) Section 4.12 of the CEMP being amended to preclude Council's foreshore public reserve (Lot 4 DP 1138056) and Cocora Beach and adjacent foreshore areas from being used as a staging area for works associated with the refurbishment of the existing wharf or the construction of the floating components of the marina or wave attenuator
- (f) Section 4.12 of the CEMP being amended to facilitate the erection of security fencing of the boundaries of Council's foreshore public reserve (excluding the access corridor) to Council's satisfaction for the purpose of precluding direct access from the construction site and Cattle Bay Beach during construction.
- (g) Section 4.2 of the CEMP being amended to ensure the that appropriate soil and water management controls are implemented and maintained in accordance with the Landcom publication Managing Urban Stormwater: Soils and Construction 4th Edition March 2004 (Blue Book)

On endorsement, the Construction Environmental Management Plan shall be fully implemented to the satisfaction of Council and all relevant State Agencies.

- Prior to the issue of any subsequent construction certificate by the Principal Certifying Authority, an Operational Environmental Management Plan shall be prepared in consultation with all relevant authorities and submitted to Council for endorsement. The form and content of the Plan shall be compliant with the Plan prepared by Royal Haskoning DHV - Cattle Bay Marina Operational Environmental Management Plan dated March 2013 and shall include (but not all inclusive) the following amendments.

- (a) **Appendix A of the OEMP being amended to reflect the final alignment of the wave attenuator.**
- (b) **Section 4 of the OEMP shall be amended to facilitate:**
- **the independent environmental audit process being undertaken by suitably qualified and experienced persons acceptable to Council and relevant State Agencies in all fields of operation as detailed in the OEMP.**
 - **the submission to Council for endorsement of the environmental audit inclusive of any recommendations and/or actions considered warranted to ensure the effective operation of the marina.**
 - **the implementation, to the satisfaction of Council and relevant State Agencies, of any recommendations and/or actions identified by the environmental audit process.**
 - **a review of the endorsed OEMP as part of the environmental audit process and the update of the OEMP as considered warranted.**
 - **the submission upon written notice of any and all matters relating to the operation of the marina which are tracked and managed through the OEMP. The information being submitted to the relevant authority within 14 business days from the endorsement date of the notice and includes (but not limited to) logs, licenses, monitoring and incident reports, registers, training, insurances, complaints, check lists and agreements.**
- (c) **Section 14 of the OEMP shall be amended to facilitate:**
- **The provision and use of a minimum of 2 mobile sewage pump out units.**
 - **The operation of mobile sewage pump out units being only carried out by suitably trained marina personnel.**

On endorsement, the Operational Environmental Management Plan shall be fully implemented to the satisfaction of Council and all relevant State Agencies.

Reason: These conditions are required to ensure that the form and content of the Construction and Operational Environment Management Plans fully address the potential impacts of the proposed marina development on biodiversity.

10.4 Geotechnical Considerations in Construction

An appraisal of geotechnical conditions has been made by Royal Haskoning DHV based on:

- available historical geotechnical/geophysical information;
- recent bathymetric and seabed mapping undertaken by Marine Solutions (July 2014) in support of the proposed marina; and
- investigations undertaken by NSW Trade and Investment –Crown Lands (January – March 2015) as part of the studies into the Breakwater Wharf Extension Project Eden Harbour.

Royal Haskoning DHV conclude that:

- the investigations to date indicate that the subsurface conditions in Snug Cove and Cattle Bay comprise sandy sediments overlaying clay and rock with individual layers of various thickness;
- the geotechnical conditions appear reasonably uniform and as such, would not offer any particular spatial constraints or opportunity in the siting and design of the wave attenuator;
- the location and design of the wave attenuator is broadly determined by the location and size of the proposed marina it is to protect;
- the alignment of the wave attenuator is critical and driven primarily by the need to ensure the environmental integrity of Cocora Beach. Geotechnical considerations would be subservient.
- the wave attenuator would be designed and constructed in accordance with Australian Standard AS 4997 - 2005 'Guidelines for the Design of Maritime Structures'.
- The attenuator can be readily designed for survivability against severe storm/wave events and/or sea level rise.

Comment

As previously advised, no detailed engineering construction plans have been submitted to confirm the exact location of the attenuator.

The final design of the attenuator should be consistent with the modelled design in the report prepared by Carno 'Cattle Bay Marina, Eden – Wave Modelling' dated 28 July 2014 and subsequent correspondence by Royal Haskoning DHV dated 8 April 15 and detailed engineering plans submitted for final approval.

The following conditions are recommended:

- **As part of any subsequent construction certificate application, detailed siting and engineering design plans for the wave attenuator shall be submitted to the Principal Certifying Authority for endorsement.**

The siting and design of the wave attenuator shall be consistent with Approved Development Plans and the modelled design in the report prepared by Carno ‘Cattle Bay Marina, Eden – Wave Modelling’ dated 28 July 2014 and subsequent correspondence by Royal Haskoning DHV entitled “Cattle Bay Marina – Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts” dated 8 April 15.

The plans shall be prepared and certified by a chartered professional engineer.

- **All work required in the construction of the wave attenuator shall be undertaken and completed in accordance with the certified siting and engineering design plans. On completion, the works are to be certified by the chartered professional engineer as being compliant with the endorsed plans and documentation submitted to the Principal Certifying Authority to give effect to this condition.**

Reason: These conditions are considered warranted to ensure that the wave attenuator has been suitably designed and constructed.

10.5 Coastal Processes

The proposed marina development would be exposed to and would influence coastal processes.

For the purpose of evaluating the extent of the potential impacts, the EIS is supported by reports prepared by Cardno entitled ‘Cattle Bay Marina Eden - Wave Modelling dated July 2014 and Royal Haskoning DHV entitled “Cattle Bay Marina - Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts dated April 2015.

The purpose of the reports being to investigate the potential effects of waves reflected from the proposed wave attenuator on Cattle Bay Beach and Cocora Beach.

The EIS, drawing from the investigations and findings in the Reports, quantified potential impacts associated with:

- Wave climate (local wind generated waves and ocean swells).
- Elevated water levels (Climate change)

- Water movement patterns.
- Sediment movement and shore line stability.
- Flooding

Comment

It is considered that the EIS process has adequately evaluated and quantified the nature and extent of coastal processes which may have an influence on or may be influenced by, the siting, design and operation of the proposed marina development.

The EIS concludes that the proposed marina development, through siting, design and operation would have only a minor impact on coastal processes and would be resilient to coastal processes. In reaching this conclusion, the following observations have been taken into account:

- The wave attenuator and floating jetty component of the marina would be sited and designed to achieve the wave climate criteria in AS 3962 – 2001, “Guidelines for Design of Marinas”.
- The wave attenuator and floating jetty would be resilient to sea level rise or can be readily adapted to accommodate sea level rise.
- The existing wharf would be well protected behind the wave attenuator and floating jetty component of the marina.
- The height of the existing wharf has been established at 2m AHD. Accordingly, it is unlikely that its height would need to be raised within the life of the floating marina.
- The potential impact of existing and proposed water based structures on water movement patterns would be minor in context with the waterway area of Twofold bay.
- Cattle Bay beach would become more sheltered to wave action and sediment movement resulting in a narrowing of its western end over time. However, the ‘sandy’ beach character would not be lost over its length to the detriment of public access.
- There would be no significant change in the foreshore alignment or characteristics of Cocora Beach.
- Temporary buildings and carpark areas are well removed from the foreshore interface.
- The temporary buildings associated with the land based component of the marina may from time to time, be exposed to minor flooding during major storm events.

Refer to Section 10.3 of this report for additional detail and recommended conditions.

In addition, further consideration was given to the influences of coastal process in a report prepared by Royal Haskoning DHV entitled “Cattle Bay Marina - Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts dated April 2015.

The report was undertaken and submitted in response to submissions received by Council during the initial notification process.

The report generally expands on and concurs with the investigations, findings and conclusions detailed in Cardno’s initial report (as mentioned above) to the effect that the proposed marina development would have only a minor impact on coastal processes and that the development, through siting and design, would be resilient to coastal processes.

The Report is supplemented by an additional investigations report prepared by Cardno entitled “Cattle Bay Marina – Mussel Farm Impact Assessment dated March 2015.

The purpose of the Cardno’s Report being to assess the wave climate in the vicinity of the mussel farm before and after the installation of the proposed wave attenuator and to highlight any potential changes.

Note: The mussel farm is located to the south west of the Cocora Point being approximately 470 metres from the proposed marina development and more specifically, the wave attenuator.

Drawing on the investigations undertaken by Cardno, Royal Haskoning’s Report concludes that the wave attenuator would only have a minimal effect on wave heights, wave direction and wave energy at the location of the mussel farm.

The conclusion is based on the distance between the wave attenuator and mussel farm and that waves reflected off the attenuator would disperse with distance over the intervening and surrounding waterway area.

Comment

The potential impacts on mussel farm infrastructure resulting from a changing wave climate generated by the wave attenuator are of legitimate concern and accordingly, required further investigation to determine the nature and extent of any potential impact.

Based on the detailed investigations and reporting, it is considered that the potential impacts associated with the function of the wave attenuator have been appropriately addressed and that any impact on mussel farm infrastructure would be minor.

Further comments are made on this issue later in this report (see Section 10.10).

10.6 Heritage and Archaeology

No detailed investigations and reporting have been undertaken as part of the current EIS process to assess potential impacts of the proposed marina development on cultural heritage and archaeology.

Detailed investigations and reporting in support of the mixed tourist and residential development endorsed under the Major Project Concept Approval (05_0032) were undertaken by the proponent's consultant South East Archaeology in 2008.

Those investigations identified an artefact scatter on the land (subject to the Concept Approval) and a moderate to high potential for further items of cultural heritage to exist elsewhere on the land.

At the time, the preparation of an Aboriginal Heritage Management Plan specifying policies, strategies and actions to mitigate and manage potential impacts in consultation with the Eden Local Aboriginal Land Council was recommended and subsequently embodied in the Concept Approval and associated Statement of Commitments.

The current application relies heavily on these investigations and subsequent actions. No supplementary investigations and reporting have been submitted in support of the current application.

The known artefact scatter is located in a bushland corridor in the south west corner of the development site subject to the Concept Approval. It is well removed from the area of the site subject to the current application, more specifically, the area on which the temporary buildings and carpark areas would be located.

As previously documented, the land based component of the subject site is in a significantly disturbed state stemming from its past development history as a cannery.

The current marina proposal, in part, involves the erection of a temporary building and provision of on-site carparking utilising the existing concrete slab areas.

On that basis, the EIS concludes that the land based component of the marina development is unlikely to impact on any known or unknown items of significance.

Comment

In assessing the current application due diligence must be exercised. Accordingly, given the findings of past investigation and reporting and that the existing concrete slab areas are likely to be disturbed in the provision of required service infrastructure and carpark renovation, it's not unreasonable to conclude that associated site works may have potential impact on unknown items of significance.

This position is supported by the NSW Office of Environment and Heritage (OEH) in its response to Council dated 10 September 2015.

In its response, OEH raised concerns over relying on past investigations undertaken and recommendations made in relation to the endorsed Major Project Concept Approval (05_0032) for the mixed tourist and residential component of the development in August 2008.

OEH advised that if significant ground disturbing activities such as the upgrade of services and infrastructure is required as part of the proposed marina development,

then a more formal archaeological assessment should be undertaken to assess the potential for impact on Aboriginal heritage values.

Accordingly, OEH has recommended that a more appropriate assessment should be undertaken prior to approval as any Aboriginal objects uncovered during construction works would require an immediate stop work whilst the objects are assessed which could result in significant time delays in construction whilst consideration is being given to the issue of an Aboriginal Heritage Impact Permit.

OEH has also identified an inaccuracy in the draft construction environmental management plan which references the Heritage Act 1977 and has requested the reference to be amended to National Parks and Wildlife Act 1974.

The following conditions are recommended:

- **Prior to the commencement of any works associated with the renovation of the existing concrete slabs, the provision of service infrastructure and site landscaping, an Aboriginal Heritage Management Plan (AHMP) shall be prepared by a qualified archaeologist in consultation with the Office of Environment and Heritage and submitted to Council for endorsement.**
- **No Aboriginal objects may be harmed unless an Aboriginal Heritage Impact Permit has been issued by the NSW Office of Environment and Heritage.**
- **If any Aboriginal objects are unearthed during construction all work must cease immediately and the NSW Office of Environment and heritage must be contacted for advice before any works re-commence.**
- **All site workers and contractors must be provided with induction training on the identification of Aboriginal artefacts, Aboriginal cultural awareness and procedural protocols as outlined in the Aboriginal Heritage Management Plan during the construction phases of the development.**
- **Section 4.10 of the Construction Environmental Management Plan shall be amended to embody the requirements of above conditions**
- **Section 4.10 of the Construction Environmental Management Plan shall be amended by deleting reference to 'Heritage Act 1977' and its replacement by National Parks and Wildlife Act 1974.**

Reason: These conditions are required to ensure the integrity of Aboriginal culture and heritage.

Commenting on the current marina proposal, The Eden Local Aboriginal Land Council has referenced the importance of the Bundian Way Walking Route to Aboriginal culture and heritage.

See Appendix 8.

In this respect, the Cocora Beach and Cattle Bay precincts hold significant cultural values. The walking route effectively follows the shoreline of Twofold Bay and traverses the foreshore area of the subject land. Accordingly, the Land Council is of the opinion that the route between the site, Snug Cove and Cocora Beach should be constructed as part of the marina development.

The Major Project Concept Approval required the dedication of a public reserve along the foreshore to Cattle Bay. The reserve has subsequently been dedicated in subdivision and vested in Council's ownership.

The Bundian Way walking route follows the dedicated foreshore public reserve.

The proposed marina development would not preclude public access to the foreshore reserve and as such, the creation and prominence of the Bundian Way would be respected and secured in perpetuity. However, the physical construction of the route between the subject site and Snug Cove is considered beyond the scope of the proposed marina development and as such, is not considered reasonable or justified.

10.7 Visual Amenity and Impact

The EIS is supported by a visual impact assessment prepared by Inspire Urban Design and Planning entitled "Review and Assessment of Potential Visual Impacts – Proposed Marina and Wave Attenuator" dated June 2014.

In summary, the report provides a view analysis of the surrounding landscape and potential visual impacts associated with the proposed marina when viewed from the land (public and private) and adjoining waterways.

The report concludes that:

- the magnitude of the impact on the landscape or viewer depends on the nature and scale of the proposed development within its setting;
- the magnitude of the impact on viewer sensitivity would be regarded as "low".
- The assessment demonstrated that there would be a negligible and acceptable visual impact.

The report given its findings, made no recommendations regarding mitigation measures to limit any impact.

The EIS, in summary, supports the findings and conclusions in the report. In doing so, it makes the following observations:

- The site had in the past been used as a cannery involving significant boat traffic and use of the existing wharf.



Photo A - View internal to the site looking south over remanence of old cannery towards Cattle Bay – Source: Bega Valley Shire Council September 2015.

- The location of the temporary buildings and carpark areas are removed from the foreshore interface.
- the visual back drop offered by the elevated topography and vegetation will continue to visually dominate the landscape.



Photo B - View looking north from the end of the existing wharf showing the elevated nature of the topography surrounding the development site – Source: Bega Valley Shire Council September 2015.

- Cattle Bay already contains a number of swing moorings that presents a vista of moored vessels when viewed from the public domain.



Photo C - View from existing wharf looking south east over the proposed water way area to the new jetty component of the marina – Source: Bega Valley Shire Council September 2015.

- the presence of Eden Port immediately to the south east has a prominent and significant visual impact, which is generally accepted within the community.



Photo D - View to the northwest over the Eden Port facilities in Snug Cove with site in the background – Source: Inspire Urban Design and Planning, Proposed Cattle Bay Marina Visual Impact Assessment June 2014.

- Views to the water from adjoining private and public lands extend out over the site towards Twofold Bay and beyond. Views are filtered by existing vegetation, thus limiting potential view impacts.



Photo E - View from deck area to 32 Cocora Street over site – Source: Bega Valley Shire Council September 2015.



Photo F - View from deck area to 2 Bay Street over site – Source: Bega Valley Shire Council September 2015.



Photo G - Views to the west from Cattle Bay Road - Source: Inspire Urban Design and Planning ,Proposed Cattle Bay Marina Visual Impact Assessment June 2014



Photo H - View from Bay Street looking south east over Twofold Bay – Source: Inspire Urban Design and Planning – Proposed Cattle Bay Marina Visual Impact Assessment June 2014



Photo I - View towards site looking north east from Cocora Beach – Source: Bega Valley Shire Council September 2015.

- Cattle Bay, more specifically the subject site, forms only a small component of the wider view catchment to Twofold Bay. Accordingly, potential impact when viewed from a distance must be taken in context.



Photo J - Existing view from waterway looking north west – Source: Inspire Urban Design and Planning – Proposed Cattle Bay Marina Visual Impact Assessment June 2014



*Photomontage of estimate of change when viewed from waterway looking north west
– Source: Inspire Urban Design and Planning – Proposed Cattle Bay Marina Visual Impact Assessment June 2014*



Photo K - View of existing waterway from Cocora Beach – Source: Inspire Urban Design and Planning – Proposed Cattle Bay Marina Visual Impact Assessment June 2014



Photomontage of estimate of change (bottom) when viewed from Cocora Beach – Source: Inspire Urban Design and Planning – Proposed Cattle Bay Marina Visual Impact Assessment June 2014

VIEW ANALYSIS - PHOTO LOCATIONS



 NORTH

The EIS concludes that the proposed marina would:

- extend prominently into Twofold Bay;
- result in a visual change in vessel density and maritime activity compared to the existing situation;
- have a minor and insignificant visual impact given the prominence of distance, elevated and filtered views;
- would have only a very minor impact on view composition given its scale in context with the size of the visual catchment of Twofold Bay and the immediate presence of Snug Cove.
- be consistent with the intrinsic character of the area and would be almost imperceptible to the casual observer.

On that basis, the EIS makes no recommendations regarding mitigation measures to limit any impact.

Comment

After considering the potential visual impacts of the proposed development, including comprehensive evaluation of impact from around Twofold Bay, it is considered that the Report by Inspire Urban Design and Planning has appropriately addressed the visual quality of the locality in terms of its nature, expanse and worth and the potential impact the proposed marina would have on those values.

However, whilst the findings are generally supported, the following needs to be addressed:

- the design of the temporary building, more specifically, the type of materials to be used in its construction and external finishes;
- site landscape treatments;
- site illumination – access lighting and security floodlighting.

The following conditions are recommended:

- **Detailed design and construction plans of the proposed temporary building shall be submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority. The design of the building shall have regard to the visual quality of the locality and shall include:**
 - (a) **a design solution which positively mitigates potential visual impacts;**
 - (b) **external building finishes (including glazing);**
 - (c) **a colour palette (including colour samples)**

The buildings shall be constructed and finished in accordance with the approved plans to the satisfaction of the Principal Certifying Authority.

- **A detailed landscape plan shall be submitted and approved by Council prior to the issue of any subsequent construction certificate by the Principal Certifying Authority. The plan shall be prepared by a qualified landscape architect. The plan shall have regard to the visual quality of the locality and shall provide for:**
 - (a) the provision of landscaping having a minimum width of 6 metres across the Cattle Bay Road frontage of the site;**
 - (b) the provision of landscaping within the carpark area including the curtilage of the temporary building;**
 - (c) the provision of landscaping having a minimum width of 3 metres across common boundary with Council's public reserve (Lot 4 DP 1138056).**

All landscape works shall be completed in accordance with the approved landscape plan prior to the issue of any subsequent occupation certificate by the Principal Certifying Authority and maintained at all times thereafter to Council's satisfaction or until such time as the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032) comes to fruition.

- **Lighting of the marina component shall be in accordance with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'.**
- **All exterior lighting of the land based components of the marina shall be located and directed in such a manner so as not to create a nuisance to the surrounding land use. The lighting shall be the minimum level of intensity needed to ensure safe access and operation of the marina.**

The lighting shall be designed in accordance with Australian Standard 4282 "Control of obtrusive effects of outdoor lighting" (1997).

Reason: These conditions are required to reduce potential visual impact of the marina development when viewed from adjoining and adjacent lands and Twofold Bay

10.8 Potential Air, Noise and Vibration Impacts

• Air Quality Impacts

The EIS is supported by an air quality report prepared by West and Associates Pty Ltd entitled 'Cattle Bay Marina Development Application Air Quality Report Cattle Bay Eden' dated October 2015.

The report identifies the closest sensitive receivers as being:

- the residential properties at 38, 40 to 46 Cattle Bay Road which are separated from the marina pontoons by 100m to 150m and 90m to the proposed entry/exits channel on the north eastern side of the marina. These properties are geographically elevated above the foreshore and overlook the project site.
- the residential properties at 32 and 37 Cocora Street and 1 Victoria Terrace which are separated from the marina pontoons by 80m to 200m and 75m to the entry/exist channel on the north eastern side of the marina. These properties are geographically elevated above the foreshore and overlook the project site.
- the residential properties at 1 and 2 to 8 inclusive Bay Street which are separated from the designated super yacht/commercial berthing area to the marina 130m to 150m designated and 120m from the berthing channel. These properties are geographically elevated above the foreshore and overlook the project site.



Source: Cattle Bay Marina Development Air Quality Report: West and Associates 14 October 2015

The report identifies the current air quality is influenced by:

- exhaust from boat motors located on moorings in Cattle Bay ;
- exhaust from motor vehicles using Cattle Bay Road.
- exhaust from private motor vehicle accessing their place of residence.

In assessing potential impacts, the report references:

- The Protection of the Environment Operations Act 1997;
- WorkSafe Australia - Workplace Exposure Standards for Airborne Contaminants December 2011; and
- specific sections of AS 1668.2 2012 – The use of ventilation and air conditioning in buildings – mechanical ventilation in Buildings;

The report nominates that the principal source of airborne contaminants associated with the proposed marina development to be exhaust emissions from petrol and diesel motors and that in all cases, their use would be in the open.

The report also concludes that any air borne contaminants and/or offensive odours (sewage pump-out cart operation) associated with the marina development would dilute over distance and as such would have no impact on nearby sensitive receivers.

Comment

The report by West and Associates has been reviewed by relevant Council staff and the Environment Protection Authority and found to be acceptable in terms of its form and content and assessment of potential impacts.

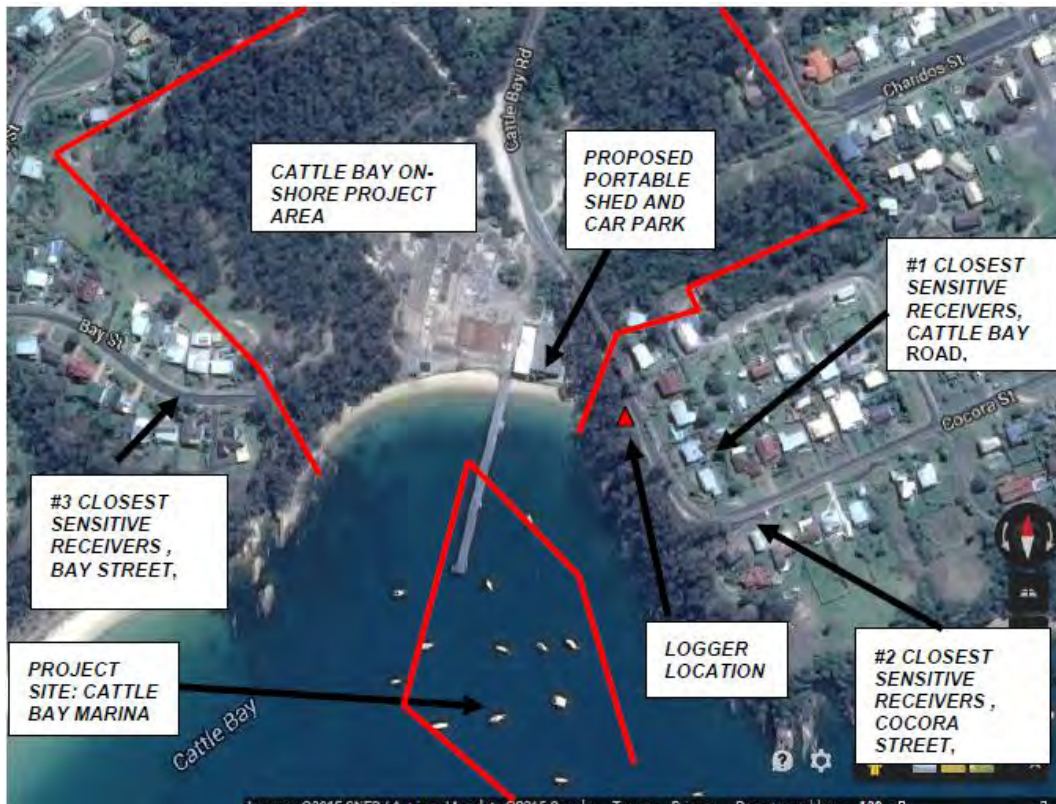
• Acoustic Impacts

The EIS is supported by an acoustic report prepared by West and Associates Pty Ltd entitled 'Cattle Bay Marina Development Application Acoustic Report at Cattle Bay Road Eden' October 2014.

The report identifies the closest sensitive receivers as being:

- the residential properties at 38, 40 to 46 Cattle bay Road which are separated from the marina pontoons by 100m to 150m and 90m to the proposed entry/exits channel on the north eastern side of the marina. These properties are geographically elevated above the foreshore and overlook the project site.
- the residential properties at 32 and 37 Cocora Street and 1 Victoria Terrace Cocora Street which are separated from the marina pontoons by 80m to 200m and 75m to the entry/exist channel on the north eastern side of the marina . These properties are geographically elevated above the foreshore and overlook the project site.

- the residential properties at 1 and 2 to 8 inclusive Bay Street which are separated from the designated super yacht/commercial berthing area to the marina 130m to 150m designated and 120m from the berthing channel. These properties are geographically elevated above the foreshore and overlook the project site.



Source: Cattle Bay Marina Development West and Associates 14 October 2015

The Rrport identifies the current noise sources affecting residential receivers in the immediate area to be:

- boat traffic in and around Cattle Bay (swing moorings);
- road traffic using Cattle Bay Road.

In assessing potential impacts, the report references:

- the NSW EPA Noise Guide for Local government 2010;
- NSW EPA Industrial Noise Policy 2000;
- NSW EPA Interim Construction Noise Guidelines 2009.

The report also draws reference from relevant sections and descriptions in the legal proceedings, site testing measurements and conclusions contained in the deliberations contested in Land and Environment Court relating to *Rose Bay Marina Pty Limited v Woollahra Council & Anr.*[2013].

The report, based on the Rose Bay Marina development, nominates the principal noise source to be noise emission from boat movements including manoeuvring to the allocated berths, docking and departing. In addition, the report also identifies other potential noise sources to include:

- construction noise.
- marina patron road vehicle noise;
- security alarms;
- marina patron noise – domestic pet, on board meetings, music and shouting during manoeuvring;
- mechanical services – air conditioning plants (temporary building)
- marina portable sewage pump out cart operation;
- vessel maintenance noise;
- marina maintenance.

The report is supplemented by a further acoustic report prepared by West and Associates entitled Cattle Bay Marina – Acoustic Services – Wave Attenuator Noise June 2015. The Report addressed public concern over potential noise impacts stemming from wave action hitting the attenuator.

The report concludes that there would be a drop in wave noise at the closest sensitive receivers due the location and design of the attenuator and its influence on the wave climate.

The report estimates the wave noise at the closest sensitive receivers would be 3-5 dB(A) quieter to that currently experienced.

Draft Construction and Operational Noise Management Plans have been prepared and submitted in support of the EIS. The Plans have been prepared by West and Associates P/L dated 7 April 2015.

Comment

The reports and Construction and Operational Noise Management Plans have been assessed by relevant Council Staff and the Environment Protection Authority and found to be suitable in terms of their form, content and required mitigation measures.

The Construction and Operational Noise Management Plans have been referenced in the both the Construction and Operational Environment Management Plans.

The following condition is recommended:

- **Prior to the issue of any subsequent construction certificate by the Principal Certifying Authority, Construction and Operational Noise Management Plans shall be submitted to Council for endorsement. The Plans shall be generally compliant with the Report prepared by West and Associates entitled 'Cattle Bay Marina Development Application Acoustic Report at Cattle Bay Road Eden' October 2014.**

The Construction and Operational Noise Management Plans shall be referenced in both the Construction and Operational Environmental Management Plans for the marina and shall be implemented to the satisfaction of Council.

Reason: To ensure that appropriate mitigation measures are adopted and implemented to ensure the acoustic amenity locality both during construction and operation of the marina.

Vibration Impacts

The EIS references German Standard DIN 4150 – 3 Structural Vibration – Effects of vibration on structures 1999.

Comment

The standard contains data for use in the determination and assessment of actions caused by vibrations on buildings which have been designed for predominantly stationary loading where data of this nature are not given in other standards or directives.

The EIS, drawing reference to the Standard, recommends a safety limit of 5mm/s for dwellings further than 20 metres from the construction site and acknowledges that the main sources of ground vibration would be associated with construction piling.

The EIS also advises that vibration levels generated by construction plant are unlikely to exceed the “safe limit” of 5mm/sec nominated in the Standard.

The EIS concludes that in relation to dwellings, a “safe limit of 3mm/sec is expected to be satisfied at a distance of 30 metres from the piling activity. This is based on given that the minimum distance between piling activities and existing dwellings is greater than 30 metres; it is unlikely that construction piling would have an adverse impact.

The matter has been subject to review by relevant Council staff who have advised that due diligence should be exercised and that any subsequent consent should be suitably conditioned to ensure compliance with the Standard and to ensure the structural integrity of dwellings in the immediate locality.

The following conditions are recommended:

- **To the satisfaction of Council, Section 4 of the Construction Environmental Management Plan is to be amended to reference and give effect to German Standard DIN 4150 – 3 – Effects of vibration on structures 1999 or any subsequent Standard.**
- **Prior to the issue of any subsequent construction certificate, the proponent shall submit to the Principal Certifying Authority a dilapidation report for all individual properties likely to be affected by vibration associated construction piling. Section 4 of the Construction Environmental Management Plan shall be amended to give effect to this requirement.**
- **Any substantiated damage caused to dwellings in the immediate locality of the marina development caused as a result of construction piling works shall be made good and repaired to a standard at least equivalent to that existing prior to commencement of construction. Such repair works will be undertaken as a priority to ensure minimal disruption and inconvenience to affected landowners.**

Reasons: These conditions are required to ensure the structural integrity of nearby dwellings during the construction stage of the marina development.

10.9 Navigation and Safety

The EIS nominates the two main water transport related issues to be:

- impact on navigation; and
- impact on swing moorings

The EIS concludes that the impact of the proposed wave attenuator and floating components to the marina are unlikely to impact on navigation given:

- the footprint of the proposed water based components of the marina would not impact on the approach channel and swing basin for the commercial operations in Eden harbour.
- the footprint of the proposed water based components to the marina would not impact on or restrict navigation to any future marina development proposed in the immediate locality.
- access around the foreshore to small recreational water craft would not be excluded.

The EIS acknowledges that a number of swing mooring affected by the proposed marina footprint will need to be re-located in consultation with key stakeholders and Roads and Maritime Services.

The EIS has also acknowledged that the proposed marina and wave attenuator would be designed in accordance with the following Standards to ensure their structural integrity and safe operation at all times:

- Australia Standard AS 3962-2001 'Guidelines for Design of Marinas';
- Australian Standard AS4997 – 2005 'Guidelines for the Design of Maritime Structures'; and
- NSW Maritime Authority Guidance Note 8.3.02

Comment

The relocation of the swing moorings is a matter between Crown Lands, Roads and Maritime Services and the lease holders.

No detailed engineering designs for the water based components of the marina have been submitted as part of the current application. Accordingly, it is considered appropriate to impose suitable conditions on any subsequent consent.

The following conditions are recommended:

- **The proposed marina development shall be designed and constructed in accordance with:**
 - **Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'.**
 - **Australian Standard AS4997 – 2005 'Guidelines for the Design of Maritime Structures'.**
 - **NSW Maritime Authority Guidance Note 8.3.02**

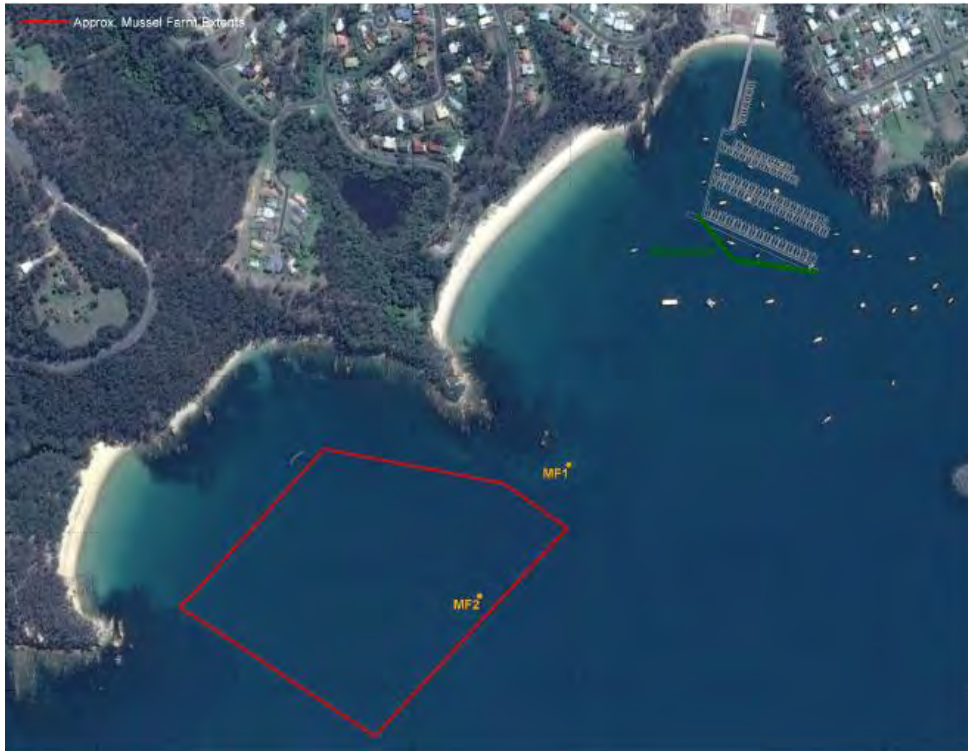
Prior to the issue of any subsequent construction certificate, a design verification statement shall be submitted to the Principle Certifying Authority confirming compliance with the above Standards.

The design verification statement shall be prepared by a suitably qualified and experienced professional to the satisfaction of the Principle Certifying Authority.
- **The Construction Environment Management Plan shall be amended accordingly to give effect to this condition.**

Reason: These conditions are required to ensure that the proposed marina development is designed and constructed to a standard which is structurally sound and does not compromise safe navigation, patron and public safety.

10.10 Impacts on Aquaculture

A commercial mussel farm is located to the west of Cocora Point approximately 470 metres to the south west of the proposed marina development.



Approximate extent of mussel farm (marked in red) in context with proposed marina development – Source: Cardno Cattle Bay Marina – Mussel Farm Impact Assessment

The operators of the mussel farm have been consulted throughout the notification and assessment process and, in response, have made 3 submissions raising concern over potential impacts associated with the construction and operation of the proposed marina.

Their concerns relate in summary to:

- potential impacts to Cocora Beach;
- potential impacts associated with changes in the wave climate generated by the wave attenuator;
- potential impacts on mussel farm infrastructure – long lines;
- potential impacts associated with increased turbidity in water column;
- potential increase in the incidence of ‘sea crab’ infestation;
- potential impact on ‘spat harvesting and development;
- proposed water testing protocols and associated costs;

- potential impacts associated with solid and liquid waste spills and intentional discharges;
- The use of mobile sewage pump out units is not acceptable – the associated risk of spillage relies on the skill of the operator, the size of the vessel and its on board liquid waste storage capacity.
- Inadequate land based toilet, washing and laundry facilities.
- loss of income in the event a “shellfish harvesting closure” occurs.

The EIS is supported by a report prepared by Marine Pollution Research Pty Ltd entitled “Cattle Bay Marina Project EIS – Aquatic Ecology Assessment May 2013.

The report provides an assessment of potential impacts associated with the construction and operation of the proposed marina development. As it relates to the protection of commercial fishing/aquaculture, the report concludes:

- risks of water pollution are avoided by the design of the marina including not providing fuel or slipway services, and the marina operation adopting a zero bilge, sewage and ships liquid waste discharge policy.
- copper ablation of waters of Cattle Bay from vessels antifoul paint coatings has been assessed against relevant detailed studies for other east coast coastal marinas and it is concluded that the water quality of the proposed marina would meet the ANZECC/ARMCANZ (2000) requirements for the protection of aquatic ecosystems and aquaculture activities in Twofold Bay.
- that the proposed location and construction of the marina would not impede these activities and appropriate management practices at the marina would mitigate any risk arising from any potential water quality issues, coastal process or introduced marine species impacts.

The report makes no specific recommendations aimed at commercial/aquaculture in Twofold Bay. However, the report makes a number of general recommendations to ensure environmental integrity which would mitigate potential impacts on commercial fishing/aquaculture. Accordingly, the report should be referenced in any subsequent construction environmental management plan and operational environmental management plan for implementation.

The EIS is also supported by a water quality management plan. The plan has been prepared by Ocean Environmental Consulting entitled ‘Cattle Bay Marina – Water Quality Management Plan #2 dated June 2015.

The plan, among other things, details specific mitigation measures relating to aquaculture activities in Twofold Bay. The report has been referenced earlier in this Report (see Section 3 of Appendix 10 Water Resources) and recommendations made for the inclusion of specific conditions in any subsequent consent.

The EIS is also supplemented by additional investigations and reports prepared by Royal Haskoning DHV entitled “Cattle Bay Marina - Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts dated April

2015 and Cardno entitled “Cattle Bay Marina – Mussel Farm Impact Assessment dated March 2015.

See Section 10.5 of this Report.

The purpose of these reports being to assess, among other things, potential impacts on mussel farm infrastructure associated with a changing wave climate in the vicinity of the mussel farm before and after the installation of the proposed wave attenuator.

The reports conclude that the wave attenuator would only have a minimal effect on wave heights, wave direction and wave energy at the location of the mussel farm.

In addition, the application and all associated documents were subject to referral to the Department of Primary Industries Fisheries NSW.

The Department’s response has addressed the potential impacts associated with the construction and operation of the marina. In doing so, the Department has highlighted the importance of long term protection of sanitary water quality in the area as being paramount to the ongoing viability of the leases and human health standards.

The Department has raised no objection to the proposed marina development subject to conditions being imposed on any subsequent development consent to address environmental integrity and to mitigate potential impacts on the mussel farm.

The responses from the Department of Primary Industries – Fisheries NSW are discussed later in this report (see Section 12.5).

Potential impacts on the mussel farm during construction and operation of the marina have also been acknowledged in the Draft Construction and Operational Environmental Management Plans.

The plans acknowledge the importance of water quality for the purpose of sustaining a viable aquaculture industry. Mitigation measures are proposed in the form of protocols for testing and reporting and incident management.

Comment

The potential impacts on mussel farm infrastructure resulting from the construction and operation of the proposed marina development have been addressed as part of the assessment process.

Based on the information received with the application and the response of the Department of Primary Industries – Fisheries NSW, it is considered that the potential impacts on mussel farm infrastructure and the long term viability of the leases would be minimal and manageable provided suitable mitigation measures are deployed during both the construction and operational phases of the proposed marina.

To a degree, suitable measures have been incorporated into the Draft Construction and Operation Environmental Management Plans for the marina. Notwithstanding, recommendations have been made in this report regarding the content of the abovementioned plans which have been considered justified to address environmental integrity.

As recommended above, the report prepared by Marine Pollution Research Pty Ltd entitled "Cattle Bay Marina Project EIS – Aquatic Ecology Assessment May 2013" should be acknowledged in both the Construction Environmental Management Plan and Operational Environmental Management Plan.

The following condition is recommended:

- **The Draft Construction and Operational Environmental Management Plans shall be amended as appropriate to give reference to the mitigation measures and recommendations made in the Report prepared by Marine Pollution Research Pty Ltd entitled "Cattle Bay Marina Project EIS – Aquatic Ecology Assessment May 2013 to Council's satisfaction.**

Reason: To ensure environmental integrity in the interests of sustainable aquaculture.

10.11 Public Interest

The application has been subject to an extensive review by relevant Council Staff. In response, concern has been raised over the lack of consideration given in accommodating emergency situations which may arise from time to time through the general operation of a vessel and/or pursuit of recreational/lifestyle opportunities.

It is considered that the siting and design of the proposed marina development would more than adequately cater for those situations without compromising the aspirations of the proponent in providing a modern, well managed marina facility.

The marina development would not restrict access to the existing public reserve and it is proposed to require public access to the existing private wharf and car parking area should the application be approved.

The following condition is recommended:

- **Sections 6 and 18 of the Operational Environment Management Plan shall be amended to facilitate:**
 - **the provision of emergency berthing of vessels.**
 - **the casual and emergency overnight stay on vessels but limiting the period to a maximum of 6 nights to any calendar month.**
 - **the minor emergency repair and/or maintenance of vessels to restore sea worthiness.**

Reason: To provide safe anchorage in the interest of public safety.

11.0 PUBLIC SUBMISSIONS

The application has been subject to two separate public consultation processes. In response, Council has received in total 25 submissions comprising:

- Six submissions in support of the proposed marina development;
- Three submissions supporting the marina development but raising concern;
- Fifteen submissions objecting to the proposed marina development; and
- One submission expressing an undecided opinion.

11.1 Submissions in Support

In summary, those submissions in support of the proposed marina development drew reference to:

- potential economic benefits to Eden and Shire generally;
- promotion of tourism and lifestyle opportunity;
- would be in keeping with Eden's maritime heritage;
- the marina being a much needed facility in the locality and to the lower south coast generally; and
- would contribute to the Port of Eden as a working port

Comment

The content of these submissions have been addressed throughout the body of this report.

11.2 Submissions in Support - Concerns Raised

In summary, whilst generally supporting the proposed marina development in principle, the submissions raised concern in regard to the following:

11.2.1 Impact on swing moorings

Whilst raising no objection to the proposed marina development, concern has been raised by a licence holder over the potential loss/relocation of the mooring.

Comment has been received that the individual mooring has been long standing, is well protected from the elements and is conveniently located close to the Cattle Bay foreshore thus ensuring ease of access. Any new location would be too exposed and difficult and dangerous to access.

It is maintained by the licence holder that the only safe option would be to make a marina berth available for the mooring of his vessel.

Comment

As previously outlined in this report the matter of the relocation of the swing moorings is one between Crown Lands, Roads and Maritime Services and licence holders.

11.2.2 Pedestrian Access

There are no planned pedestrian linkages between the proposed marina development, town centre, Snug Cove and Cocora Beach. The provision of convenient pedestrian access is considered to be of high importance in providing suitable access to services and amenities to the boating fraternity.

Comment

The current application makes no provision for suitable and convenient pedestrian access between the proposed marina development, town centre, Snug Cove and Cocora Beach. Whilst the construction of pedestrian linkages would be desirable, their construction is considered beyond the scope of the proposed marina development and Council's adopted works program.

As previously detailed in this Report, the proponent as part of the Major Project Concept Approval (05_0032) has dedicated in subdivision a foreshore public reserve which has been vested in Council's ownership. It is considered that the dedication of the land as public reserve represents a significant contribution in the provision of public access.

Section 94A contributions would be levied and allocated in accordance with Council adopted Policy, but not necessarily to complement the proposed marina development.

11.2.3 Emergency / Health Services

The site is not conveniently accessible to ambulance and local health services due to steep terrain and absence of a pedestrian network.

Comment

Both the land and water based components of the proposed marina development would be serviced by a sealed Council maintained road and constructed carparking and driveway areas within the development. Accordingly, access to emergency service vehicles would be guaranteed.

The absence of a convenient and suitable pedestrian network is not considered essential to the availability of local health services. Whilst the site is not on a local bus route, a local taxi service operates within Eden. Pedestrian access between the marina and town centre would still be maintained within the existing road reserves albeit somewhat undulating and steep in sections.

11.2.4 Public Access

Public access to the existing wharf must be maintained.

Comment

As previously detailed in this report, there is no lawful public access to the existing wharf at the present time. Public access is to be formalised given its new role and its recreational and tourism potential. However, any formal access arrangement would be managed by the marina operator in the interests of safety and security.

See Sections 4.3 and 10.2 of this Report.

11.2.5 Potential Impacts on Cocora Beach

The potential impact of reflected wave action on Cocora Beach is a serious concern given its environmental setting and recreational opportunities. Cocora Beach is one of Eden's greatest natural assets. Council needs to be satisfied that any potential impact has been rigorously investigated and assessed.

Comment

The EIS is supplemented by a number of technical reports which have assessed the potential impact of the proposed marina development on coastal processes and its influence on the characteristics of the Cattle Bay and Cocora Beach foreshores.

Collectively, the reports concluded that the proposed marina development would have a minimal impact on foreshore character (visual quality and alignment) and that the passive and active recreational opportunities currently provided by these foreshore areas and enjoyed by the general public, would not be compromised.

The investigations and recommendations contained within the reports have been reviewed by relevant Council Staff and State Agencies having regard to current legislation requirements and standards. It is considered that the process of assessment and reporting has been rigorous and suitably quantifies and evaluates potential impacts associated with the construction and operation of the proposed marina.

11.2.6 Potential Pollution Risk

The proposed marina has the potential to contribute significantly to waterway pollution albeit visiting vessels are likely to have on board waste containment systems. Marina litter will find its way into the waterway either by intention or due to wind action. Litter must be collected regularly and suitably disposed of to ensure environmental integrity.

Comment

The marina would be serviced by a minimum of two mobile sewage pump out units. The units would discharge to Council's land based reticulated town sewer system.

Mobile sewage pump out units are widely and successfully used in marina developments nationwide. They do not rely on the vessel's owner accessing a static

dedicated berthing area and pump out facility at the marina. It enables the marina operator to be more proactive in compliance with operational standards of any subsequent environmental protection licence and operational environmental management plan.

The operational efficiency of the pump out units would be embodied in the Operational Environmental Management Plan and Marina Occupation Agreement between the marina owner and vessel owner/operator.

The proposed system of sewage management has been assessed by Council staff and State Agencies and is considered a suitable management system for the proposed marina.

Day to day litter control during the construction and operation of the marina would be the responsibility of the contractor in the first instance then the marina manager thereafter. Litter control would be addressed in the Construction and Operational Environmental Management Plans for the marina.

The controls contained within the Draft Management Plans have been reviewed by Council staff and are considered to be appropriate. Further the Environment Protection Authority has specifically addressed the matter in its General Terms of Approval for inclusion in any subsequent consent.

11.2.7 Timelines for Completion

The fact that the proponent has not physically commenced the endorsed mixed tourist and residential development on the adjoining lands and the fact that there has been no timelines given in the current application for the completion of the aforementioned development and now proposed marina development should be of concern to Council.

Council should obtain a staging plan from the proponent covering the completion of the two developments inclusive of an agreed timeline.

Comment

The mixed tourist and residential development is subject to a separate Major Project Concept Approval (05_0032) in August 2008. Requiring a staging plan for completion of the development as part of the marina application is not appropriate.

11.2.8 Reference to the Port of Eden Marina Concept.

The EIS and its supporting documents suggest that the Port of Eden Marina Concept should be subservient to the Cattle Bay Marina proposal. The suggestion is not supported in the strongest terms.

Comment

This is not a relevant planning consideration.

11.2.9 Inadequate marina support infrastructure

There is no boat launching ramp in the proposed marina development. Given increasing pressure on the Quarantine Bay boat ramp, particularly over the summer months, a suitable boat launching ramp should be incorporated in the design of the proposed marina.

Comment

This issue is not relevant to the proposed marina development.

11.2.10 Potential Noise Impacts

Vessel maintenance and repairs have the potential to impact on the amenity of adjoining and adjacent lands by reason of noise. Any maintenance should be carried out during daytime hours.

Comment

The detail in the EIS indicates that routine minor servicing and maintenance of vessels would be permitted at the marina with major servicing being carried out by specialist marine services in the Port of Eden.

The potential impacts of noise on adjoining and adjacent lands have been assessed by relevant Council Staff and Environment Protection Authority. On review, it is considered that potential noise impacts have been thoroughly addressed and that any associated impacts can be mitigated by the imposition of suitable conditions on any subsequent consent and the adoption of an Operational Environmental Management Plan and Operational Noise Management Plan.

11.2.11 Potential Light Source Impacts

For aesthetic and amenity issues lighting associated with the operation of the marina should be of a type which does not impact on adjoining and adjacent lands.

Comment

The lighting in and around the marina would take two forms, being required navigational lighting and operational lighting such as directional and security lighting.

The Operational Environmental Management Plan for the proposed marina has acknowledged that navigational lighting would need to comply with international standards (System A of the International Association of Lighthouse Authorities) and that all operational indoor and outdoor lighting must be designed and installed in accordance with AS 4282-1997; Control of obtrusive effects of outdoor lighting.

11.3 Submissions Objecting

The submissions raise a number of concerns regarding the construction and operational characteristics of the proposed marina development. In summary, they are:

11.3.1 Potential Biodiversity Impacts

A number of submissions raise concern over the potential impact of the marina on biodiversity generally and the scope of the investigations and reporting as presented in the EIS and supporting documentation.

Comment

The EIS and associated specialist reports have extensively addressed and evaluated the potential impacts on biodiversity both during construction and operational stages of the proposed marina development.

Collectively, the EIS and specialist reports have concluded that the impact of the proposed marina on biodiversity would be minimal and any impact can be mitigated through adoption and implementation of appropriate Construction and Operational Environmental Management Plans.

Draft Construction and Operational Environmental Management Plans have been prepared (see Appendices 6 and 7) and together with the detail in the EIS, have been reviewed by relevant Council Staff and State Agencies. On review, the Draft plans are considered to be appropriate, however a number of amendments have been recommended throughout the content of this Report which, if implemented would strengthen the requirements of the Plans as they relate to biodiversity.

Given the above, it is considered that the biodiversity impacts have been adequately addressed and evaluated to enable an informed decision to be made on the appropriateness of the proposed marina development in its environmental setting.

11.3.2 Potential Site Contamination

Concern has been raised over potential site contamination inclusive of the Cattle Bay Beach and immediate waterway stemming from past cannery operations and the impact on environmental integrity should contaminants be exposed during construction and ongoing operation of the marina.

Comment

Potential site contamination has been addressed in Section 4 of Appendix 10 to this Report and suitable conditions recommended to satisfy Council's due diligence obligations.

11.3.3 Potential Pollution of Waterway – water quality

Concern has been expressed that construction and ongoing operation of the proposed marina would have the potential to pollute the waterway to the detriment of the environment and as a result, would diminish tourism and recreational opportunities currently enjoyed by community at large.

Comment

The EIS and associated specialist reports have extensively addressed and evaluated the potential impact on the water quality during both construction and operational stages of the proposed marina development.

Collectively, the EIS and specialist reports have concluded that the potential impact on water quality is minimal and/or manageable through the preparation, adoption and implementation of Construction and Operational Environmental Management Plans.

As previously advised in this report, Draft Construction and Operational Environmental Management Plans have been prepared and together with the detail in the EIS.

The EIS and specialists reports have been reviewed by Council staff and relevant State Agencies and a number of amendments have been recommended throughout the content of this Report which, if implemented would strengthen the requirements of the Plans as they relate to water quality.

Given the above, it is considered that the potential for the proposed marina to impact on water quality has been adequately addressed and evaluated to enable an informed decision to be made on the appropriateness of the proposed marina development in its environmental setting. Any potential impact on tourism and recreational opportunities would be minimal.

11.3.4 Potential impacts on Cattle Bay and Cocora Beaches – beach alignment.

Concern has been expressed that the construction of the marina development, more specifically the wave attenuator, would impact on the alignment of both Cattle Bay Beach and Cocora Beach with resultant impact on tourism and recreational opportunities (particularly recreational fishing).

Comment

The EIS and associated reports have extensively addressed and evaluated sediment movement and shoreline stability and have concluded that Cattle Bay Beach would become more sheltered which is likely to result in a change in its alignment over time. The beach would effectively rotate in a clockwise direction which would result in a narrowing of the beach at its western end (in the order of 8 metres) and a wider beach profile at its eastern end (in the order of 6 metres). The beach would not be lost.

The associated impact on marine habitat brought about by the accretion of sediment at the eastern end of the beach would be minimal.

Significant changes to the alignment of Cocora Beach are not expected.

The EIS and supporting Reports have been reviewed by relevant Council Staff and State Agencies with the amendment criteria and conclusion supported. No concern has been specifically raised in relation to the form and content of the reporting or the nature and extent of the potential impacts.

On that basis, whilst there is a recognised impact, particularly to the alignment of Cattle Bay Beach, it is considered that the nature and extent of impact would be minimal and would not result in any significant impact on tourism and recreational opportunities.

11.3.5 Preclusion/Restriction of Public Access - across the foreshore/existing wharf

Concern has been expressed that public access to the existing wharf and foreshore areas would be precluded or restricted by the proposed marina development either physically or by way of adopted marina management processes.

Comment

The issues associated with public access across the foreshore and over the existing and proposed elements of the land and water based components of the marina development have been detailed in the body of this report.

Public access would be provided to all elements of the proposed marina development.

11.3.6 Relocation of swing mooring – practicality, cost and logistics

Concern has been expressed in relation to the practicality, costs and logistics in relocating existing swing mooring affected by the waterway footprint of the proposed marina.

Comment

The relocation of the existing swing moorings is a matter for Crown Lands as the owner, Roads and Maritime Services and current lease holders.

11.3.7 Visual Impact

Concern has been expressed that the proposed marina development would have an adverse impact on the visual quality of Cattle Bay and the greater Twofold Bay visual catchment.

Comment

The impact of the proposed marina development on the visual character of Cattle Bay and Twofold Bay has been addressed in Section 10.7 of this Report.

After inspections from various points around Twofold Bay, Staff have concluded that any potential impact would be minimal given the scope of the development and its siting and design in context with its natural setting. Nonetheless, conditions have been recommended for inclusion on any subsequent consent addressing the appearance of the proposed building, the need for the provision of suitable site landscaping and lighting.

11.3.8 Noise Impacts – wave attenuator, vessels (berthed/underway), vessel maintenance and patron noise.

Concern has been expressed that the noise associated with the operation of vessels, vessel maintenance, marina patron noise and wave noise would adversely impact on the amenity of adjoining and adjacent lands (public and private).

Comment

Potential noise impacts associated with the proposed marina development have been documented and assessed in Section 10.8 of this report.

The EIS is supported by an acoustic report prepared by West and Associates Pty Ltd entitled 'Cattle Bay Marina Development Application Acoustic Report at Cattle Bay Road Eden' October 2014 and has been further supplemented by an acoustic report prepared by West and Associates entitled Cattle Bay Marina – Acoustic Services – Wave Attenuator Noise June 2015.

Draft Construction and Operational Noise Management Plans have been prepared and submitted in support of the EIS. The Plans have been prepared by West and Associates P/L dated 7 April 2015.

The reports and Construction and Operational Noise Management Plans have been assessed by relevant Council Staff and the Environment Protection Authority and found to be suitable in terms of their form, content and required mitigation measures.

The Construction and Operational Noise Management Plans have been referenced in both the Construction and Operational Environment Management Plans. It is considered the implementation of the Plans would ensure the acoustic amenity of the locality and more specifically, those residential properties identified in the reporting.

11.3.9 Economic Viability

In the opinion of the objector, the viability of the proposed marina development has not been demonstrated.

Comment

In response to the objector's claims, the proponent has advised that the proposed marina is viable and is supported by sound business case fundamentals as presented in the EIS and the supplementary report prepared by Corious Marine Management and Training Solutions entitled 'Eden Marina Project Report' date June 2012.

11.3.10 Poor Infrastructure Networks – sewer, roads and pedestrian linkages

Concern has been expressed that necessary infrastructure required to support the development of a marina is inadequate and that significant upgrades are required.

Comment

The adequacy of land based Council infrastructure has been addressed earlier in this report and recommendations made which would ensure the adequate provision of service infrastructure.

In respect to the adequacy of pedestrian linkages, their construction and ongoing maintenance is beyond the scope of the current marina proposal and Council's adopted works program.

11.3.11 Lack of Consideration to Aboriginal Culture and Heritage – Bundian Way construction not catered for in proposal.

Concern has been expressed that little consideration has been given to the importance of Aboriginal culture and heritage in the planning and design of the proposed marina development.

The proposed marina development, through its planning and design, should assist in the development of a safe pedestrian access linking Cattle Bay and Cocora Beach over the route of the Bundian Way.

The proponents of proposed marina developments at Snug Cove and Cattle Bay (including the Crown) should be required to provide adequate public pedestrian access as a basic requirement of these proposed developments and such, a requirement should be stipulated as a mandatory condition on any subsequent development approval.

Comment

The concerns expressed in the submission have been addressed in Section 10.6 of this report.

It is considered that the importance and prominence of the Bundian Way has been secured in perpetuity with the dedication of the public reserve across the foreshore to the marina site. However, the physical construction of the route between the subject site and Snug Cove and Cocora Beach is considered beyond the scope of the proposed marina development and as such, is not considered reasonable or justified.

11.3.12 Inadequate Support Infrastructure

Concern has been expressed that the proposed marina development is not supported by critical on-site facilities such as, shops, adequate toilet/shower facilities, slipway, chandlery and fuel.

Comment

Facilities such as shops, slipways chandlery and fuel are readily available within the town centre and/or Snug Cove which would be easily accessed by road or the waterway.

The provision of adequate on-site toilet/shower facilities has been reviewed by relevant Council staff and State Agencies. As originally proposed, these facilities were considered inadequate to cater for the size of the marina and the proponent was advised accordingly as to Council's requirements.

Council Staff considered it justified to require the provision of an additional unisex sanitary compartment with shower and an outside water shower. Council's position was conveyed to the proponent and has been accepted.

11.3.13 Inappropriate referencing to Port of Eden Marina Development

Concern has been expressed that the EIS has misrepresented the status of the Port of Eden Marina development in terms of progress and funding.

Comment

The submission was forwarded to the proponent who has acknowledged the concerns expressed in the submission. There is no development application currently before Council for a further marina proposal.

11.3.14 Appearance and Maintenance

The objector has expressed the view that the proponent has demonstrated a total disregard for the appearance and maintenance of the Cattle Bay site inclusive of the existing wharf, Council's reserve, foreshore and waterway areas and the environment generally.

The objector has expressed the view that based on past performance, there is a question of doubt over the appropriateness of the proposed marina development and the proponent's intent to commence and complete both the now proposed marina development and the mixed tourist and residential development on the adjoining lands.

Comment

It is considered that the views expressed by the objector are not valid grounds on which to base an assessment and determination of the current application.

11.3.15 Potential Impacts on Aquaculture

Concern has been expressed by the operators of the aquaculture leases, that the construction and operation of the proposed marina will have an impact on infrastructure and water quality to the detriment of a viable aquaculture industry.

Comment

The potential impacts of the proposed marina development on the viability of the aquaculture leases have been addressed in Section 10.10 of this report.

11.3.16 Timelines for completion

Concern has been expressed that there has been no time line given in the current application for commencement or completion of the proposed marina development.

Comment

Under the provisions of the Environmental Planning and Assessment Act 1979 no timeline for commencement or completion of the proposal has been submitted. The applicant would have 5 years from the endorsement date of any subsequent consent to establish a physical commencement.

11.4 Unqualified Submission

Council is in receipt of a submission which expresses an interest in potential view impacts associated with the proposed marina development and seeking advice as to whether the application was available for viewing in an electronic format.

As requested, Council Staff provided detail on the availability of the application and extended an invitation to discuss any matters relating to the proposed marina development should they arise.

No further comment was received by Council from the interested party.

11.5 General Comment

The public submission summary above represents a summary of the issues raised in the submissions received during the public exhibition of the application. It is considered that the issues raised have been addressed in the EIS, supporting documentation and draft conditions of consent.

12.0 AGENCY SUBMISSIONS

The application was referred to a number of State Agencies for assessment, comment and/or requirements on two separate occasions.

The following represents a summary of the submissions.

12.1 Trade and Investment Crown Lands

In the Crown's initial response to Council dated 17 February 2015 the following observations and comments were made in relation to:

- Confirming landowners consent.
- Crown Lands is currently considering a request from the proponent to enter into direct negotiations over the leasing of Crown Land to facilitate to water based components of the proposed marina.
- There is no lease over the existing wharf. A Licence is in place. Any lease of the wharf and conditions that may be attached to the same, including public access, will be considered in any lease negotiations that may take place for the whole development.
- Works associated with the refurbishment of the existing wharf have not been specified in the application. The exact nature of the works associated with the refurbishment and maintenance of the wharf will need to be determined as part of any future lease negotiations.
- The EIS needs to be updated to refer to the amended LEP maps and the application of the same.
- Irrespective of any consent or approval granted by another public authority, work or occupation of Crown Land cannot commence without a current tenure from NSW Trade and Investment, Crown Lands authorising such work or occupation.
- Subject to development Consent being issued, a lease application for work and occupation of structures located on crown land will be required to be submitted

to Crown Lands by the proponent. Following the submission of a lease application, a draft lease agreement with appropriate special conditions will be prepared.

No specific conditions were provided for inclusion as part of any subsequent development consent.

The comments of the Crown were conveyed to the proponent. In response the proponent acknowledged the Crown's advice and in doing so, provided further advice on the refurbishment and maintenance of the existing wharf and confirmed that the advice contained in the EIS as it related to land zoning was correct.

The refurbishment and maintenance statement has been documented in Section 4.5 and 4.6.5 of this report.

The additional information was conveyed to the Crown and in response, the Crown advised by email dated 24 June 2015 that it had no further comment.

Whilst no specific conditions have been recommended by Crown Lands it is considered that the following condition should be imposed on any subsequent consent to acknowledge the requirements of the Crown in relation to the lease of Crown Land.

- **Prior to the issue of any subsequent construction certificate by the Principal Certifying Authority, the proponent shall enter into an appropriate lease arrangement with Trade and Investment Crown Lands over the occupation of Crown Lands associated with the construction and operation of the proposed marina development.**

A copy of the lease shall be submitted to Council prior to the commencement of works or occupation of the lands nominated in the lease.

Reason: To ensure the requirements of Trade and Investment Crown Lands.

12.2 Department of Defence

The Department in its response to Council has advised that the proposed marina development is unlikely to disrupt Defence activities conducted on the multipurpose naval wharf and on that basis, has raised no objection to the proposed marina development.

12.3 Department of Planning

The Department raised no objection to the proposed marina development and directed Council's attention to the Director General's Requirements for the

development and the need to consider the submissions from State Agencies given their fields of expertise, particularly in relation to potential environmental impacts.

The Department in its response also recognised the strategic importance of Snug Cove to Eden as referenced in the Snug Cove and Environs Master Plan and that the proposed marina has potential economic benefits through investment and employment opportunities. The Department also made comment that the proposed marina may act as a catalyst to encourage further development at Snug Cove and in the Eden town centre.

12.4 Environment Protection Authority

In its initial response to Council dated 16 December 2014, the Authority advised Council that it was not in a position to issue its General Terms of Approval for the proposed marina development on the basis that the information contained within the application failed to address the requirements of the Authority.

The Authority advised that further consideration must be given to:

- Air Quality issues – operational phase only;
- Noise and vibration – construction and operational phases;
- Water quality – construction and operational phases: and
- Content of the submitted environmental management plan

The concerns raised by the Authority were subsequently referred to the proponent for consideration.

In response, the proponent provided additional detail which was referred to the Authority on 28 April 2015. The Authority by email dated 22 June 2015 advised Council that it had reviewed the additional information supplied by the proponent but it was still not in a position to issue its General Terms of Approval. Effectively, the issues documented in the Authority's initial submission had not been appropriately addressed.

The Authority in its response was most specific as to the shortcomings in the level of detail supplied by the proponent.

The Authority's response was conveyed to the proponent. The proponent provided additional information to Council on the 9 July 2015 which was subsequently referred to the Authority on the 15 July 2015.

The Authority advised Council on 5 August 2015 that it was still not in a position to issue its General Terms of Approval as the level of detail relating to potential noise impacts had not been properly addressed.

The Authority's response was forwarded to the proponent.

The proponent submitted a revised acoustic report on 18 August 2015 which was referred to the Authority on 27 August 2015.

The Authority advised Council on 16 October 2015 that it had issued the General Terms of Approval for the proposed marina development. The General Terms of Approval would be imposed in any subsequent development consent issued for the proposed marina.

The following condition is recommended:

- **The marina development shall comply with the General Terms of Approval issued by the NSW Environment Protection Authority on 16 October 2015.**

Note: The General Terms of Approval issued by the Authority are provided as Attachment A to this development consent.

12.5 Department of Primary Industries Fisheries NSW

The Department in its initial response to Council dated 16 December 2014 confirmed that it would be prepared to issue a Part 7 Permit under the Fisheries Management Act 2013 to enable the construction of the proposed marina development and that it raised no object to the issue of a development consent subject to specific General Terms of Approval be imposed as detailed in the Departments response.

However, more generally, the Department indicated that it had concerns over the operational impacts of the proposed marina on the aquatic environment, aquaculture and recreational fishing.

The Department's response specifically acknowledged the presence of the mussel farm leases to the south west of Cocora Point and the importance of protecting water quality to ensure human health standards and the ongoing viability of the leases.

The Department also raised concern over sewage waste from moored vessels entering the waterway and questioned the apparent lack of adequate onshore toilet and laundry facilities.

Concern was also expressed in relation to:

- bilge water disposal;
- the location super yacht berthing in the marina and the apparent lack of keel clearance to the seabed;
- the potential impact on recreational fishing opportunity if public access to the existing wharf is precluded as part of the development; and
- the relocation of existing swing moorings and associated potential impacts on existing seagrass habitat.

Accordingly the Department, in addition to the required General Terms of Approval, recommended the inclusion of the following conditions on any subsequent consent:

- Onshore toilet, shower and laundry facilities are to be provided for the use of marina patrons.
- An operational Environmental Management Plan (OEMP) is to be developed and provided to Fisheries NSW for comment and approval prior to the commencement of operation.
- An introduced marine species (IMS) management plan for construction and operation be developed and referred to Fisheries NSW for comment and approval prior to commencement of any works.
- An additional principle, “That no relocation of swing moorings are to be placed into or in the close proximity to seagrass beds” be included in the swing mooring relocation Plan.
- That the finalised proposal(s) for the relocation of swing mooring be referred to Fisheries NSW for approval prior to the commencement of work.
- The proponent must notify the aquaculture permit holder/s at least one week prior to the commencement of any work (e.g. Piling) that may result in the disturbance of any sediment.
- If any marine construction or operational works cause water quality impacts that result in the aquaculture lease areas being closed to harvest by the NSW Food Authority, the proponent must cease such works immediately and not recommence until the risk of adverse water quality impacts has been eliminated.
- If a shellfish harvesting closure occurs as a result of water quality deterioration caused by construction or operation of the marina, the proponent in co-operation with the aquaculture permit holder/s is to undertake testing, at the proponent’s cost, of the farmed shellfish to determine when shellfish is suitable for human consumption and the closure to harvest can be lifted.
- The proponent is to develop signage in conjunction with Fisheries NSW which must be installed and maintained at prominent locations with the proposed marina development, to notify patrons of the location of the aquaculture leases and the need to be vigilant in regard to maintaining water quality and avoiding collisions.
- The jetty and marina facility is to remain accessible to non-paying recreational users during marina opening hours as outlined in Section 3.2.9 of the EIS
- The proponent is to keep detailed records in relation to the use and effectiveness of the “muck truck”, including dates, times, name and berth of vessels using the machine, number of users and the volume and type of waste removed (sewage, greywater, bilge water).
- Independent audits of the operation of the marina are to be conducted after 12 months and again after 3 years of operation and thereafter at 5 yearly intervals. Audits are to be conducted by suitably qualified practitioners; a copy of each audit report is to be provided to Fisheries NSW within 3 months.

The Department's response was conveyed to the proponent on 23 January 2015. In response, the proponent provided additional information for consideration by the Department.

By letter dated 28 May 2015, the Department advised Council that the amending detail addressed some, but not all of the Department's concerns as previously documented.

Notwithstanding, the Department confirmed that it would be prepared to issue a Part 7 Permit under the Fisheries Management Act 2013 to enable the construction of the proposed marina development and that it raised no object to the issue of a development consent subject to revised General Terms of Approval as detailed in the Department's latest response.

In providing comment, the Department still raised concerns regarding:

- water quality security and the potential impact on aquaculture;
- introduction of pest species transported on vessel hulls from other ports;
- an apparent inadequacy of onshore facilities;
- super yacht berthing; and
- the capacity of the "muck truck".

Accordingly the Department has recommended amendments to the Draft Construction Environmental Management Plans addressing standards and actions to be implemented during construction relating to soil and water management control and water quality security – monitoring turbidity daily to ensure that there are no visible turbid plumes entering the environment.

The Department has also recommended amendments to the Draft Operational Environmental Management Plan requiring:

- the need for daily monitoring for leaks and spills and to prevent discharge of bilge water and grey water from sinks, showers or other sources; and
- faecal coliform levels being included in post construction monitoring of water quality testing program.

The Department has also recommended the inclusion of the following conditions:

- Onshore toilet, shower and laundry facilities are to be provided for the use of marina patrons.
- An amended Operational Environmental management Plan (OEMP) incorporating Fisheries recommendations is to be developed and provided to Fisheries NSW for comment and approval prior to the commencement of operation.

- An introduced marine species (IMS) management plan for construction and operation be developed and referred to Fisheries NSW for comment and approval prior to commencement of any works.
- That the relocated moorings be replaced with seagrass friendly moorings if placed into or in close proximity to seagrass beds.
- That the finalised proposal(s) for the relocation of swing mooring be referred to Fisheries NSW for approval prior to the commencement of work.
- The policy for public access of the jetty and marina facility as outlined in Section 3.2.9 of the EIS is adopted and enforced, specifically that the existing jetty remains accessible to the public 24 hours a day, and the marina be made available to the public during marina opening hours (summer, daylight saving 7am – 6pm, winter, non-daylight saving 7am to 5pm).
- The proponent is to keep detailed records in relation to the use and effectiveness of the “muck truck”, including dates, times, name and berth of vessels using the machine, number of users and the volume and type of waste removed (sewage, greywater, bilge water).
- That copies of the test reports produced from the port construction water quality testing program be retained by the operator for a period of 3 years and be provided to Fisheries NSW on request.

The Department also provided additional comment specifically relating to the aquaculture leases noting the proponent has agreed to additional onshore toilets and showers and that the number of mobile sewage pump out carts would be increased from 1 to 2.

The following conditions have been recommended for inclusion on any subsequent Consent:

- The mitigation measures listed in Section 4.3 of the water Quality Management Plan (Version 1, 31 march 2015) and the pre and post water quality monitoring program detailed in Version 2 of the Water Quality management Plan (23 June 2015) are implemented in full.
- The proponent develops signage in conjunction with NSW DPI which must be installed and maintained at prominent locations within the marina to notify patrons of the location of the aquaculture leases and the need to be vigilant regarding maintaining water quality.
- A notification process is arranged whereby the aquaculture lease operator is immediately informed by the marina of any illegal or accidental vessel discharge within the marina.

Comment

Based on the advice of the Department the following condition is recommended:

- **The marina development shall comply with the General Terms of Approval and supplementary conditions issued by the Department of Primary Industries Fisheries NSW on 28 May 2015 and 18 August 2015.**

Note: The General Terms of Approval and supplementary conditions issued by the Department are provided as Attachment B to this development consent.

12.6 Office of Environment and Heritage

The Office of Environment and Heritage (OEH), in its response to Council dated 12 December 2014, documented a number of concerns and deficiencies in the level of information contained within the application. The issues related to:

- Aboriginal cultural heritage;
- Geotechnical;
- Swing mooring relocation;
- Flooding; and
- Marine flora and fauna impacts

The concerns raised by OEH were subsequently referred to the proponent for consideration on the 23 January 2015.

In response, the proponent on the 10 April 2015 provided additional detail addressing the specifics of the OEH submission. The additional information was subsequent referred to OEH on the 28 April 2015.

OEH in its response to Council dated 28 May 2015, advised that a revision of the additional detail had been undertaken and that the only remaining concerns related to potential impacts on shore birds and waders, marine mammals and the cumulative impacts on marine fauna which will result from both Cattle Bay and the extensions of Snug Cove Wharf.

The submission from OEH was subsequently referred to the proponent on 1 June 2015 for consideration.

Additional information was submitted by the proponent on 9 July 2015 and subsequently referred to OEH on 15 July 2015.

In response, OEH advised Council by letter dated 18 August 2015 that the additional information had been assessed and that overall, OEH is satisfied that the biodiversity impacts associated with the proposed marina development had been qualified and

that with the appropriate mitigation measures described in the Construction and Operational Environmental Management Plans including adherence to the Piling Noise Guidelines (2012) should not have a significant impact on biodiversity.

Comment

In its correspondence, the Office of Environment and Heritage made no request for the inclusion of any specific conditions in any subsequent consent to maintain biodiversity. The reference above to the Piling Noise Guidelines (2012) has been addressed in the recommended conditions contained in Section 10.3 of the Report.

Section 10.6 of this report addresses Aboriginal Cultural Heritage.

12.7 Roads and Maritime Services

The Roads and Maritime Services (RMS) in its response to Council dated 11 December 2014 advised that on navigation grounds the following conditions are required to be imposed on any subsequent consent:

- A network of Aids to Navigation be installed in compliance with System A of the International Association of Lighthouse Authorities (IALA)
- The above network be approved by Roads and Maritime Services.

The Service in its response also raised concern in relation to:

- Loss of available navigable waters and amenity to the general boating community through the construction of the wave attenuator and marina facility
- Impact to existing mooring licence holders by way of loss of available water and amenity
- The wave attenuator and the impacts this facility would have with regard to any deflecting wave action on existing vessels (both moored and berthed) and waterside land and foreshore areas in Cattle Bay and within Eden harbour.

RMS advised that a considered and collective inter-agency response should occur addressing concerns and conditions warranted, and that consent should not be provided until this engagement has happened.

The concerns raised by RMS were subsequently referred to the proponent for consideration on the 23 January 2015.

On the 10 April 2015 the proponent provided additional detail which was referred to RMS on 28 April 2015.

In response, RMS by letter dated 3 June 2015 advised Council that it had reviewed the additional information and that no objection to the proposed marina development is raised in regard to safe navigation subject to a number of recommended conditions being imposed on any subsequent consent.

Comment

The recommended conditions are considered reasonable and justified being:

- in the interest maritime safety;
- required to direct land tenure (Crown Lease/licence) decision making except for the relocation of the swing moorings which is a separate matter between Crown Lands as the owner, RMS and existing lease holders

The following conditions are recommended as documented by RMS:

- **A Network of Aids to Navigation shall be installed on and around the proposed marina in consultation with Roads and Maritime Services (and in compliance with System A of the International Association of Lighthouse Authorities) at the proponent's cost.**
- **The permissive occupancy licence issued by NSW Crown Lands for the proposed marina shall not include waters west of the fixed marina structure, or waters to the east of the fixed marina structure without further consultation with Roads and Maritime Services (to date, the extent of any occupation licence has not been provided to Roads and Maritime Services, and this will have implications for mooring relocation and navigation).**

12.8 Port Authority of New South Wales

The Authority provided the following comments;

- Prior to the commencement of waterside construction works, Harbour Master approval for the proposal is required to be obtained under Clause 67 of the Management of Waters and Waterside Lands Regulations – NSW in relation to the proposed disturbance of the bed of a 'special port'.
- Consultation with the Harbour Master for the Port of Eden regarding the proposed development should occur to discuss the requirements for the Harbour Master approval as well as to deal with concerns relating to lighting of the development during construction and operation and impacts on shipping navigation.

The concerns raised by the Authority were subsequently referred to the proponent for consideration on the 23 January 2015.

The proponent's response provided additional detail and was forwarded to the Authority on the 28 April 2015. In response the Authority advised that the additional information did not address its initial request for the Harbour Master to be consulted regarding the lighting of the development during construction and operation and any impacts on shipping navigation.

The Authority also made recommendations in relation to the content of the Construction and Operational Environmental Management Plans in regard to hazard management water quality, swing mooring relocation.

Comment

The Authority in its response did not require the imposition of specific conditions on any subsequent consent.

However it is considered that based on the Authority's comments the following conditions would be appropriate:

- **Prior to the commencement of waterside construction works, Harbour Master approval for the proposal is required to be obtained under Clause 67 of the Management of Waters and Waterside Lands Regulations – NSW in relation to the proposed disturbance of the bed of a 'special port'.**
- **Consultation with the Harbour Master for the Port of Eden regarding the proposed development should occur to discuss the requirements for the Harbour Master approval as well as to deal with concerns relating to lighting of the development during construction and operation and impacts on shipping navigation.**
- **For reporting purposes, Section 4.4 of the Construction Environmental Management Plan shall be appropriately amended nominating the Harbour Master as the first point of contact in the event of any spills or leaks into the waterway.**
- **Section 9 of the Operational Environmental Management Plan shall be amended to include an additional management task to ensure all relevant authorities (including the Harbour Master) are immediately contacted in the event of any spills or leaks from vessels resident to or visiting the marina and/or from any marina infrastructure associated with the operation of the marina.**

12.9 Department of Primary Industries NSW Office of Water

The Department advised that it raised no objection to the proposed marina development and confirmed that the issue of a control activity approval under the provisions of the Water Management Act 2000 was not required in this instance.

12.10 Local Land Services

The Service has advised that the proposed marina development has been subject to a desktop assessment.

As the proposed development constitutes designated development, the Native Vegetation Act 2003 does not apply. However, from a preliminary observation the old cannery site is highly disturbed with some regrowth of native vegetation intermixed with exotic species. The surrounding headlands are well represented vegetation communities in the region.

12.11 NSW Police Marine Area Command

There has been no response from the Area Command to Council formal notification and subsequent written requests seeking advice.

13.0 INTERNAL COUNCIL REFERRALS

The application was also subject to an internal Council referral process in accordance with Council Policy. Appropriate responses have been received from relevant Council section.

13.1 Engineering Services

Council's Engineering considerations have been provided in Section 7 of Appendix 10 to this Report. Engineering Staff have raised no objection to the proposed marina development subject to specific conditions being imposed on any subsequent consent.

The recommended conditions are contained in Appendix 9.

13.2 Environmental Services

Environmental Services provided the following comment:

- No geotechnical report has been provided (as previously requested) to ensure the orientation of the wave attenuator is possible / achievable. Until such an assessment is completed the final orientation must be considered draft and associated projected impacts on wave action, especially on Cocora Beach are also not yet finalised.
- Council is particularly concerned about avoiding or minimising impacts on Cocora Beach. Environmental Services believes that 6-8m of rotation on Cocora Beach is potentially significant and options should be explored to reduce this impact. To this end the EIA by Royal Haskoning recommends cranking the arm of the attenuator to reduce wave action on Cocora Beach. However, the submitted plans do not have this articulation present (despite it being in the modelling report by Cardno). Given the importance of maintaining environmental and social amenity of Cocora Beach this 'cranked' option, if sufficiently modelled and found to improve (i.e. lessen) local environmental impacts on the beach must be the preferred design and in the submitted plans.
- The *Posidonia australis* bed identified to the east of the main marina site must be marked as an exclusion zone in any future construction of the marina.

- The Environmental Management Plan 2013 (Coriolis Marine) provides little direction in terms of each recommendation / management plans' responsibility, timing of implementation or the specific actions that would be undertaken. Further work on this Plan is required to clearly articulate the exact nature of each of the actions proposed and relevant authority which will require audited information.

The concerns raised by Environmental Services were subsequently referred to the proponent for consideration on the 20 February 2015.

A detailed response addressing the issues raised was received from the proponent on 10 April 2015.

Council's Environmental Services have reviewed the additional information and raise no objection to the proposed marina development subject to the following conditions being imposed on any subsequent development Consent:

- That the applicant fully implement the submitted Operation Environmental Management Plan (OEMP) (March 2015).
- The independent environmental audit proposed within the OEMP must be conducted by suitably qualified company/companies with appropriate professional qualifications and expertise in all areas of the Operation Environmental Management Plan (OEMP) (March 2015).
- Submit to Bega Valley Shire Council, for its approval, the independent environmental audit of the Cattle Bay Marina which will be conducted after 12 months and again after 3 years operation and thereafter at 5 yearly intervals.
- Comply with any actions required by Bega Valley Shire Council or other relevant authority, in relation to these authorities' review of the independent environmental audit of the OEMP.
- The independent environmental audit shall also include a review of the Operational Environmental Management Plan and provide recommendations for its update as required. These updates are to be reported within the independent environmental audit program as appropriate.
- A clearance certificate or similar, from Royal Haskoning DHV or Cardno for the final design of the wave attenuator is required. This certificate must clearly state whether the final design selected (including but not limited to materials, angles, dimensions, location etc.) is consistent with the modelled design in the report prepared by Cardno 'Cattle Bay Marina, Eden – Wave Modelling' (Cardno, 28 July 2014) and subsequent submission response correspondence from Royal Haskoning DHV (8th April 2015). The clearance certificate must be submitted and approved by Council prior to the issue of a construction certificate.
- Upon written request and within 14 business days, submit to the relevant authority, all issues / status / performances which are tracked and managed through the Operation Environmental Management Plan (March 2015). For

example but not limited to; logs, licenses, monitoring reports, registers, spillages, pollution incidents, training, insurances, environmental, noise, lighting and safety reports, incidents, checklists, complaints and agreements.

- The *Posidonia australis* bed identified to the east of the main marina site must be marked as an exclusion zone in any future construction of the marina.
- Comply with the requirements of the 'Blue Book' for soil and water management on site during the construction phase of roads, drainage and other relevant infrastructure.

Comment

The recommended conditions are recommended for inclusion in the draft consent (see Section 10.3 of this report).

13.3 Health and Building Services

Health and Building Services have recommended the following conditions for inclusion in any draft consent to ensure maritime safety and compliance with the Building Code of Australia and relevant Standards.

Comment

The recommended conditions have been reviewed and are considered reasonable and justified given the circumstances of the case. It is to be noted that recommended conditions a, b and c have been addressed in Section 10.11 of the Report.

- | |
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| <ul style="list-style-type: none">a. The OEMP shall be amended to the satisfaction of Council prior to the release of any construction certificate to make provision for emergency users of the marina in a range of berth sizes at all times.b. The OEMP shall be amended to the satisfaction of Council prior to the release of any construction certificate to allow for staying overnight on boats for casual and emergency users of the marina and their animals. Such casual and emergency stays shall not exceed 6 nights.c. The OEMP shall be amended to the satisfaction of Council prior to the release of any construction certificate to allow for emergency users of the marina to undertake repairs necessary to maintain or restore the sea worthiness of their vessel.d. Prior to the issue of any subsequent construction certificate by the Principal Certifying Authority , a preliminary site contamination report shall be provided to council for concurrence |
|--|

- e. Prior to the issue of any subsequent occupation certificate, a site contamination validation report is to be submitted to Council for concurrence. Any subsequent Construction Environmental Management Plan shall be amended accordingly to give effect to this condition.**
- f. The final construction plans shall demonstrate compliance for the access of people with disabilities and must be provided in accordance with the requirements of the Building Code of Australia, AS 1428.1, AS3962 and with regard to the Disability Discrimination Act 1992 - Access to Premises Standards 2010. These plans shall be submitted to Council for concurrence prior to the release of any construction certificate.**
- g. A revised design of the shore based amenities incorporating an additional unisex sanitary compartment with shower and an outside cold water shower are to be submitted to Council for concurrence prior to the release of any construction certificate.**
- h. A separate application to obtain approval to connect to council's sewerage system, undertake sanitary drainage and plumbing work under Section 68 of the Local Government Act 1993 shall be submitted to Council for approval prior to the issue of any construction certificate. A plumbing and drainage design plan is to be submitted with the application to Council.**
- i. A fire safety list of essential fire or other safety measures shall be submitted prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building premises in the event of fire. The fire safety list must distinguish between the measures that are:-**
 - Currently implemented in the building premises; and**
 - To be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.**
- j. Toilet and shower facilities shall be made available to casual and emergency users at all times during their stay at the marina.**
- k. Sanitary facilities are to be made available to all visitors to the wharf during daylight hours.**
- l. All wharf, ramp and pontoon decks are to be finished with non-slip surface.**
- m. All pontoon arm gates shall be readily openable in the direction of egress without a key by way of a single downward acting handle.**
- n. All building work must be carried out in accordance with the provisions of the Building Code of Australia.**

- o. A final Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an occupation certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979 have been satisfied.**
- p. The owner of a building, to which an essential fire safety measure is applicable, shall provide Council with an annual fire safety statement for the building premises. The annual fire safety statement for a building premises must: -**
 - Deal with each essential fire safety measure in the building premises; and**
 - Be given:-**
 - Within 12 months after the last such statement was given; or**
 - If no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.**

As soon as practicable after the annual fire safety statement is issued, the owner of the building premises to which the statement relates:-

- Must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades; and**
- Prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.**

14.0 CONCLUSION

The submitted development application (2014.430) provides for the construction and operation of a marina development comprising shore based management and infrastructure facilities and water based berthing facilities and associated wave attenuator.

The proposed development constitutes designated development pursuant to the provisions of the Environmental Planning and Assessment Act 1979 and associated Environmental Planning and Assessment Regulations 2000.

The Director General Requirements for the development were issued on 21 March 2013.

Responding to the Director General's Requirements the proponent, as part of the current application, has submitted an Environmental Impact Statement supported by a number of specialist reports. During the assessment process, the proponent provided supplementary reports and documents to address issues stemming from the notification and referral process and matters arising from the assessment process generally.

The reporting undertaken in support of the current application has been extensive and has adequately addressed the scope of the development and quantified potential impacts.

In accordance with the provisions of the EP&A Act 1979 and the EP&A Regulations 2000, the development application has been subject to 2 separate notification periods. In response, a total of 25 submissions have been received and have been summarised in Section 11 of this report. It is considered that the grounds of objection raised in the submissions would not sustain a refusal of the application.

Based on the Section 79C assessment detailed in this report it is recommended that Development Application 2014.430 be approved subject to the conditions listed in the Draft Development Consent attached as Appendix 9 to this report.

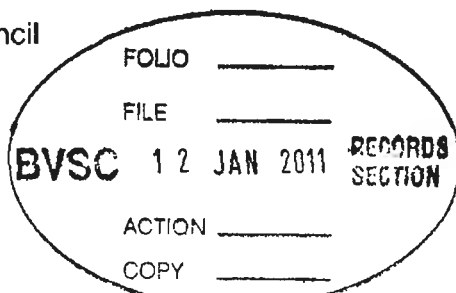


Planning & Infrastructure

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Email: mark.schofield@planning.nsw.gov.au

Mr Peter Tegart
General Manager
Bega Valley Shire Council
PO Box 492
BEGA NSW 2550

Our ref.: MP 05_0032 MOD 2



Dear Mr Tegart,

Subject: Determination of Modification to Mixed Tourist and Residential Development, Cattle Bay Road, Eden (MP 05_0032 MOD 2)

I am writing to inform you that the above application was approved subject to conditions on 22 December 2011 by the Director, Metropolitan & Regional Projects South, as delegate of the Minister for Planning and Infrastructure under Part 3A of the *Environmental Planning and Assessment Act 1979*.

A copy of the approval is enclosed for your records. The Director-General's assessment report is available on the Department's website (<http://majorprojects.planning.nsw.gov.au>).

Your contact officer for this proposal, Mark Schofield, can be contacted on (02) 9228 6362 or via email at mark.schofield@planning.nsw.gov.au. Please mark all correspondence regarding the proposal to the attention of the contact officer.

Yours sincerely,

Alan Bright
Director
Metropolitan and Regional Projects South

Modification of Minister's Approval

Section 75W of the Environmental Planning & Assessment Act 1979

As delegate of the Minister for Planning and Infrastructure under delegation executed on 14 September 2011, I approve the modification of the application referred to in Schedule 1, subject to the conditions in Schedule 2.



Alan Bright
Director
Metropolitan & Regional Projects South
Department of Planning and Infrastructure

Sydney 22 DEC . 2011

MP05_0032 (MOD 2)

SCHEDULE 1

- Concept Plan Approval:** MP05_0032 granted by the Minister for Planning on 22 August 2008 and subsequently modified on 22 December 2008 (MOD 1)
- For the following:** Concept Plan Approval for a mixed tourist and residential development.
- Proposed Modification:** MP05_0032 (MOD 2): Modification includes:
- Amendment to Part A of Schedule 1 by:
 - Deleting "unless specified action has been taken in accordance with Section 75Y of the Act."
 - Inserting "unless a project application or development application has been lodged to carry out the project or a part of the project for which this concept plan approval has been given."
 - Amendment to Condition A4 by:
 - Deleting "unless Stage 1 is approved and physically commenced."
 - Inserting "unless a project application or development application has been lodged to carry out the project or a part of the project for which this concept plan approval has been given."

SCHEDULE 2

1. Amend Schedule 1 as follows:

Date approval is liable to lapse

5 years from the date of determination ~~unless specified action has been taken in accordance with Section 75Y of the Act.~~
unless a project application or development application has been lodged to carry out the project or a part of the project for which this concept plan approval has been given.

2. Amend Condition A4 as follows:

Condition A4 Lapsing of Approval

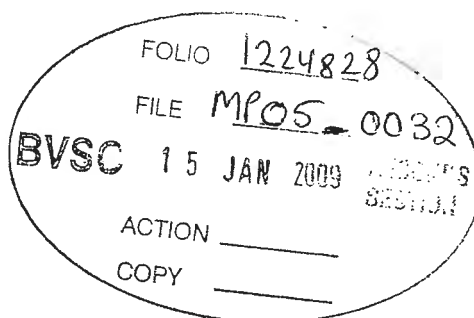
Approval shall lapse 5 years after the determination date in Part A of Schedule 1 of this approval ~~unless Stage 1 is approved and physically commenced~~ ***unless a project application or development application has been lodged to carry out the project or a part of the project for which this concept plan approval has been given.***

End of modification to MP05_0032 (MOD 2)



NSW GOVERNMENT
Department of Planning

8/01/2009



Contact: Jane Flanagan
Phone: (02) 9228 6431
Fax: (02) 9228 6540
Our Ref: MP 05_0032

General Manager
Bega Valley Shire Council
PO Box 492
BEGA NSW 2550

Attention: Mr Peter Tegart

Dear Mr Tegart,

**RE: Application to modify the Minster's Concept Plan Approval for tourist facility,
Cattle Bay, Eden (MP 05_0032 MOD 1)**

I refer to the above modification lodged with the Department on 2 December 2008.

I am writing to inform you that the application has been granted approval. The approval is on the basis of the attached Instrument of Modification of Major Project Approval. A copy of the consolidated approval is also attached for your information.

Should you have any enquiries regarding the above matter, please contact Jane Flanagan on 9228 6431 or via email to jane.flanagan@planning.nsw.gov.au.

Yours sincerely,

Heather Warton
Director
Coastal Assessments

8/1/09

Modification of Minister's Approval

Section 75W of the *Environmental Planning and Assessment Act 1979*

I, Chris Wilson, Executive Director, Major Project Assessments, in accordance with the instrument of Delegation issued by the Minister for Planning on 7 June 2007, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979*, determine to approve of the modification to the approval referred to in Schedule 1 in the manner set out in Schedule 2.



Chris Wilson
Executive Director
Major Project Assessments
As delegate of the Minister for Planning

Sydney, 22. *December* 2008

File No. 9040502
05_0032 MOD 1

SCHEDULE 1

Concept Approval: Granted by the Minister for Planning on 22 August 2005.

For the following: Mixed residential and tourist development (05_0032).

Modification: Modification of part (e) and Schedule 1, Definitions, and Conditions of Approval A1(7), C1(1), C1(2) and C2.

SCHEDULE 2

The Approval is modified by:

- 1) Omitting (e) of the Minister's determination and replacing it with the following:

(e) pursuant to Section 75P(1)(a) that future development for Precinct A be subject to Part 3A of the Act (other than building demolition and site remediation works that are not listed as a Part 3A project in the *SEPP Major Projects 2005*).
- 2) Omitting the description of the land in Schedule 1 and replacing it with the following:

Land: Cattle Bay, Eden, comprising Lots 3 to 5, 8, 9, 13, 16 and 17 Sec 15, DP758379, Lot 1 DP221120, Lots 1 and 2 DP249511, Lots 11 to 14 DP707599, Lot 1 Sec 12 DP758379, Lot 8 DP63315, Lots 2, 3 and 18 Sec 14 DP758379, Lot 1 and 15 DP227822, Lot 1 DP660623, and Lot 117 DP750205. ✓

- 3) Omitting the definition of 'Stages' in the Definitions and replacing it with the following:

Stage 1: Construct new conference building and associated parking. Upgrade waterfront areas for public use. Upgrade Chandos Street with new roundabout.

- 4) Omitting condition A1(7) and replacing it with the following:

Staging – provision of pedestrian access to the foreshore and the upgrade and landscaping of waterfront areas for public access as part of any Stage 1 or Stage 2 (whichever occurs first), generally in accordance with the *Construction Staging – Indicative* (Drawing B.1.11 dated 2 August 2007).

- 5) Omitting the table to condition C1(1) and replacing it with the following:

PRECINCT	MAXIMUM GFA	MAXIMUM HEIGHT (m) AHD	MAXIMUM HEIGHT STOREYS
Precinct A	5,000m ² (hotel); 1,400 m ² (conference building); 12,000 m ² (serviced apartments)	7.5m (conference building); 14m (hotel & serviced apartments)	2 (conference building); 4 (hotel & serviced apartments)
Precinct B	2,000 m ²	7.5m	2
Precinct C	1,500 m ²	7.5m	2
Precinct D	1,000 m ²	7.5m	2
Precinct E1	2,400 m ²	7.5m for 2 storeys 10m for 3 storeys	2-3
Precinct E2	1,000 m ²	7.5m for 2 storeys 10m for 3 storeys	2-3
Precinct F1	2,600 m ²	7.5m (Precinct F1)	2 (Precinct F1)
Precinct F2	2,900 m ²	10m (Precinct F2)	3 (Precinct F2)

- 6) Omitting condition C1(2) and replacing it with the following:

Notwithstanding the maximum GFAs in the table above, all future residential buildings, including single dwelling houses and multi-unit development in Precincts B and E1,

shall not exceed an FSR of 0.5:1, and in Precinct F (averaged across Precincts F1 and F2) shall not exceed an FSR of 0.57:1. Note, once the site is subdivided, depending upon the final subdivision layout, this will mean that the maximum GFAs indicated above may need to be reduced and the FSR above shall prevail.

- 7) Omitting condition C2(1) and replacing it with the following:

Future applications for all residential flat buildings in Precincts E1 and F2 must include an assessment against *State Environmental Planning Policy No.65 – Residential Flat Buildings*. All these residential flat buildings must demonstrate compliance with SEPP 65. For the purpose of this clause, 'residential flat building' is defined in SEPP 65.



NSW GOVERNMENT
Department of Planning

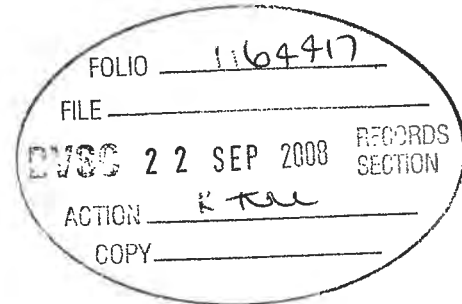
19/09/2008

Our ref: MP 05_0032

LARGE PLANS
NOT SCANNED

Contact: Jane Flanagan
Phone: (02) 9228 6431
Fax: (02) 9228 6540

Mr Keith Toll
Director Planning & Environment
Bega Valley Shire Council
PO Box 492
BEGA NSW 2550



Dear Mr Toll,

RE: Major Project Application MP 05_0032_Concept Plan Approval for tourist facility, Cattle Bay. Eden

The above mentioned Major Project Application submitted by Eden Resort Hotel Pty Ltd has been approved subject to conditions by the Minister for Planning on 22/08/2008. The approval is on the basis of the attached Notice of Determination of Major Project Application. A copy of the endorsed plans in accordance with the consent is also attached for your information.

Should you have any enquiries regarding the above matter, please contact Jane Flanagan on 9228 6431 or via email to jane.flanagan@planning.nsw.gov.au.

Yours sincerely,

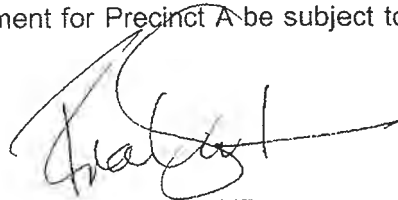
Heather Warton
Director, Coastal Assessment

Concept Approval

Section 75O of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, under the *Environmental Planning and Assessment Act 1979*, determine:

- a) pursuant to section 75O of the *Environmental Planning and Assessment Act 1979*, to grant concept plan approval for the proposal referred to in Schedule 1, subject to the modification in Schedule 2;
- b) pursuant to section 75P(1)(a) of the *Environmental Planning and Assessment Act 1979*, the further environmental assessment requirements for subsequent project or development applications associated with the concept plan as set out in Schedule 2;
- c) pursuant to section 75P(1)(b) of the *Environmental Planning and Assessment Act 1979*, that all future development shall be subject to Part 4 (or Part 5) of the *Environmental Planning and Assessment Act 1979*;
- d) pursuant to Section 75P(1)(a) that subdivision of the site be subject to Part 3A of the Act; and
- e) pursuant to Section 75P(1)(a) that future development for Precinct A be subject to Part 3A of the Act.



Frank Sartor MP
Minister for Planning

Sydney

22nd Aug

2008

SCHEDULE 1

Application No:	05_0032
Proponent:	JBA Urban Planning Consultants on behalf of Eden Resort Hotel Pty Ltd
Approval Authority:	Minister for Planning
Land:	Cattle Bay, Eden, comprising Lots 3 to 5, 8, 9, 13, 16 and 17 Sec 15, DP758379, Lot 1 DP221120, Lots 1 and 2 DP249511, Lots 11 to 14 DP707599, Lot 1 Sec 12 DP758379, Lot 8 DP63315, Lots 2, 3 and 18 Sec 14 DP758379, Lot 23 Sec 20, DP758379, Lot 1 DP651960, Lot 1 and 15 DP227822, Lot 1 DP660623, and Lot 117 DP750205.
Local Government Authority:	Bega Valley Shire Council
Project:	Mixed residential and tourist development
Estimated Cost of Works:	\$55 million
Date approval is liable to lapse:	5 years from the date of determination unless specified action has been taken in accordance with Section 75Y of the Act.

DEFINITIONS

Act	<i>Environmental Planning and Assessment Act 1979</i>
Council	Bega Valley Shire Council
DA	Development Application
Department	Department of Planning
Director-General	Director-General of the Department (or delegate)
FSR	Floor space ratio of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area
GFA	Gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes: (a) the area of a mezzanine, and (b) habitable rooms in a basement or an attic, and (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes: (d) any area for common vertical circulation, such as lifts and stairs, and (e) any basement: (i) storage, and (ii) vehicular access, loading areas, garbage and services, and

	<p>(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and</p> <p>(g) car parking to meet any requirements of the consent authority (including access to that car parking), and</p> <p>(h) any space used for the loading or unloading of goods (including access to it), and</p> <p>(i) terraces and balconies with outer walls less than 1.4 metres high, and</p> <p>(j) voids above a floor at the level of a storey or storey above.</p>
Height	in relation to a building, means the distance measured vertically from any point on the ceiling of the topmost floor of the building to the natural ground level immediately below that point.
HWM	High water mark
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Minister	Minister for Planning
MP 05-0032	Major Project described in the Proponent's Environmental Assessment.
Proponent	Eden Resort Hotel Pty Ltd or any party acting upon this approval.
Site	Land to which application applies (see Schedule 1)
Stages	<p>Stage 1: Demolish existing waterfront building and construct new conference building and associated parking. Upgrade waterfront areas for public use. Upgrade Chandos Street with new roundabout.</p> <p>Stage 2: Construct hotel and serviced apartments. Create APZ to Precinct B and C. Prepare groundwork for overland stormwater channel.</p> <p>Stage 3: Construct residential flat buildings in Precinct E. Upgrade and extend Flinders Street. Dwelling houses may be constructed in Precincts D and E.</p> <p>Stage 4: Construct townhouses in Precinct B. Upgrade and extend Bay Street.</p> <p>Stage 5: Construct residential flat buildings in Precinct F2 and dwelling houses in Precinct F1. Upgrade and extend Chandos Street. Upgrade existing track for pedestrian link.</p>
Statement of Commitments	Statement of Commitments provided in Schedule 3.
Storey	<p>means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:</p> <p>(a) a space that contains only a lift shaft, stairway or meter room, or</p> <p>(b) a mezzanine, or</p> <p>(c) an attic.</p>

NOTES

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant. The Proponent has the right to appeal to the Land and Environment Court of NSW in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

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

SCHEDULE 2

TERMS OF APPROVAL AND CONCEPT PLAN MODIFICATIONS

CATTLE BAY, EDEN - MAJOR PROJECT NO. 05_0032

PART A —TERMS OF CONCEPT APPROVAL

A1 *Development Description*

Concept approval is granted only to carrying out the development solely within the concept plan area as described in the Environmental Assessment Report titled “**Cattle Bay, Eden, Mixed use tourist facility/residential development**” prepared by JBA Urban Planning Consultants (dated 30 November 2007), including:

- (1) A staged mixed use tourist and residential development comprising a maximum total GFA of 31,800m², being and overall FSR of 0.39:1 comprised of:
 - (a) A maximum of 13,400m² residential GFA;
 - (b) A maximum of 18,400m² tourist facility GFA.
- (2) The distribution of uses, including residential flat buildings, residential dwellings, tourist facilities including a hotel, conference building and serviced apartments;
- (3) Building footprints, and maximum building heights for 6 building Precincts comprising:
 - i. conference building/function room/restaurant, maximum 2 storeys and 7.5m height, maximum 1,400 m² GFA, total 31 car spaces (Precinct A1);
 - ii. tourist facility comprising a hotel of 60 rooms, maximum 5,000m² GFA, maximum 4 storeys and 14m height, and 74 serviced apartments, maximum 12,000m² GFA, maximum 4 storeys and 14m height, total 134 car spaces (Precinct A2);
 - iii. 8 x 2 storey townhouses, maximum 2,000m² GFA, maximum 7.5m height, total 18 car spaces (Precinct B);
 - iv. 3 x 2 storey dwelling houses, maximum 1,500m² GFA, maximum 7.5m height, total 6 car spaces (Precinct C1 and C2);
 - v. 1 x 2 storey dwelling house, maximum 1,000m² GFA, maximum 7.5m height, total 2 car spaces (Precinct D1);
 - vi. 20 x 2-3 storey residential flat buildings, maximum 2,400m² GFA, maximum 10m height, total 45 car spaces (Precinct E1);
 - vii. 2 x 2 storey dwelling house, maximum 1,000m² GFA, maximum 7.5m height, total 4 car spaces (Precinct E2);
 - viii. 5 x 2 storey dwelling house, maximum 2,600m² GFA, maximum 7.5m height, total 10 car spaces (Precinct F1); and
 - ix. 21 x 2-3 storey residential flat buildings, maximum 2,900m² GFA, maximum 10m height, total 47 car spaces (Precinct F2)
- (4) Vehicular and pedestrian access;
- (5) Publicly accessible open space in private ownership (Precincts A3 and D2); private open space adjacent (Precincts A – F); and public open space to be dedicated to Council (Precinct A4);
- (6) Access – ownership and maintenance of vehicular access and pedestrian links;
- (7) Staging – provision of pedestrian access to the foreshore and the upgrade and landscaping of waterfront areas for public access as part of any Stage 1, generally in

accordance with the *Construction Staging – Indicative* (Drawing B.1.11 dated 2 August 2007); and

- (8) Revegetation and rehabilitation works.

A2 Development in Accordance with Documentation

- (1) The following documentation (including any appendices therein) is approved as part of the Concept Plan:
- a. **Environmental Assessment Report Concept Plan, Cattle Bay, Eden, Mixed use tourist facility/residential development (Volumes 1 and 2)**, prepared by JBA Urban Planning Consultants on behalf of Eden Resort Hotel Pty Ltd and dated 30 November 2007;
- (2) The following Response to Submissions including a revised Statement of Commitments is approved:
- a. **Response to Submissions and Statement of Commitments**, prepared by JBA Urban Planning Consultants on behalf of Eden Resort Hotel Pty Ltd and dated 2 April 2008;
- (3) The additional documents listed below:
- a. **Traffic Report** prepared by Transport and Traffic Planning Associates, dated 23 October 2007.
 - b. **Stormwater Management Report**, prepared by Patterson Britton & Partners Pty Limited, dated September 2007.
 - c. **Bushfire Management Plan**, prepared by Australian Bushfire Protection Planners dated 16 December 2006.
 - d. **Aboriginal Heritage Impact Assessment**, prepared by South East Archaeology dated 18 September 2007.
 - e. **Flora and Fauna Part 3A Assessment**, prepared by Cumberland Ecology, dated September 2007.
 - f. **Assessment of Impacts on Aquatic Marine Species for a Major Project Application** prepared by Cumberland Ecology, dated September 2007.
 - g. **Environmental Site Assessment** prepared by Aargus, dated June 2007.
 - h. **Coastal Engineering Assessment** prepared by Patterson Britton & Partners Pty Limited, dated 17 October 2007.
 - i. **Environmental Noise Assessment**, prepared by Acoustic Logic, dated 2 April 2007.
- (4) In the event of any inconsistencies:
- a. The revised Statement of Commitments in (2) prevails to the extent of any inconsistency in the plans and documentation identified in (1), and
 - b. The modifications of the Concept Plan approval identified in Part B and C Schedule 2 prevail over the documentation listed in (1) and (2) above.

A3 Development in Accordance with Plans

(1) The development will be undertaken in accordance with the following plans:

Architectural (or Design) Drawings prepared by Brewster Murray Architect and Context			
Drawing No.	Name of Plan	Revision	Date
B.2.01/A	Cattle Bay Concept Plan_Option 4_Land Use Plan_2 August 2007	A	13/5/08
B.2.02B	Cattle Bay Concept Plan_Option 4_Access_Vehicular/Pedestrian_2 August 2007	B	May 2008
B.2.08	Cattle Bay Concept Plan_Option 4_Public Precinct A1/A4_2 August 2007		13/05/08
B.2.09	Cattle Bay Concept Plan_Option 4_2 August 2007_Constraints Plan		02/08/07
B.2.10	Cattle Bay Concept Plan_Option 4_2 August 2007_Access_Ownership & Maintenance		02/08/07
B.3.01/A	Cattle Bay Concept Plan_Option 4_2 August 2007_Section AA, BB & CC	A	19/05/08
B.3.02/A	Cattle Bay Concept Plan_Option 4_2 August 2007_Section DD, EE & FF	A	19/05/08
B.3.03/A	Cattle Bay Concept Plan_Option 4_2 August 2007_Section GG & HH	A	19/05/08

A4 Lapsing of Approval

Approval shall lapse 5 years after the determination date in Part A of Schedule 1 of this approval unless Stage 1 is approved and physically commenced.

A5 Determination of Future Applications

The determination of future DAs by Council is to be generally consistent with the terms of approval of Concept Plan MP 05_0032 as described in Part A of Schedule 1 and subject to the recommended modifications and conditions of approval set out in Parts A, B and C of Schedule 2.

PART B—MODIFICATIONS TO THE CONCEPT PLAN

Public Access to Cattle Bay Foreshore

B1 Foreshore Setback

- (1) The concept plan is amended to provide a minimum setback of 30m from the southern site boundary (and not the HWM) for the entire length of that boundary (and all of which is to be dedicated to Council as public open space as Precinct A4), in accordance with Drawing B.2.01/A dated 2/08/07 revised 13/5/08, as amended in red. This will necessitate a corresponding reconfiguration of the Precinct A1 building envelope to occur outside of that setback.

B2 *Riparian Corridors*

- (1) The concept plan is amended to provide a minimum 20m riparian corridor (10m either side of the top of the bank of the drainage lines) for the drainage lines through Precincts A3, D2 and F1/F2.
- (2) APZs shall not impinge on any of the minimum 20m riparian corridors for drainage lines running through Precincts A3, D2 and F1/F2. The building envelopes shall be adjusted accordingly, if they impinge on APZs.
- (3) The drainage line running to the west of Precinct A2 can be provided as a landscaped drainage feature on the proviso that any landscaping/vegetation provided thereon is consistent with the recommendations of the Bushfire Management Plan for an APZ to the west of the hotel Precinct.

PART C—FUTURE APPLICATIONS

Floor Space Ratio

C1 *Maximum Floor Space Ratio, Gross Floor Areas, Height and Storeys*

(1) Future applications for Precincts must not exceed the following maximum gross floor areas, floor space ratios, height and storeys:

PRECINCT	MAXIMUM GFA	MAXIMUM HEIGHT (m) AHD	MAXIMUM HEIGHT STOREYS
Precinct A	5,000m ² (hotel); 1,400 m ² (conference building); 12,000 m ² (serviced apartments)	7.5m (conference building); 14m (hotel & serviced apartments)	2 (conference building); 4 (hotel & serviced apartments)
Precinct B	2,000 m ²	7.5m	2
Precinct C	1,500 m ²	7.5m	2
Precinct D	1,000 m ²	7.5m	2
Precinct E1	2,400 m ²	7.5m	2-3
Precinct E2	1,000 m ²	7.5m	2-3
Precinct F1	2,600 m ²	7.5m (Precinct F1)	2 (Precinct F1)
Precinct F2	2,900 m ²	10m (Precinct F2)	3 (Precinct F2)

(2) Notwithstanding the maximum GFAs in the table above, all future residential buildings, including single dwelling houses and multi-unit development in Precincts B, E1, F1 and F2, shall not exceed an FSR of 0.5:1 for the subject site once subdivided into lots for those relevant Precinct buildings. Note, depending upon the final subdivision layout, this will mean that the maximum GFAs indicated above may need to be reduced and the FSR in the table above shall prevail.

SEPP 65 Analysis

C2 *State Environmental Planning Policy No.65 – Residential Flat Buildings*

- (1) Future applications for all residential buildings must include an assessment against *State Environmental Planning Policy No.65 – Residential Flat Buildings*. All buildings must demonstrate compliance with SEPP 65.
- (2) The maximum GFAs for all residential buildings are subject to compliance with *State Environmental Planning Policy No.65 – Residential Flat Buildings*, in respect of building separation distances and building depths.

Traffic & Access

C3 Traffic and Access

- (1) The Bay Street extension is to be constructed by the proponent and dedicated to Council as a public road prior to the occupation of buildings in Precinct B, or prior to the issue of a subdivision certificate for the subdivision of the development parcel for Precinct B, whichever is the later.
- (2) The maintenance of all access ways, internal site access ways, rights of carriageway and driveways shall be the responsibility of the owners and not Council. The proponent is required to clearly advise all prospective purchasers accordingly.
- (3) Detailed engineering, safe intersection sight distance and vehicle manoeuvring radii shall be provided in any future application to Council to prove that safe access and egress can be achieved to the future dwelling house in Precinct F1.
- (4) The existing pedestrian track on the western side of Cattle Bay Road shall be extended to link to the proposed cul de sac bulb at the southern end of Stanley Street. This shall be part of any future application lodged with Council for development in Stage 2, Precinct C1.
- (5) All pedestrian links on a Pedestrian Access Plan must be a minimum 1.2m width to Council's requirements, and must be documented in any future application lodged with Council or the Minister.
- (6) The pedestrian links through Precinct A3 and D2 must be rerouted so as not to impinge on riparian corridors, with details to be provided in any future application lodged with Council or the Minister.

Public Access

C4 Public Access – Precinct A

Future applications for Precinct A (A1, A2 and A4) must provide for construction by the proponent of landscaping in all open space areas and of public pedestrian and cycle access to the Cattle Bay foreshore. Future applications for Precinct A (A1, A2 and A4) must also provide details of the treatment of the public domain such that it encourages and is perceived as publicly accessible.

C5 Signposting of Public Access to Cattle Bay foreshore & Pedestrian Links through the site

- 1) Prior to the issue of any Occupation Certificate for Precinct A, signs visible from the public domain on Cattle Bay Road must be erected indicating that public pedestrian and bicycle access is invited through the development to the Cattle Bay foreshore, and that Cattle Bay foreshore is publicly accessible 24 hours a day.
- 2) Upon completion of future pedestrian links or upgrades to any existing pedestrian links through the site, signs visible from the nearest public road must be erected indicating that public pedestrian and bicycle access is invited through the development.

Open Space

C6 Ownership and management of open space

- 1) Provide details with future applications for the site (other than site preparation works such as earthworks, site remediation, demolition, bushland management or landscaping), of the mechanics for the implementation of ownership and management of all open space on the site.

- 2) Provide details with future applications for the site (other than site preparation works such as earthworks, site remediation, demolition, bushland management or landscaping), nominating open space Precincts to building Precincts, and specifying Precinct A3 as a separate lot servicing Precinct A2.

C7 *Dedicated foreshore public open space*

- 1) The area of foreshore public open space shown as Precinct A4 on the concept plan is to be dedicated to Council as part of the approval of the subdivision application or the application for works in Precinct A, (whichever occurs first).

Bushland Management

C8 Vegetation management plan

- 1) A Vegetation Management Plan shall be provided and approved with the application for development or subdivision for Precincts A, B, E1 and F2, whichever occurs first.
- 2) A Vegetation Management Plan shall be provided and approved as part of the development application for Precinct A2. The implementation of the Vegetation Management Plan shall be under the control and responsibility of the proposed owners of Precinct A2.
- 3) The Vegetation Management Plan shall be registered on title through a positive covenant, and shall detail responsibility for each action, and include ongoing measures.
- 4) The Vegetation Management Plan shall include the preparation of a pre-clearance survey plan and fauna rescue protocol; marking of trees to be retained; tie in with the management of APZs; identify all hollow bearing trees and protect them via a Section 88B instrument, or where they are removed, compensatory next boxes must be introduced, as per DECC's general requirements.

Infrastructure

C9 Seawall and associated structures

As part of the future development application for Stage 1 application for Precinct A4, the proponent shall provide engineering certification of the structural soundness of the seawall and associated structures. Should the engineering assessment find that works are required, the proponent is required to fund and undertake the necessary repairs. Future applications shall incorporate suitable mitigation works for the seawall to ensure adequate protection of public foreshore infrastructure from the 1-in-100 year coastal inundation event. This may include potential raising of the seawall.

C10 Storm water

- 1) In future applications for all Precincts, detailed design of the proposed storm water corridors shall be provided.
- 2) The maintenance of storm water systems shall be ensured via a proponent service agreement with Council.

Aboriginal Heritage

C11 Aboriginal Heritage Management Plan

Provide an Aboriginal Heritage Management Plan with any future application to Council or the Minister for development on the site.

Contamination

C12 Remediation

Comply with the conclusions of the **Environmental Site Assessment** prepared by Aargus, dated June 2007, and any further validation reports in future applications for the site.

Water management and marine species conservation

C13 Whale watching

- 1) The proponent is to ensure the implementation by all tourist and residential management bodies on the site of the *Australian National Guidelines for Whale and Dolphin Watching, 2005* (Commonwealth Department of the Environment and Heritage); and provide details with future applications for Precincts A1, A2, A4, E1 and F2 of how the guidelines will be implemented.
- 2) No approval is given in this concept plan to use of the existing jetty for commercial purposes associated with the concept plan, thus no water based access is implied.

C14 Environmental management

An Environmental Management Plan prepared for the development is to address the risk of disturbance to some individual Humpback Whales and Southern Right Whales during construction and operation. This is to be submitted with the Stage 1 application for Precinct A.

Road design

C15 Bus servicing

As part of the first application, the proponent is required to negotiate bus transport routes with local bus companies to ensure the development is adequately serviced for all Stages.

SCHEDULE 3

MP 05_0032

TOURIST AND RESIDENTIAL DEVELOPMENT

CATTLE BAY, EDEN

STATEMENT OF COMMITMENTS

(SOURCE: RESPONSE TO SUBMISSIONS, 2 APRIL 2008)

Final Statement of Commitments

No.	Subject	Commitments
1.	Future Development Applications for stages of development	Development Applications will be lodged with Bega Valley Council for the detailed design and construction of development on the site including for the subdivision of land.
		Development Applications for the site will be generally consistent with the provisions of the Concept Plans and this Environmental Assessment Report, and are to be assessed against the provisions of the relevant environmental planning instruments and development control plans in accordance with Section 79C of the EP&A Act. In the event of an inconsistency between this Concept Plan and a planning instrument or development control plan, then the provisions of this Concept Plan shall prevail.
2.	Ownership and management of open space and roads	Any future Development Application for subdivision or development on the site (other than for site preparation works such as earthworks, site remediation, demolition, bushland management or landscaping) will specify the body responsible for the ownership and management of any open space on the land to which the Development Application applies.
		The area of foreshore land identified on the Concept Plan – Land use plan as Precinct A4 will be dedicated to Council as public open space prior to the occupation of any building in Precinct A.
		All roads will be constructed by the applicant, and dedicated to Council as public roads after any maintenance period specified by Council.
3.	Bushland Management	A Vegetation Management Plan (VMP) will accompany any Development Application applying to bushland identified in this Concept Plan documentation as habitat corridor or Asset Protection Zone. This clause does not apply to any Development Application for site preparation works such as earthworks, site remediation or demolition which does not affect a habitat corridor or Asset Protection Zone.
		The recommendations on pages 3 and 4 of the Cumberland Ecology Report are to be implemented in the VMP.
4.	Bushfire Protection	Any Development Application for a building or subdivision on the site will include the implementation of bushfire protection measures in accordance with the Bushfire Management Plan in this Concept Plan.
5.	Landscaping of open space	Any Development Application for a building on the site will include a landscape plan for open space on the land to which the Application applies. The landscape plan is to be consistent with the Landscape Concept Plan and include litter bins on the foreshore.
6.	Water management and aquatic fauna conservation	Any Development Application applying to the site will include measures for the implementation of the Integrated Water Management Strategy (IWMS) in this Concept Plan.
		The detailed design of stormwater management measures in future DAs are to be referred to the Department of Primary Industries – Fisheries.
		A water quality monitoring program to monitor the quality of stormwater discharging from the site into Cattle Bay is to be implemented in accordance with the IWMS in this Concept Plan as part of the first stage of development, and is to be designed in consultation with the Department of Primary Industries – Fisheries.
		National Whale Watching Guidelines will be promoted by hotel operators through education programs provided by the hotel to visitors.

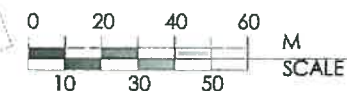
7.	Building design	Any Development Application for a building on the site is to be generally consistent with this Concept Plan and the provisions of this Environmental Assessment Report.						
	- Residential flat buildings	The design of residential flat buildings and serviced apartment buildings on the site are to be generally consistent with the provisions of the SEPP 65 – Residential Flat Design Code to the extent that those provisions are consistent with this Concept Plan.						
	- Other residential buildings	The design of residential buildings less than 3 storeys is to be generally consistent with Bega Valley Council's Development Control Plans to the extent that those provisions are consistent with this Concept Plan.						
	- Environmental performance	The design of residential buildings and serviced apartment buildings on the site are to be consistent with the provisions for energy efficiency and water conservation in the SEPP – BASIX.						
8.	Utilities Infrastructure	Any Development Application for a new building or subdivision on the site is to address the provision and timing of utility infrastructure on the site including water supply, sewerage, energy and telecommunications.						
9.	Geotechnical	Any Development Application for a new building or earthworks to a depth or more than 2 metres below existing ground level on the site is to include a geotechnical study.						
10.	Contamination	The site is to be remediated and audited prior to occupation in accordance with the Environmental Site Assessment in this report and relevant legislation, standards and guidelines.						
		Any Development Application for the demolition of a building structure on the site is to include an assessment of hazardous materials, and where necessary a method for the removal of hazardous materials in accordance with relevant legislation, standards and guidelines.						
11.	Noise	A Development Application for the design and construction of the hotel is to include an Environmental Noise Assessment that addresses the impact of building plant used by the hotel and restaurant/conference facility on residential dwellings in accordance with the EPA's Industrial Noise Policy. The noise criteria to be used for residential receivers are:						
	<table> <tr> <th>Day time criteria dB(A) LAeq</th><th>Evening time criteria dB(A) LAeq</th><th>Night time criteria dB(A) LAeq</th></tr> <tr> <td>45</td><td>40</td><td>35</td></tr> </table>		Day time criteria dB(A) LAeq	Evening time criteria dB(A) LAeq	Night time criteria dB(A) LAeq	45	40	35
Day time criteria dB(A) LAeq	Evening time criteria dB(A) LAeq	Night time criteria dB(A) LAeq						
45	40	35						
12.	Safety and security	Any Development Application for the design and construction of the hotel and/or serviced apartments is to include a Security Management Plan.						
13.	Aboriginal Heritage	Any Development Application applying to land identified in this Concept Plan as Precinct B is to include an Aboriginal Heritage Management Plan prepared in consultation with the Eden Local Aboriginal Land Council.						
14.	Waste Management	Any Development Application for the design and construction of the hotel, serviced apartments or residential flat building will include a Security Management Plan.						
15.	Construction Management Plan	A Construction Management Plan will be prepared before any works commence on the site. It will address the management of impacts associated with demolition, excavation and/or construction activities including site safety and security, construction traffic, noise and vibration, erosion and sediment						

		controls, dust suppression, waste management, community notification, and an audit of erosion and sediment control plans.
		Any Construction Management Plan is to be referred to Department of Primary Industries – Fisheries for comment.
16.	Road design standards	Roads are to be constructed to the requirements of DCP No.2 and the RTA Road Design Guideline subject to the specific precinct descriptions below.
		Precinct A: The existing 8 metre width of Cattle Bay Road will be retained (ie between Bass Street and the roundabout). The roundabout will have a 16 metre outside radius. Bus bays can be provided. The driveway circulating through the A2 precinct (hotel and serviced apartments) will be one-way in a clockwise direction and 3.5 metre wide with supplementary set-down bays etc. There will be no parking (except in bays) and the alignment will provide for larger vehicles (eg refuse). 6.0 metre width is required on the two-way section connecting with Cattle Bay Road. A 5.5 metre wide driveway will connect the A1 basement carpark (north-east corner) to Cattle Bay Road. Service vehicles will have a 3.5 metre wide driveway along the eastern side of A1 and there will be a paved turning area at the south-east corner of the building.
		Precinct B: A 5.5 metre wide driveway will be provided (in accordance with AS 2890.1) and a waste bin area will be provided adjacent to the retained cul-de-sac bulb.
		Precinct C: The Stanley Street roadway will be extended with an 8.0 metre wide pavement to a 13 metre radius cul-de-sac bulb at Bass Street and a waste bin collection area will be provided adjacent to the bulb. A 3.5 metre wide driveway plus 1.5 metre footway (with appropriate passing areas) will connect between the bulb and the 3 proposed residences.
		Precincts D, E2 and F2: Chandos Street will be extended with an 8 metre wide pavement to the extent shown terminating with a 13 metre radius cul-de-sac bulb (at F2 access). The driveways for E2 and D1 will be 3.5 metres wide while the driveway for F2 will be 5.5 metres wide.
		Precinct F1: Twofold Circuit and the adjoining section of Flinders Street are existing paved roadways satisfactorily providing access for a number of existing properties. The F1 houses will have single driveways connecting to the existing roadways. No additional roadwork is to be undertaken.
		Precinct E1: Flinders Street northern section will be constructed between the Bass Street cul-de-sac to the vehicle access for E1 where it will terminate with a 13 metre radius cul-de-sac bulb. A waste bin collection area for E1 will be located adjacent to the cul-de-sac bulb.



LEGEND

- BUILDING ZONES
- POSSIBLE FUTURE RESIDENCE (shown dotted)
- EXISTING RESIDENCES
- NEW VEHICULAR ACCESS
- PEDESTRIAN LINK (NEW & EXISTING UPGRADED)



NSW GOVERNMENT Department of Planning	
Issued under the Environmental Planning and Assessment Act 1979	
Approved <u>MP</u>	Application No. <u>05-0032</u>
Granted on the <u>22/8/08</u> subject to any conditions contained in the notice of determination.	
Signed <u>L-80</u>	Date <u>19/09/08</u>
Sheet No. <u>2</u>	of <u>7</u>
context	
<small>52-54 Wilson Street East Sydney NSW 2011 PO Box A866 Sydney South NSW 1235 T 8244 8000 F 8244 8388 E context@context.net.au</small>	
<small>Architects, Interiors and Urban Designers 90 York Street, Sydney NSW 2000 Australia T +612 9296 0288 F +612 9296 0708</small>	

CONCEPT PLAN

B. AMENDED AS PER COMMENTS MAY 08
A. AMENDED AS PER COUNCIL'S COMMENTS 18 FEB 08

Eden Resort Hotel Pty Ltd

Cattle Bay Concept Plan - Option 4

ACCESS - VEHICULAR/PEDESTRIAN

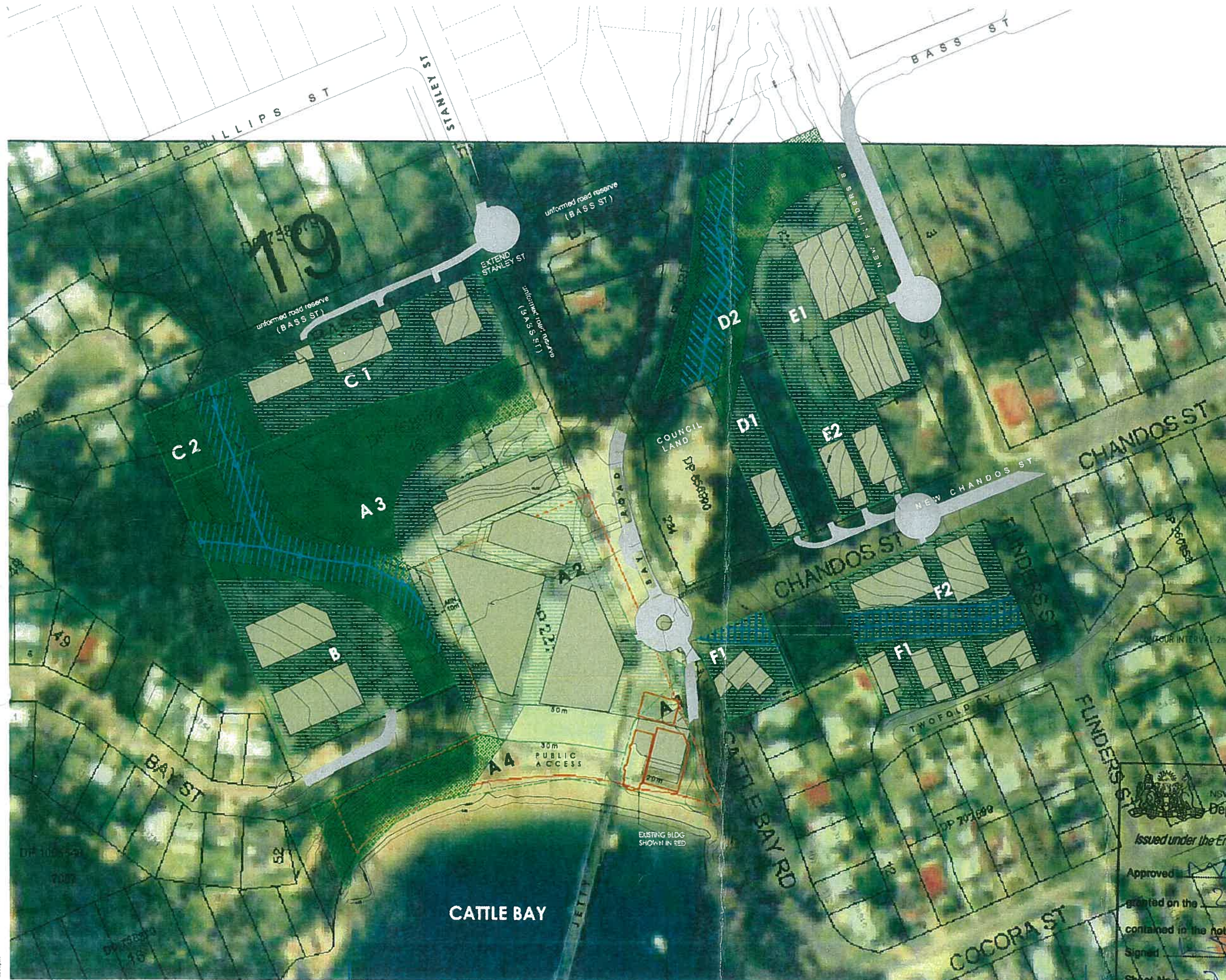
B. 2.02B

Date: 02 August 2007

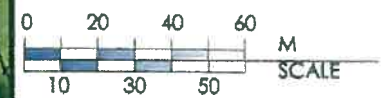
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Revision
A CONCEPT PLAN
B RELOCATE CATTLE BAY PEDESTRIAN PATH

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May 22, 2008 2:42pm



- LEGEND**
- Min. 20m RIPARIAN BUFFER
 - HABITAT CORRIDOR
 - MANAGED LANDSCAPE & ASSET PROTECTION ZONE
 - ROADS - PROPOSED NEW or UPGRADED
 - BUILDING ZONES (inc BALCONIES)
 - DIRECTION OF FLOW



NSW GOVERNMENT
Department of Planning

Issued under the Environmental Planning and Assessment Act 1979

Approved Application No. 05-0032

granted on the 22/08/08 subject to any conditions contained in the notice of determination.

Signed Date 19/09/08

Sheet No. 7 of 7

CONCEPT PLAN


May 22, 2008 3:40pm

Date: 02 August 2007
Eden Resort Hotel Pty Ltd
Project: Cattle Bay Concept Plan - Option 4
Drawing Title: CONSTRAINTS PLAN
Drawing No.: B. 2.09

Scale A1@1:1000
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Date 30-03-07
Revision A CONCEPT PLAN
Revision B CONCEPT PLAN

32-46 William Street, East Sydney NSW 2011
PO Box 4800 Sydney South NSW 2056
T 8244 9000 F 8244 9008 E c.murray@bryantmurray.com.au
Architects, Interiors and Urban Designers
90 York Street, Sydney NSW 2000 Australia
T +612 9250 9000 F +612 9250 9122




NSW GOVERNMENT
 Department of Planning

Issued under the Environmental Planning and Assessment Act 1979

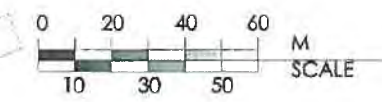
Approved MR Application No. 05-0072

granted on the 22/08/08 subject to any conditions contained in the notice of determination.

Signed LSE Date 19/09/08

Sheet No 4 of 7

- LEGEND**
-  BUILDING ZONES
 -  POSSIBLE FUTURE RESIDENCE (shown dotted)
 -  EXISTING RESIDENCES
 -  VEHICULAR ACCESS OWNED & MAINTAINED BY COUNCIL
 -  VEHICULAR ACCESS OWNED BY COUNCIL & MAINTAINED BY BENEFICIARY LANDOWNERS
 -  PEDESTRIAN LINK OWNED & MAINTAINED BY COUNCIL
 -  PEDESTRIAN LINK OWNED & MAINTAINED BY BENEFICIARY LANDOWNERS



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Date: 02 August 2007

Eden Resort Hotel Pty Ltd

Cattle Bay Concept Plan - Option 4

Drawing Title

ACCESS - OWNERSHIP & MAINTENANCE B. 2.10

Drawing No.

context

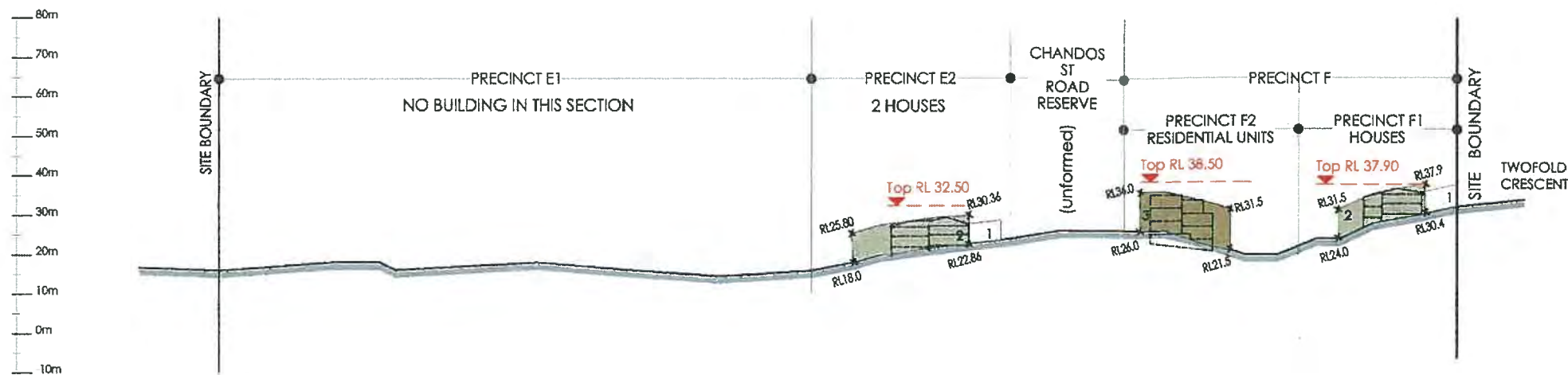
52-54 William Street, East Sydney NSW 2011
 PO Box A680 Sydney South NSW 2000 Australia
 T: 6244 8900 F: 6244 8998 E: context@context.net.au

Architect

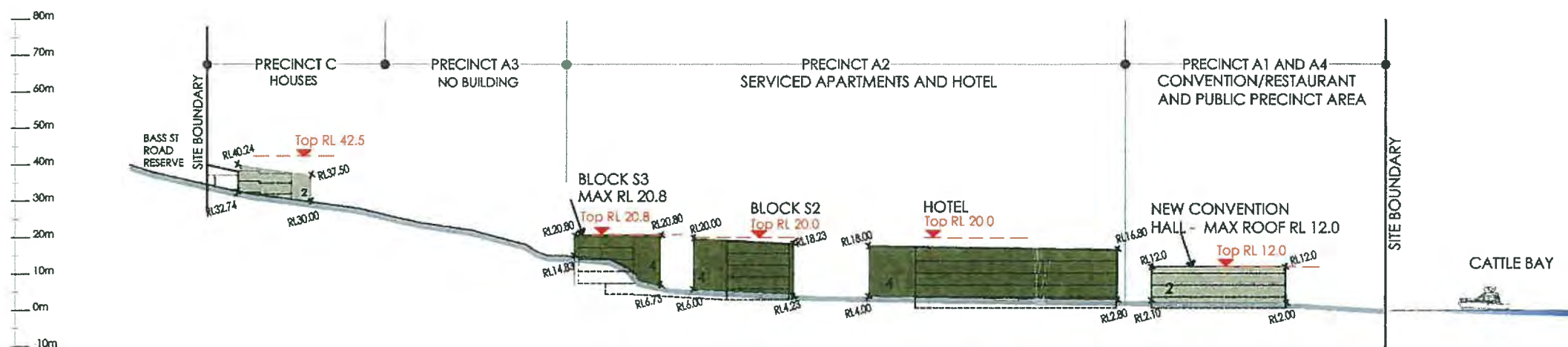
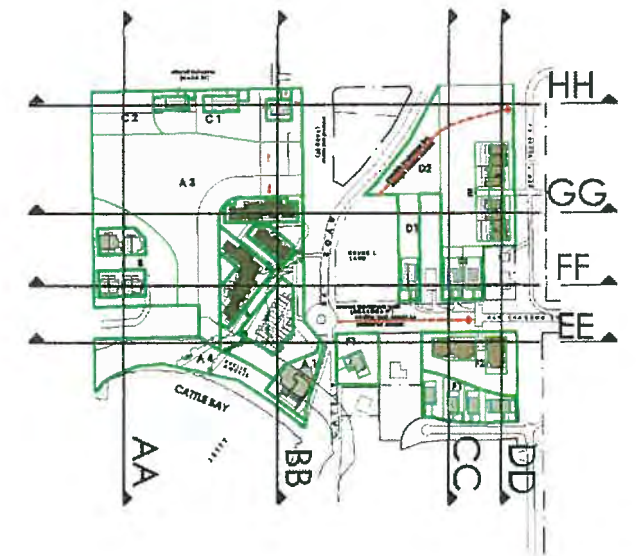
Architects, Interiors and Urban Designers
 90 York Street, Sydney NSW 2000 Australia
 T: +612 9250 0055 F: +612 9250 0708



CONCEPT PLAN



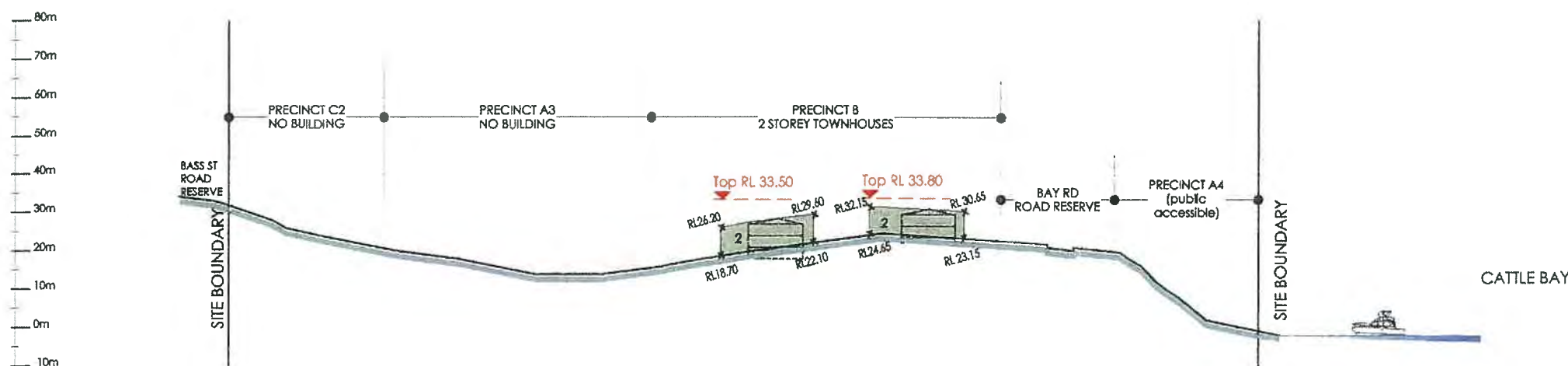
SECTION CC



SECTION BB

LEGEND

- 1 1 storey building zone (max 5 m above NGL)
- 2 2 storeys building zone (max 7.5 m above NGL)
- 3 3 storeys building zone (max 10 m above NGL)
- 4 4 storeys building zone (max 14 m above NGL)



SECTION AA

NSW GOVERNMENT
Department of Planning

Issued under the Environmental Planning and Assessment Act 1979

Approved MP Application No. 05-0032

granted on the 22/08/08 subject to any conditions contained in the notice of determination.

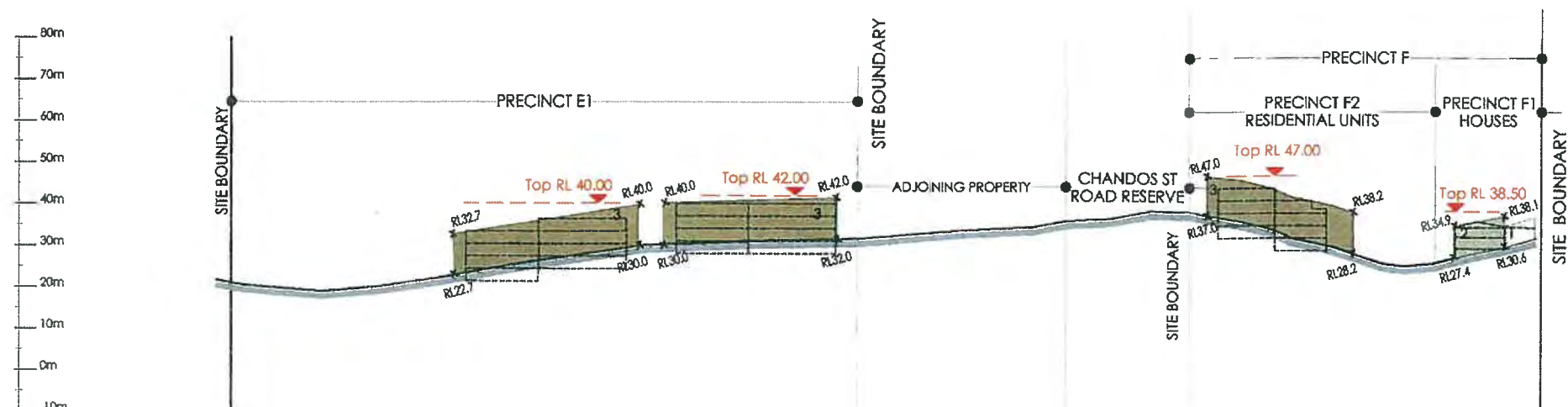
Signed L. S. Date 19/07/08

Sheet No 5 of 7

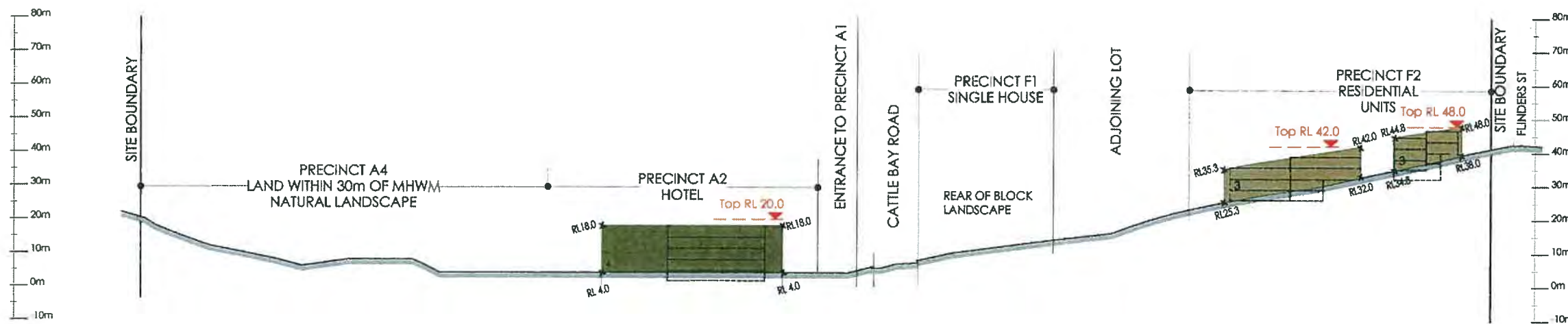
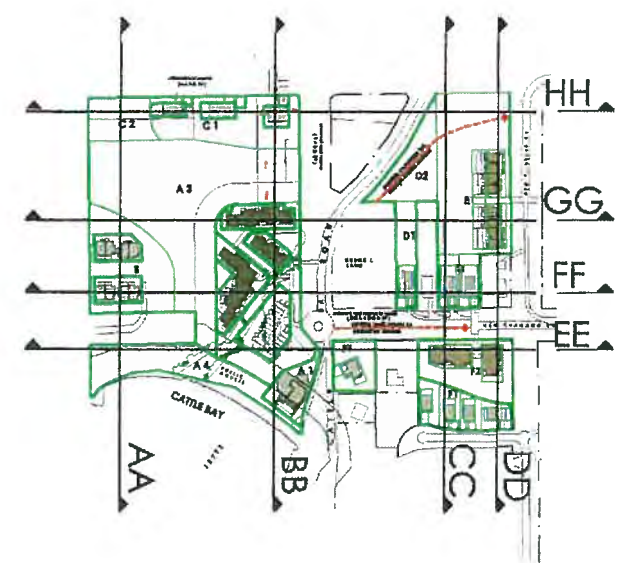
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CONCEPT PLAN



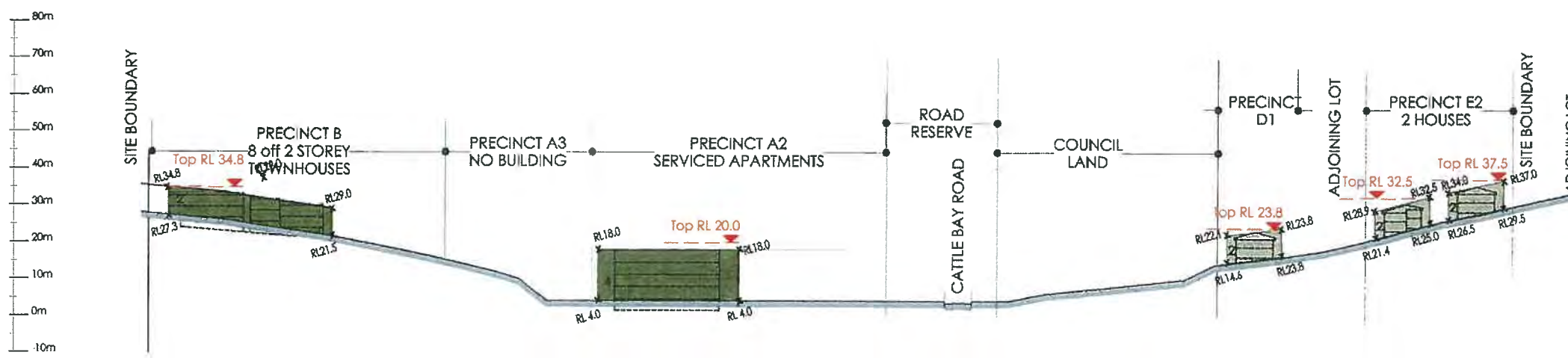
SECTION DD



SECTION EE

LEGEND

- 1 1 storey building zone (max 5 m above NGL)
- 2 2 storeys building zone (max 7.5 m above NGL)
- 3 3 storeys building zone (max 10 m above NGL)
- 4 4 storeys building zone (max 14 m above NGL)



SECTION FF

NSW GOVERNMENT
Department of Planning

Issued under the Environmental Planning and Assessment Act 1979

Approved *ML* Application No. *05 0012*

granted on the *22/07/08* subject to any conditions

contained in the notice of determination.

Signed *L-88* Date *19/07/08*

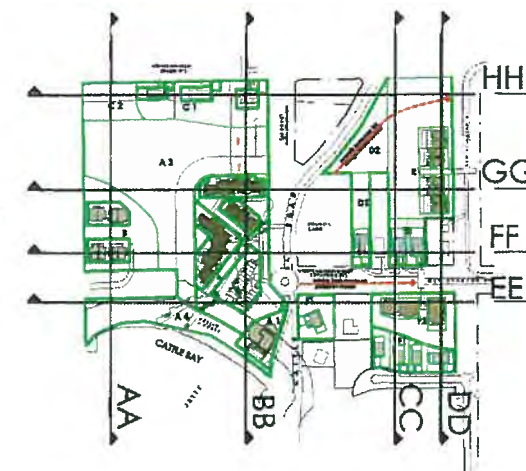
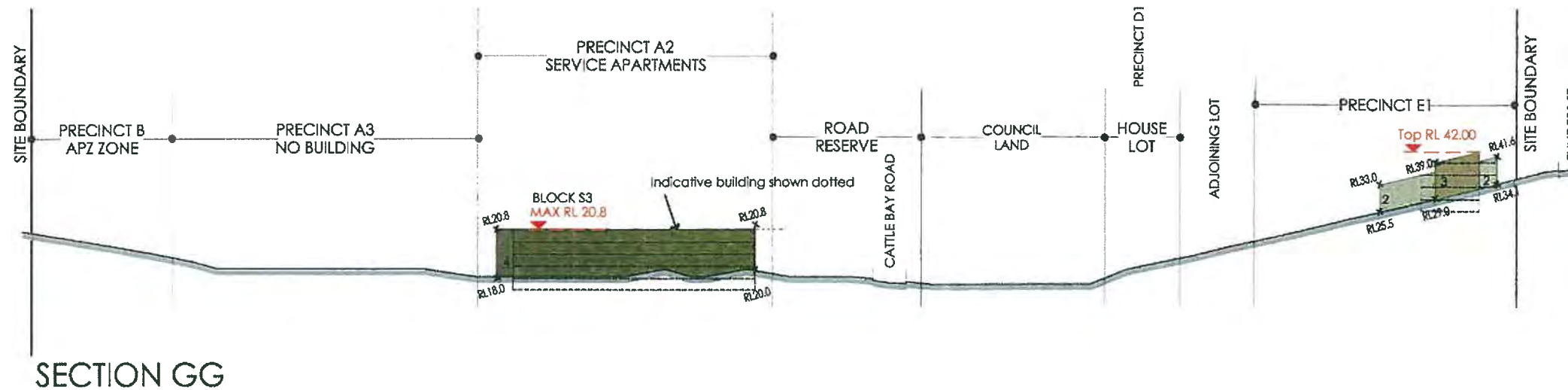
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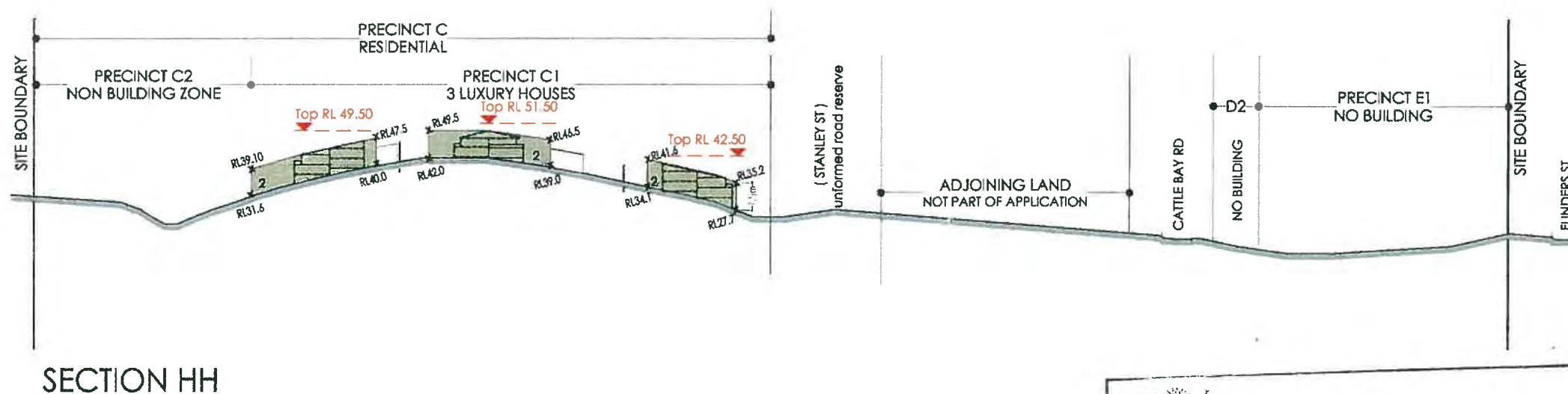
CONCEPT PLAN

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70m
60m
50m
40m
30m
20m
10m
0m
-10m



80m
70m
60m
50m
40m
30m
20m
10m
0m
-10m



LEGEND

- 1 1 storey building zone (max 5 m above NGL)
- 2 2 storeys building zone (max 7.5 m above NGL)
- 3 3 storeys building zone (max 10 m above NGL)
- 4 4 storeys building zone (max 14 m above NGL)
- Indicative building profile

NSW GOVERNMENT
Department of Planning

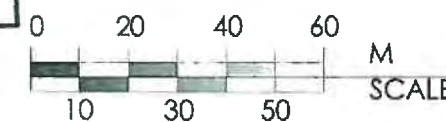
Issued under the Environmental Planning and Assessment Act 1979

Approved MP Application No. 05 0032

granted on the 22/08/08 subject to any conditions contained in the notice of determination.

Signed L-80 Date 9/09/08

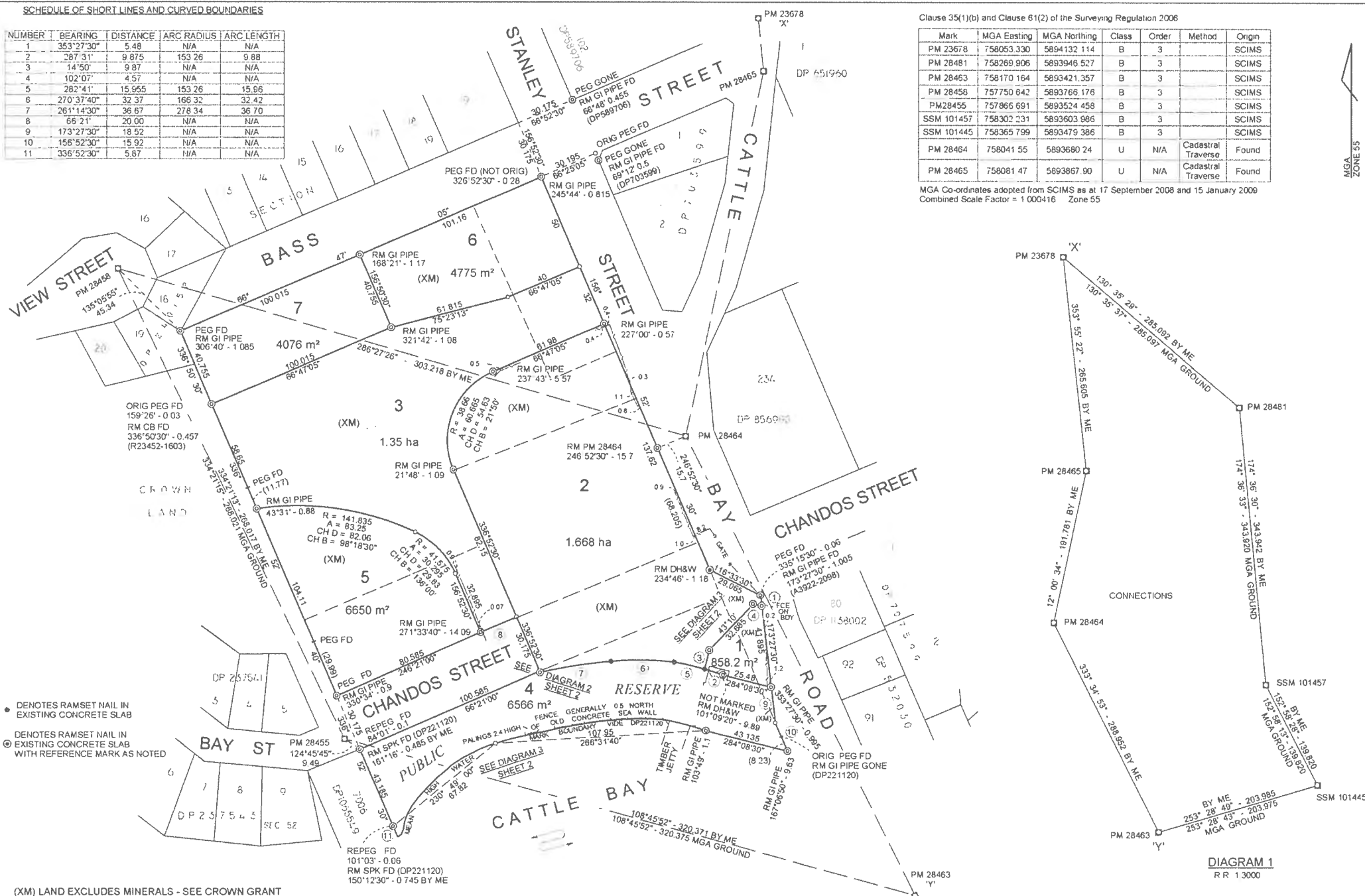
Sheet No 7 of 7



CONCEPT PLAN

SCHEDULE OF SHORT LINES AND CURVED BOUNDARIES

NUMBER	BEARING	DISTANCE	ARC RADIUS	ARC LENGTH
1	353°27'30"	5.48	N/A	N/A
2	287°31'	9.875	153.26	9.88
3	14°50'	9.87	N/A	N/A
4	102°07'	4.57	N/A	N/A
5	282°41'	15.955	153.26	15.96
6	270°37'40"	32.37	166.32	32.42
7	261°14'30"	36.67	278.34	36.70
8	66°21'	20.00	N/A	N/A
9	173°27'30"	18.52	N/A	N/A
10	156°52'30"	15.92	N/A	N/A
11	336°52'30"	5.87	N/A	N/A



• DENOTES RAMSET NAIL IN EXISTING CONCRETE SLAB

⊙ DENOTES RAMSET NAIL IN EXISTING CONCRETE SLAB WITH REFERENCE MARK AS NOTED

(XM) LAND EXCLUDES MINERALS - SEE CROWN GRANT

IT IS INTENDED TO DEDICATE LOT 4 AS PUBLIC RESERVE

BOUNDARIES ARE UNFENCED UNLESS NOTED OTHERWISE
ALL FENCING SHOWN IS 'CYCLONE' & BW FENCING 2.4 HIGH, > 20 YRS, UNLESS NOTED OTHERWISE

Surveyor ROBERT GORDON WEBB
35 FLINDERS STREET
EDEN

Date of Survey 29/01/2009

Surveyor's Ref 1472 E-0

PLAN OF SUBDIVISION OF LOT 1 DP221120,
LOTS 1 & 2 DP249511, LOT 117 DP750205,
LOTS 3, 4, 5, 8, 9, 13, 16 & 17 SEC 15
DP 758379

LGA BEGA VALLEY SHIRE

Locality EDEN

Subdivision No 12/09

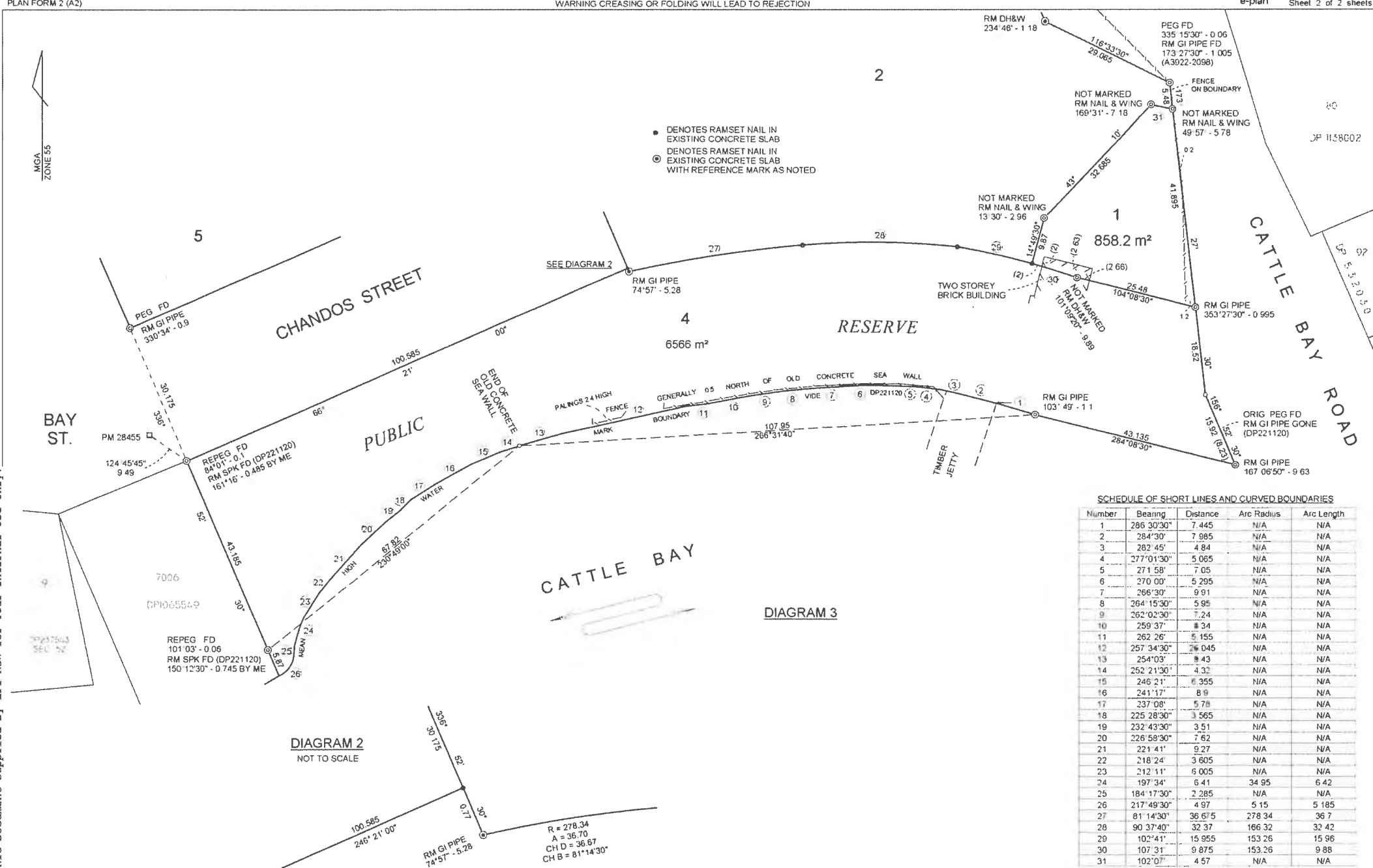
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Registered



25-08-2009

DP1138056



BOUNDARIES ARE UNFENCED UNLESS NOTED OTHERWISE
ALL FENCING SHOWN IS 'CYCLONE' & BW FENCING 2 4 HIGH > 20 YRS.
UNLESS NOTED OTHERWISE

Surveyor's Ref 1472 E-0

PLAN OF SUBDIVISION OF LOT 1 DP221120,
LOTS 1 & 2 DP249511, LOT 117 DP750205,
LOTS 3, 4, 5, 8, 9, 13, 16 & 17 SEC 15
DP 758379

Lengths are in metres Reduction Ratio 1:500



25-08-2009

DP1138056

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 1 of 2 sheet(s)

SIGNATURES, SEALS and STATEMENTS of intention to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.

IT IS INTENDED TO DEDICATE LOT 4 AS PUBLIC RESERVE

THE MINISTER FOR LANDS IN ACCORDANCE WITH PART 2, DIVISION 5 OF THE SURVEYING REGULATION 2006 AND SECTION 55 N OF THE COASTAL PROTECTION ACT 1979 AS AMENDED APPROVES THE DETERMINATION OF THE MEAN HIGHWATER MARK BOUNDARY OF: LOT 4 AS SHOWN HEREON

DEPARTMENT OF LANDS FILE: 09/08839
ON 17/8/2009
KEN SULLIVAN
FOR MINISTER FOR LANDS
(DELEGATION 45. D. 1.3)

Use PLAN FORM 6A

for additional certificates, signatures, seals and statements

Crown Lands NSW/Western Lands Office Approval

I in approving this plan certify
(Authorised Officer)
that all necessary approvals in regard to the allocation of the land shown herein have been given

Signature:
Date:
File Number:
Office:

Subdivision Certificate

I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to:

the proposed subdivision set out herein
(insert 'subdivision' or 'new road')

RQ
* Authorised Person/General Manager/Accredited Certifier

Consent Authority: Bega Valley Shire Council
Date of Endorsement: 9/3/09
Accreditation no:
Subdivision Certificate no: 12/09
File no: 2005.0032

* Delete whichever is inapplicable.

DP1138056

Registered:  25-08-2009

Title System: TORRENS

Purpose: SUBDIVISION

PLAN OF SUBDIVISION OF LOT 4 DP750205,
LOT 1 DP221120, LOTS 1 & 2 DP249511,
LOTS 3, 4, 5, 8, 9, 13, 16, 17, SECTION 15
DP758379, LOT 117 DP750205

LGA: BEGA VALLEY

Locality: EDEN

Parish: EDEN

County: AUCKLAND

Surveying Regulation, 2006

I, ROBERT GORDON WEBB

of 35 FLINDERS STREET, EDEN NSW 2551

a surveyor registered under the *Surveying Act, 2002*, certify that the survey represented in this plan is accurate, has been made in accordance with the *Surveying Regulation, 2006* and was completed on: 29TH January 2009

The survey relates to Lots 1 - 7 Inclusive

(specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)

Signature *[Signature]* Dated: 4.2.09
Surveyor registered under the *Surveying Act, 2002*

Datum Line: X - Y (MGA)

Type: Urban/Rural

Plans used in the preparation of survey/compilation

17-1205	DP240152
70-1205	DP589706
DP221120	DP703599
A 3922.2098	DP856990
R 23249.1603	
DP237543	

(if insufficient space use Plan Form 6A annexure sheet)

SURVEYOR'S REFERENCE: 1472 E-0

* OFFICE USE ONLY

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 2 of 2 sheet(s)

PLAN OF SUBDIVISION OF ~~LOT 1 DP750205~~,
LOT 1 DP221120, LOTS 1 & 2 DP249511,
LOTS 3, 4, 5, 8, 9, 13, 16, 17, SECTION 15
DP758379, LOT 117 DP750205

DP1138056

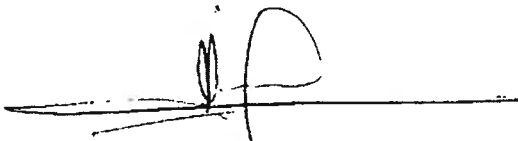
Registered:




25-08-2009

Subdivision Certificate No: 12/9

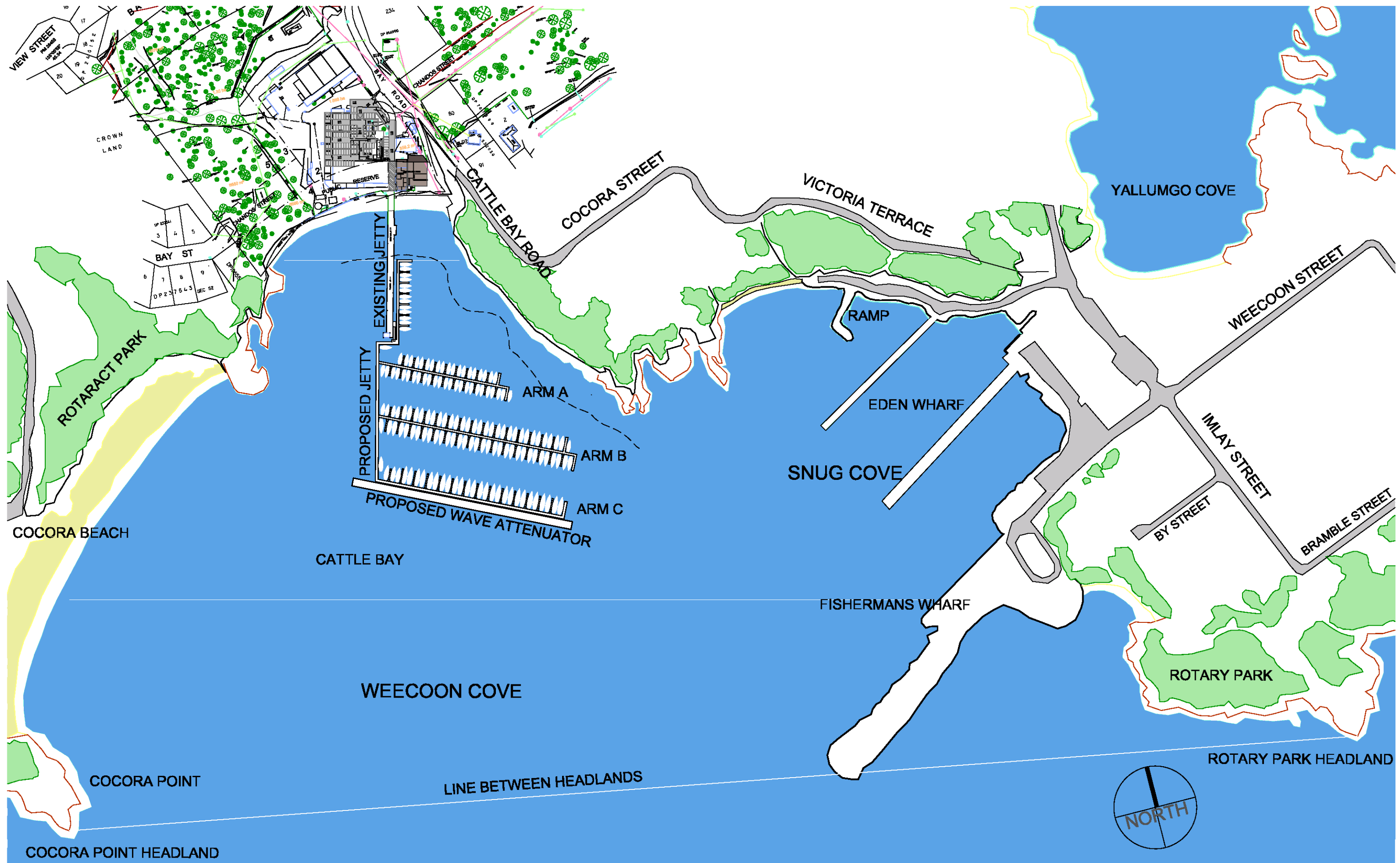
Date of Endorsement: 9/3/09


L. MIN YONG
DIRECTOR
ERH pty Ltd


J. O'Rourke
Director
ERH Pty. Ltd

SURVEYOR'S REFERENCE: 1472

* OFFICE USE ONLY



NOTE: all work protected under copyright law ©

PROJECT :

STAGE ONE - PROPOSED
MARINA DEVELOPMENT,
CATTLE BAY, EDEN, NSW

CLIENT :

EDEN RESORT
HOTEL PTY LTD

TOWN PLANNING CONSULTANT :

INSPIRE URBAN DESIGN + PLANNING
Tel. 0411 486 768 | www.inspireplanning.com
PO Box 7277 South Sydney Business Hub NSW 2015

ARCHITECT :

BLACK
architecture and project management
PO Box 439, Alexandria, NSW 1435
NSW Registration No. 6026, ABN: 26 086 957 832
Tel (02) 8971 6666 Mob 0414 765 104
Email: kevinlynnblack@blackapm.com

DRAWING TITLE :

CONTEXT PLAN
INDICATING PROPOSED SITE
LAYOUT & MARINA LAYOUT

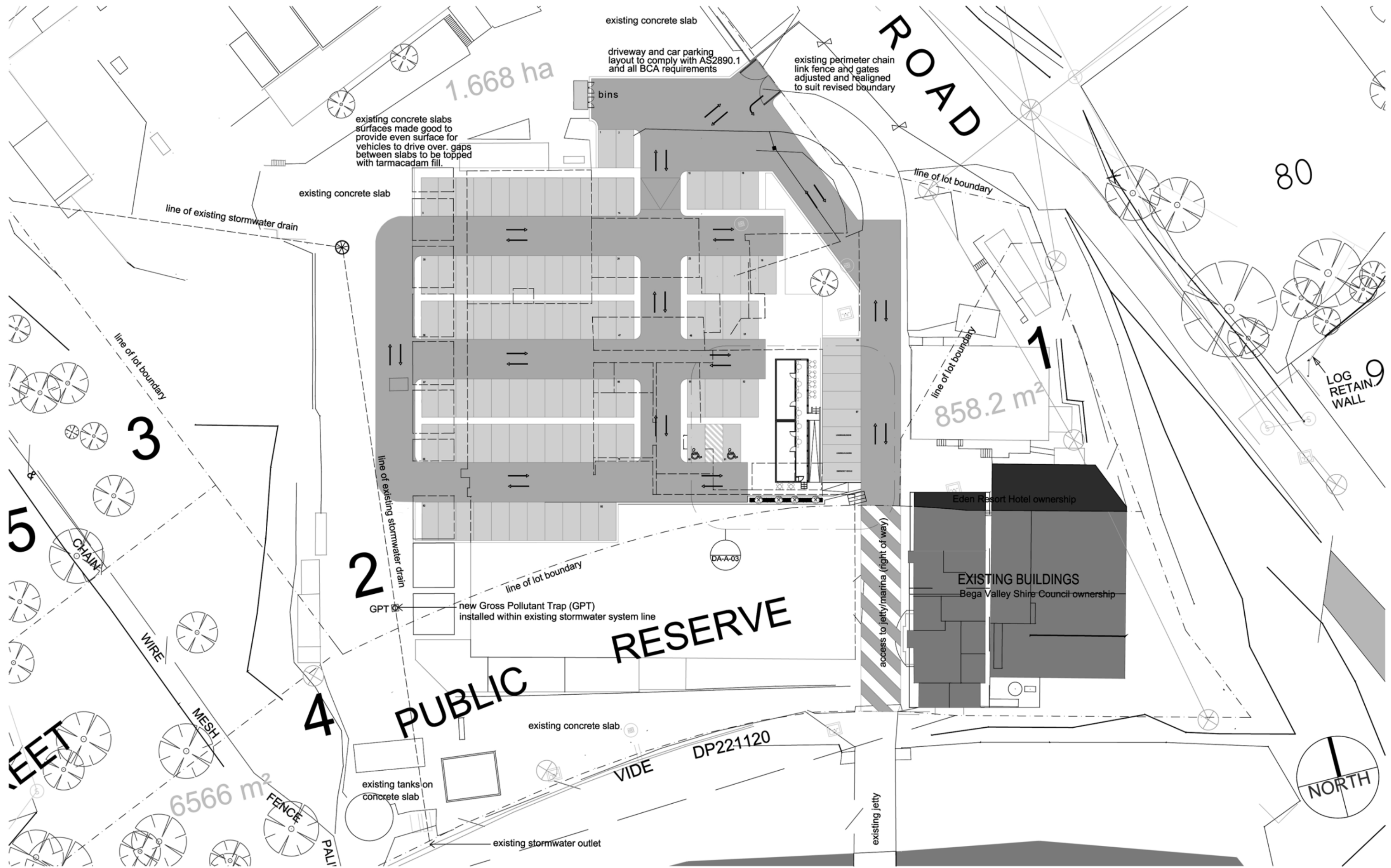
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DWG NO :

DA-A-01

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PROJECT NO.		
DRAWN BY	KLB	
CHECKED BY	KLB	
ISSUE DATE	6-05-13	
ISSUED FOR	D'MENT APPLICATION	

A



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PROJECT :

STAGE ONE - PROPOSED
MARINA DEVELOPMENT,
CATTLE BAY, EDEN, NSW

CLIENT :

EDEN RESORT
HOTEL PTY LTD

TOWN PLANNING CONSULTANT :

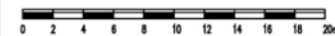
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ARCHITECT :

BLACK
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PO Box 439, Alexandria, NSW 1435
NSW Registration No. 6026, ABN: 26 086 957 832
Tel (02) 8971 6666 Mob 0414 765 104
Email: kevinlynnblack@blackapm.com

DRAWING TITLE :

PROPOSED
SITE DEVELOPMENT AND
STORMWATER PLAN

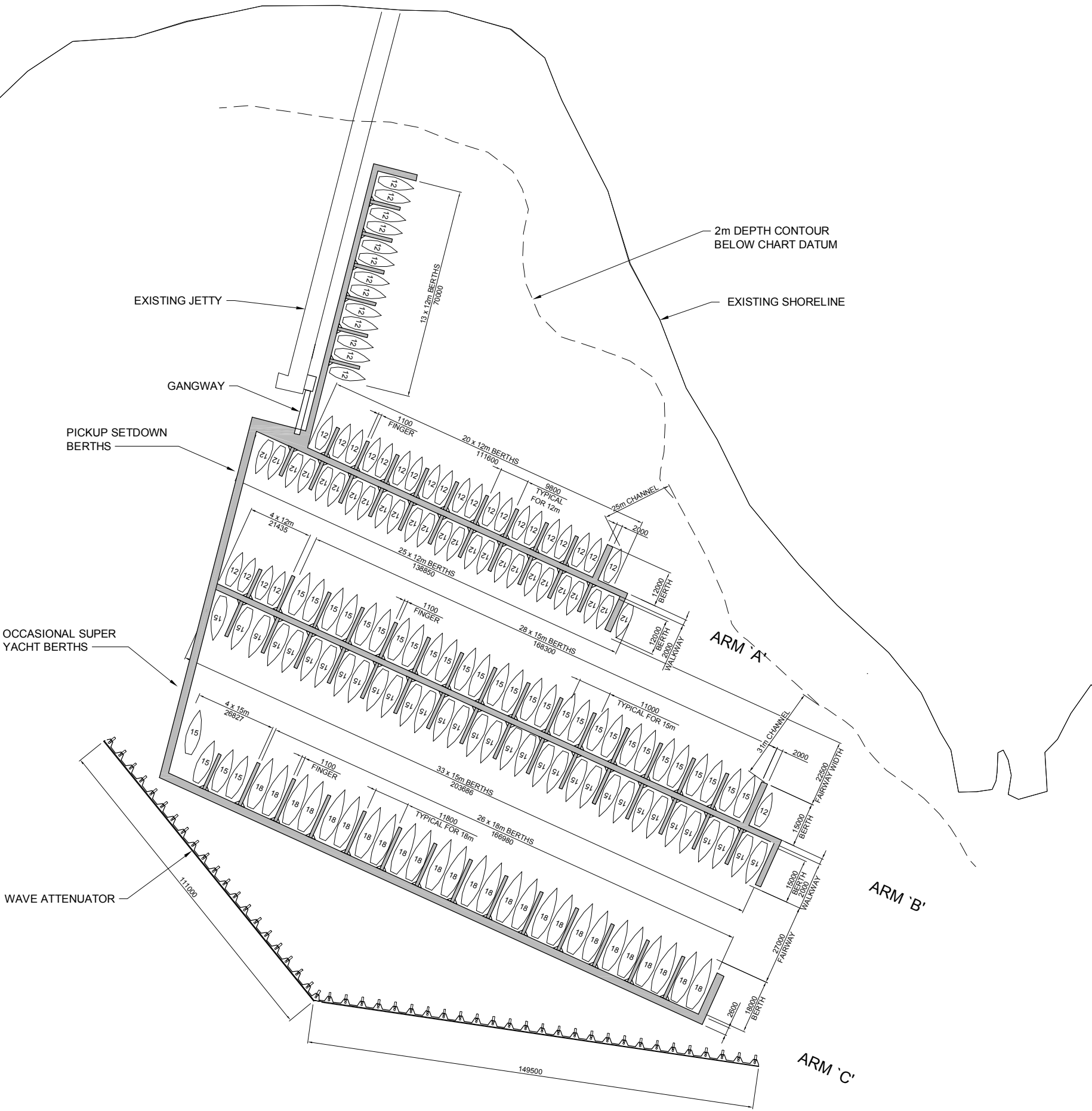


DWG NO :

DA-A-02

SCALE	1:500@A3	ISSUE
PROJECT NO.		
DRAWN BY	KLB	
CHECKED BY	KLB	
ISSUE DATE	27-06-14	
ISSUED FOR	D'MENT APPLICATION	

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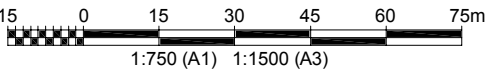


MARINA BERTH SCHEDULE

ARM	12	15	18	TOTAL
A'	45			45
B'	5	61		66
C'		4	26	30
ALONGSIDE JETTY	13			13
TOTAL PROPOSED BERTHS	63	65	26	154
TOTAL PROPOSED BERTHING LENGTH (m)	756	975	468	2199

WIDTH OF MARINA WALKWAYS AND FINGERS, AND LOCATION OF PILING, SUBJECT TO DETAILED DESIGN

NOT FOR CONSTRUCTION



NOTES

- 2m DEPTH CONTOUR IS FROM AUS 192
- CHART DATUM IS APPROXIMATELY THE LEVEL OF LOWEST ASTRONOMICAL TIDE (LAT)

A	dd.mm.yy	ISSUED FOR REVIEW	SGB	—
REV	DATE	DESCRIPTION	BY	CHK APPD

REVISIONS

CLIENT

PROJECT:

DRAWING TITLE:

PROPOSED CATTLE BAY MARINA
AND WAVE ATTENUATOR
DETAIL GENERAL ARRANGEMENT
STAGE 2 (ULTIMATE)



Royal
HaskoningDHV
Enhancing Society Together

HASKONING AUSTRALIA PTY LTD
SYDNEY

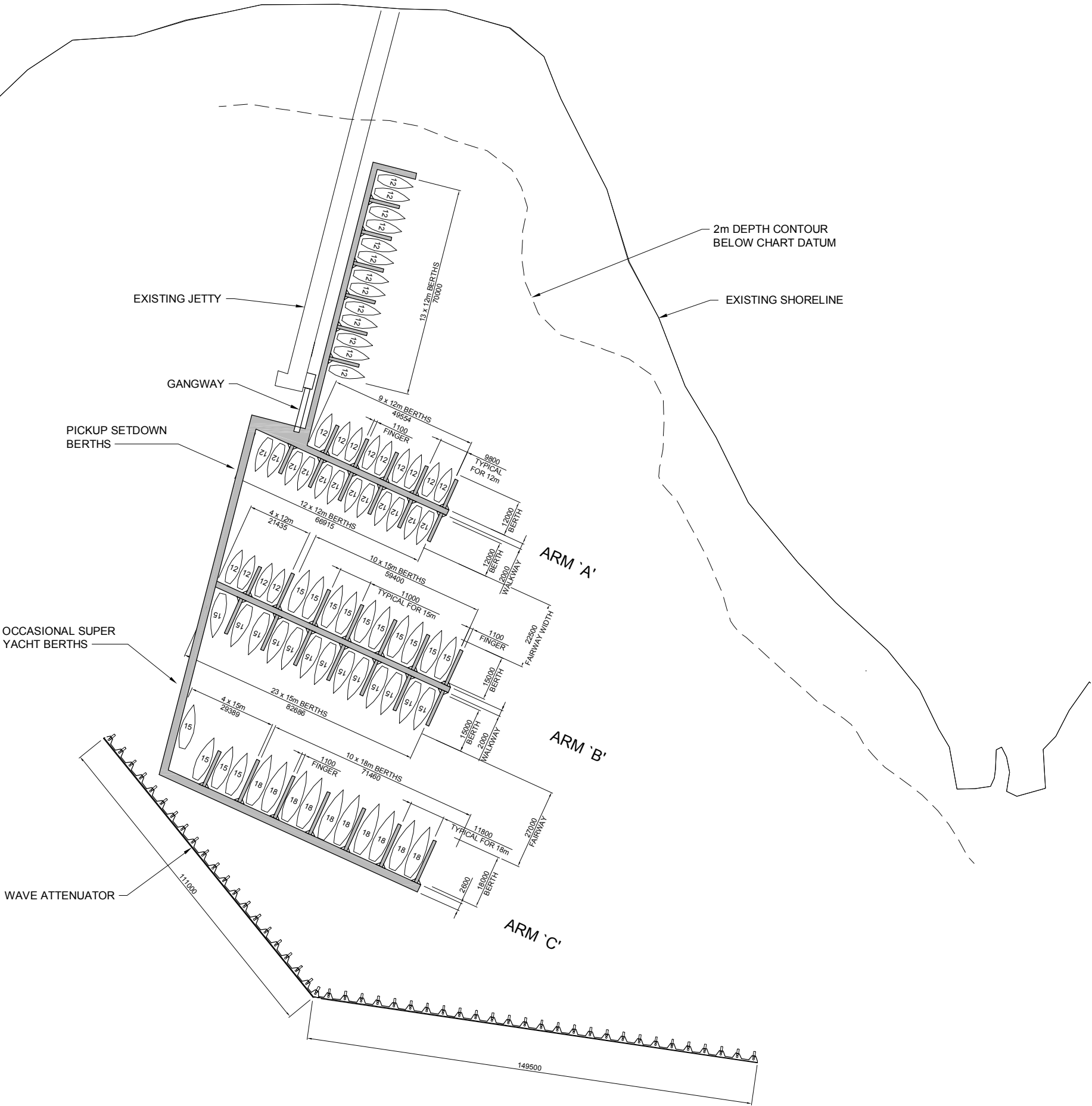
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DRAWN SGB	DATE 07/08/2015	JOB No. 8A0458
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AUTOCAD REF. 8A0458-MA-SK10

SCALE AT A1 1:750 (A1)

DRAWING No. 8A0458/MA/SK10	REVISION A
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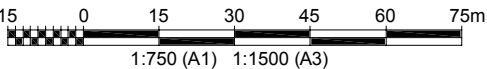


MARINA BERTH SCHEDULE

ARM				TOTAL
	12	15	18	
A'	21			21
B'	4	33		37
C'		4	10	14
ALONGSIDE JETTY	13			13
TOTAL PROPOSED BERTHS	38	37	10	85
TOTAL PROPOSED BERTHING LENGTH (m)	456	555	180	1191

WIDTH OF MARINA WALKWAYS AND FINGERS, AND LOCATION OF PILING, SUBJECT TO DETAILED DESIGN

NOT FOR CONSTRUCTION



NOTES

- 2m DEPTH CONTOUR IS FROM AUS 192
- CHART DATUM IS APPROXIMATELY THE LEVEL OF LOWEST ASTRONOMICAL TIDE (LAT)

A	dd.mm.yy	ISSUED FOR REVIEW	SGB	-	
REV	DATE	DESCRIPTION	BY	CHK	APPD

REVISIONS

CLIENT

PROJECT:

DRAWING TITLE:

PROPOSED CATTLE BAY MARINA AND WAVE ATTENUATOR
DETAIL GENERAL ARRANGEMENT
STAGE 1



Royal HaskoningDHV
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DRAWN SGB	DATE 07/08/2015	JOB No. 8A0458
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AUTOCAD REF. 8A0458-MA-SK11

SCALE AT A1 1:750 (A1)

DRAWING No. 8A0458/MA/SK11	REVISION A
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APPENDIX 9:

Achievement of Objectives and Actions of NSW Coastal Policy

ESD Objective	Comment
<p>Conservation of biological diversity and ecological integrity</p> <p>The location of new developed and resource exploitation opportunities in the coastal zone becomes a major concern if areas which are critical for the conservation of biological diversity and ecological integrity are to be conserved.</p> <p>The policy promotes the reservation from development of critical habitat. This is done by focusing on provisions in the Threatened Species Conservation Act, 1995 (TSC Act) and the establishment of adequate, comprehensive and representative reserves systems for aquatic, intertidal and terrestrial areas. A system of marine parks is to be established by the newly formed Marine Parks Authority. The acquisition of lands with high conservation values is also promoted by the policy. The NSW Government is currently examining legislation to apply provisions similar to the TSC Act to fish, other aquatic organisms and marine vegetation.</p> <p>The policy envisages an approach to new development and resource exploitation in the coastal zone which balances human and ecological needs. In practical terms, this is to be promoted by the effective forward planning of the new residential and resource exploitation opportunities through mechanisms such as coastal urban planning strategies and rural residential land release strategies. While responsibility for detailed local planning rightly belongs with local councils, it is important that it occurs in context which recognises the importance of preserving biological diversity and the need to obtain regional perspective when assessing this issue</p>	<p>It promotes balanced use of the area which achieves social and economic imperatives, whilst also recognising the value of the environmental context within which the site is located.</p> <p>The proposal has no impact on non-renewable resources.</p>
<p>Inter-generational equity</p> <p>The policy promotes the concept of inter-generational equity in a number of ways. These include:</p> <ul style="list-style-type: none"> • the restrained use of non-renewable resources in the coastal zone; • promotion of alternative methods and technologies for dealing with waste disposal in the coastal zone, e.g. through the re-use or land disposal of effluent; • the preservation of essential natural and cultural resources of the coastal zone for the benefit and enjoyment of future generations; • the promotion of fair and equitable access to the resources and assets of the coastal zone; • Recognition of the need to continue to provide ecologically sustainable settlement opportunities in the coastal zone in order that social equity considerations are met. 	<p>New public access is proposed to the coastal zone and the foreshore lands are not proposed to be privatised.</p> <p>Bay foreshores will be preserved as resources for future generations.</p>
<p>Improved valuation, pricing and incentive mechanisms</p> <p>The 1997 policy has a focus on estuarine water quality in recognition of the emergence of this issue as a major concern in the coastal zone.</p> <p>The policy promotes the resolution of this issue through, firstly, a waste minimisation emphasis and, secondly, recognition of the need to ensure that the "polluter pays" principle is enshrined in coastal zone decision making.</p> <p>A significant cause of environmental degradation in the coastal zone is the under-valuation or non-valuation of the environment and the long held belief that use of "commons", such as water resources, is free and unconstrained.</p> <p>The Coastal Policy promotes the need to fully value all the resources of the coastal zone when making decisions which affect coastal resources, and to move away from traditional, narrowly conceived cost benefit analysis techniques.</p>	<p>The proposal has been prepared with an understanding of contemporary expectations regarding environmental management and protection as described in this document.</p>
<p>The Precautionary Principle</p> <p>The Coastal Policy uses the precautionary principle as an integrating mechanism for considering and addressing range of issues in the coastal zone.</p> <p>The precautionary principle should be used at the project level, for example in assessing development applications in areas prone to shoreline recession, and at the strategic level, for example in the development of coastline management plans and local environmental plans. The precautionary principle is particularly relevant to the issue of climate change and sea level rise in coastal areas.</p> <p>While the precautionary principle does not require a 'no development' approach, it does require a risk adverse approach to decision-making, especially where locational considerations are critical or where environmental impacts are uncertain but potentially significant.</p>	<p>Coastal hazard and environmental investigations have been undertaken as part of the detailed response to the DGRs. The issues have been clearly identified and can be acceptably addressed as described in this Statement.</p>

Key Actions	Comment
Water quality in coastal waters, estuaries and rivers will be maintained where it is currently adequate, or improved where it is currently inadequate. This will be addressed through a number of specific actions designed to control discharges from both point and on-point sources, including development and implementation of management and monitoring programs.	Water quality will be managed and provisions are included to address potential water quality issues as part of the proposed development.
New ocean outfalls will be embargoed until a full investigation of alternative wastewater strategies has been undertaken and considered by the Government.	No ocean outfalls that may impact on water quality are proposed. All wastewater will be treated via Council's existing sewerage system.
Protection and restoration of important fisheries habitats, such as seagrasses and mangroves, will continue to be undertaken.	The Proposal has can be managed to ensure minimal impact on this action.
SEPP 14 Coastal Wetlands and SEPP 26 Littoral Rainforests will be rigorously enforced and extended where appropriate in recognition that what remains of these valuable ecosystems needs to be fully protected from inappropriate development.	The proposal has no impact on this action.
Coastal lands and aquatic environments with conservation values will be assessed and appropriate tenures, reservations, zonings and/or regulations will be put in place to protect them, conserve biodiversity and to protect and ensure the recovery of threatened species.	The proposal responds to this action.
An adequate, comprehensive and representative land, marine and inter-tidal conservation reserves system will continue to be developed	The proposal has no impact on this action.
Coastal lands with high conservation values will continue to be acquired and dedicated or reserved for a public purpose.	The Proposal supports this action by the previous dedication of foreshore land to Council by the Proponent.
All efforts will be made to avoid disturbance of potential acid sulphate soils and appropriate management strategies and monitoring protocols developed where such soils are disturbed.	The proposal will respond to this action as required.
Beaches, frontal dunes and undeveloped headlands will be protected and only minor development will be permitted for essential public purposes, e.g. surf lifesaving facilities.	No development is proposed on beaches, frontal dunes and undeveloped headlands (The proposal seeks to reuse the grounds and environs of the former cannery business).
Development proposals will have to conform to specified design and planning standards to control height, setback and scale to ensure public access and to ensure that beaches and foreshore open spaces are not overshadowed.	Public access will be provided and beaches and foreshore open spaces will not be over shadowed.
Canal estate developments will be prohibited in recognition of the fact that they can pose serious water quality problems, threaten the integrity of coastal wetlands and fisheries habitats, exacerbate flooding problems and disturb potential acid sulphate soils.	No canal estate development is proposed.
The aesthetic qualities of both the natural and built environments will be identified, protected and promoted through the continued acquisition of coastal lands under the Coastal Lands Protection Scheme and the implementation of design guidelines, planning instruments, management plans, programs and regulations.	The proposal supports this action.
Cultural heritage will be protected and conserved through a variety of planning and management programs.	The proposal has no impact on this action.
The impacts of natural coastal processes and hazards will be addressed in coastline and estuary management plans administered by the Department of Land and Water Conservation and management programs implemented by local councils in partnership with State agencies.	The proposal responds to this action.
Investigations and monitoring of climate change for coastal areas will continue and sea level rise scenarios will be incorporated into management plans and other mechanisms, where appropriate.	The proposal responds to this action.
The rights and needs of indigenous people will be considered in the review of coastal policies and programs.	The proposal supports this action.
Potential opportunities for the sustainable use and development of coastal resources, across all industry sectors, will be identified, and facilitated where appropriate.	The proposal supports this action.
A systematic program of assessing and mapping rural lands will be continued to identify and protect sustainable agricultural land uses.	Not relevant.
Catch levels and harvesting strategies for major commercial and recreational fisheries will be identified and set.	Not relevant.
Strategies for the maintenance and/or development of commercial and recreational ports to the year 2015 will be developed.	The proposal supports to this action.
The NSW Tourism Master plan to facilitate the shape, direction, and development of the New South Wales tourism industry will be implemented.	The proposal supports this action.

Director-General's Requirements

Part 2 of Schedule 2 of the *Environmental Planning and Assessment Regulations 2000*.

For the preparation of Environmental Impact Statement

DGR Number	711
Proposal	Marina comprising approximately 154 berths in two floating arms with wave attenuators and a land based car park.
Location	Cattle Bay, Eden
Applicant	Eden Resort Hotel Pty Ltd (ERH)
Date of Expiry	21 March 2015
General Requirements	The Environmental Impact Statement (EIS) must meet the minimum form and content requirements in clauses 6 and 7 of Schedule 2 of the Environmental Planning and Assessment Regulation 2000.
Key Issues	<ul style="list-style-type: none"> • Strategic planning – justify the proposal with reference to relevant local, regional and state planning strategies. Provide justification for any inconsistencies with these planning strategies. • Justification – including: <ul style="list-style-type: none"> - An assessment of the need for a marina (including boat length, height and type) in the locality and region; - Impacts on the amenity of the foreshore; - Justification for the size of occupation of the waterway, including access ways, fairways and dredging areas (if any); and - Impacts of the proposal on existing maritime infrastructure in Cattle Bay and Snug Cove. • Visual Amenity - including an assessment of the visual impact of the proposal (height, scale, density and lighting) on the local and regional area, particularly: <ul style="list-style-type: none"> - Impacts on the amenity of the foreshore; - Water users of Snug Cove; - Loss of views from public places; and - Cumulative impacts. • Traffic and Transport - including construction and operation, traffic and parking assessment and landside access (e.g. the impact on users of the public foreshore): <ul style="list-style-type: none"> - Address the suitability of the existing sealed areas on-site to support the establishment of the car parking area; - Traffic Impact Study (TIS) is required. TIS should identify the largest design vehicles associated with the development and give consideration to any necessary road upgrades; and - Intersection modelling using SIDRA should be undertaken for the junction of Mitchell Street with Flinders Street, and Chandos Street and Imlay Street, plus any other key intersections with the classified road network that are likely to be impacted by the proposal. • Navigation and Safety - including assessment of: <ul style="list-style-type: none"> - The impacts on water based traffic and the existing users of Cattle Bay and Snug Cove in the vicinity of the marina; and - The adequacy of marina design in accordance with relevant Australian standards. • Infrastructure Provision <ul style="list-style-type: none"> - Address existing capacity and requirements of the development for sewerage (including sewer pump out), water, refuelling facilities, electricity, waste disposal (including dredged material), telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works; and - Address and provide the likely scope of any planning agreements and/or development contributions with council/government agencies

(including relevant community/state infrastructure contributions).

- **Hazards Assessment**

- Provide a hazards assessment for construction and operation, including an assessment of the impacts on the environment and nearby aquaculture operations in the event of a failure of the marina because of a severe coastal event (e.g. severe wave impacts) or climate change impacts;
- Provide a fire management and containment measures and/or fire fighting equipment to be installed on-site; and
- Identify any contamination on the site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.

- **Public Access** – including impacts on waterway access (including equity), waterway sharing of existing users of Cattle Bay (e.g. passive craft);

- Assess the opportunity for public access to be provided by the wharf;
- Assess access for the disabled; and
- Public and pedestrian access to the marina and foreshore.

- **Coastal Process**

- Address coastal hazards and the guidelines for preparing coastal zone management plans;
- Consider impacts associated with wave and wind action, coastal erosion, climate change sea level rise and more frequent and intense storms; and
- Address coastal process and impacts on the hydrodynamics of the estuary from construction and operation of the proposal, particularly from wave shoaling and refraction.

- **Soil and Water** – including:

- Impacts on water quality during construction and operation;
- Assess the potential impacts on groundwater dependent ecosystems;
- Assess the impact on the project on drainage lines and riparian corridors, having regard to Concept Approval MP05_0032 and its requirements;
- Include an assessment of any flood risk on the site with consideration of any relevant provisions of the *NSW Floodplain Development Manual 2005*;
- Details of proposed erosion and sediment controls (during construction);
- The proposed stormwater management system (during operation);
- Any proposed dredging activities;
- Assess the potential impacts of the development on the stability of the bed and shoreline of Cattle Bay during construction and operation of the marina; and
- Identify the presence and extent of acid sulphate soils on the site and, where relevant, appropriate mitigation measures. Identify the need for an Acid Sulfate Management Plan (prepared in accordance with ASSMAC Guidelines).

- **Geotechnical**

- Provide an assessment of any geotechnical limitations that may occur on the site and if necessary, appropriate design considerations that address these limitations.

- **Environmental Management Plan**

- Provide an environmental management plan for the construction and operation of the facility, which includes a monitoring program for noise, air and water quality.

- **Heritage and Archaeology**

- Identify whether the site has Aboriginal cultural heritage significance and identify appropriate measures to preserve any significance. The assessment must address the information and consultation requirement of the guidelines for the *Aboriginal Cultural Heritage Assessment and Community Consultation*; and
- Identify any items of non-indigenous heritage significance and, where relevant, provide measures for the conservation of such items. Where there is a known heritage impact, a Heritage Assessment of non-indigenous heritage values of the site is to be submitted, including built, archaeological, landscape and moveable items of potential

	<p>significance.</p> <ul style="list-style-type: none"> • Flora and Fauna – Assess potential impacts of the development on flora and fauna, including threatened species, populations, ecological communities and/or critical habitat and any relevant recovery plan in accordance with DECC's Guidelines for <i>Threatened Species Assessment</i>. Assess the presence and spread of pest species and detail actions to reduce, avoid or mitigate impacts or compensate unavoidable impacts, where relevant. <ul style="list-style-type: none"> - Assess potential impacts on aquatic flora and fauna (specifically consider sea grass, migratory waders and threatened shorebird species) and; - Direct and indirect impacts to marine vegetation (i.e. mangroves, seagrass and macroalgae) and benthic communities from activities; • Air and Noise and Vibration <ul style="list-style-type: none"> - Provide an Air Quality Impacts Assessment (AQIA) for the construction and operation. The AQIA should detail proposed mitigation measures and include an emission monitoring regime; - Provide a noise impact assessment for construction and operation of the facility. The assessment should detail proposed mitigation measures and include a noise monitoring regime; - Vibration from all activities during construction and operational stages; and - Blast impacts if required for any reason during construction or operational stages of the proposed development. • Socio-Economic Impacts <ul style="list-style-type: none"> - Provide a social impact assessment for the development, which includes an assessment of compatibility with surrounding uses, impact upon other users of the waterway and impacts on the foreshore precinct. • Aquaculture and Fishing <ul style="list-style-type: none"> - Provide an assessment of the impacts on aquaculture operations particularly impacts on water quality, during construction and operation; and - Provide an assessment on recreational and commercial fishing. • Waste Management <ul style="list-style-type: none"> - including details of how wastes will be minimised, managed, stored and disposed of in accordance with the relevant standards and guidelines. • Ecologically Sustainable development <ul style="list-style-type: none"> - Identify how the project will incorporate ESD principles in the design, construction and ongoing operation. • Original Concept Plan <ul style="list-style-type: none"> - Demonstrate that the proposal is consistent with the Concept Plan Approval MP05_0032.
Environmental Planning Instruments	<p>The EIS must assess the proposal against the relevant environmental planning instruments,</p> <ul style="list-style-type: none"> • <i>State Environmental Planning Policy 14 – Coastal Wetlands;</i> • <i>State Environmental Planning Policy 44 – Koala Habitat Protection;</i> • <i>State Environmental Planning Policy 55 – Remediation of Land;</i> • <i>State Environmental Planning Policy 71 – Coastal Protection;</i> • <i>Australian Water Quality Guidelines for Fresh and Marine Waters (ANZECC 2000);</i> • <i>Environment Protection and Biodiversity Conservation Act 1999;</i> • <i>South Coast Regional Strategy (DoP 2006);</i> • <i>Coastal Protection Act (NSW Gov. 1979);</i> • <i>Coastal Design Guidelines for NSW (DoP 2003);</i> • <i>Bega Valley Local Environmental Plan (2002);</i> • <i>Draft Bega Valley Local Environmental Plan (2012);</i> • <i>Policy and Guidelines for Aquatic Habitat and Fish Conservation (1999);</i> • <i>Fisheries Management Act 1994;</i> • <i>Policy and Guidelines for Aquatic Habitat Management and Fish Conservation (1999);</i> • <i>Environmental actions for Marinas, boatsheds and slipway (2007);</i>

	<ul style="list-style-type: none"> • <i>Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999);</i> • <i>NSW industrial Noise Policy;</i> • <i>NSW Environmental Criteria for Road Traffic Noise;</i> • <i>Approved Methods for the sampling and Analysis of Water Pollutants in NSW;</i> • <i>Contaminated Sites – Guidelines for Consultants Reporting on contaminated sites (1997);</i> • <i>Contaminated Sites – Guidelines on Significant Risk of Harm and Duty to Report (1999);</i> • <i>Water Management Act (2000);</i> • <i>Practical Consideration of Climate Change – Floodplain Risk Management Guidelines (DECC 2007);</i> • <i>NSW Floodplain Development Manual (2005);</i> • <i>Aquifer Interference Policy (2012);</i> • <i>Guidelines for Controlled Activities (2012);</i> • <i>Protection of the Environment Operations Act 1997</i> • <i>Snug Cove Master Plan 2005;</i> • <i>Eden Structure Report (Bega Valley Shire Council, 2006);</i> • <i>Australian and New Zealand Guidelines for Fresh and Maritime Water Quality (ANZECC 2000); and</i> • Any other relevant development control plans and section 94 plans.
Guidelines	<p>It is recommended that during the preparation of the EIS you consult the Department's <i>EIS Guideline Marinas and Related Facilities</i>. The Guideline is available for purchase from the Departments Information Centre, 23-33 Bridge Street, Sydney or by calling 1300 305 695.</p>
Consultation	<p>During the preparation of the EIS, you should consult relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS. In particular, you should consult surrounding landowners and occupiers that are likely to be impacted by the proposal.</p> <p>Details of the consultations carried out and issues raised must be included in the EIS.</p>

6 Form of environmental impact statement

An environmental impact statement must contain the following information:

- (a) the name, address and professional qualifications of the person by whom the statement is prepared,
- (b) the name and address of the responsible person,
- (c) the address of the land:
 - (i) in respect of which the development application is to be made, or
 - (ii) on which the activity or infrastructure to which the statement relates is to be carried out,
- (d) a description of the development, activity or infrastructure to which the statement relates,
- (e) an assessment by the person by whom the statement is prepared of the environmental impact of the development, activity or infrastructure to which the statement relates, dealing with the matters referred to in this Schedule,
- (f) a declaration by the person by whom the statement is prepared to the effect that:
 - (i) the statement has been prepared in accordance with this Schedule, and
 - (ii) the statement contains all available information that is relevant to the environmental assessment of the development, activity or infrastructure to which the statement relates, and
 - (iii) that the information contained in the statement is neither false nor misleading.

7 Content of environmental impact statement

- (1) An environmental impact statement must also include each of the following:
 - (a) a summary of the environmental impact statement,
 - (b) a statement of the objectives of the development, activity or infrastructure,
 - (c) an analysis of any feasible alternatives to the carrying out of the development, activity or infrastructure, having regard to its objectives, including the consequences of not carrying out the development, activity or infrastructure,
 - (d) an analysis of the development, activity or infrastructure, including:
 - (i) a full description of the development, activity or infrastructure, and
 - (ii) a general description of the environment likely to be affected by the development, activity or infrastructure, together with a detailed description of those aspects of the environment that are likely to be significantly affected, and
 - (iii) the likely impact on the environment of the development, activity or infrastructure, and
 - (iv) a full description of the measures proposed to mitigate any adverse effects of the development, activity or infrastructure on the environment, and
 - (v) a list of any approvals that must be obtained under any other Act or law before the development, activity or infrastructure may lawfully be carried out,
 - (e) a compilation (in a single section of the environmental impact statement) of the measures referred to in item (d) (iv),
 - (f) the reasons justifying the carrying out of the development, activity or infrastructure in the manner proposed, having regard to biophysical, economic and social considerations, including the principles of ecologically sustainable development set out in subclause (4).
- (2) Subclause (1) is subject to the environmental assessment requirements that relate to the environmental impact statement.
- (3) Subclause (1) does not apply if:
 - (a) the Director-General has waived (under clause 3 (9)) the need for an application for environmental assessment requirements in relation to an environmental impact statement in respect of State significant development, and
 - (b) the conditions of that waiver specify that the environmental impact statement must instead comply with requirements set out or referred to in those conditions.
- (4) The principles of ecologically sustainable development are as follows:
 - (a) the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:
 - (i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and
 - (ii) an assessment of the risk-weighted consequences of various options,
 - (b) inter-generational equity, namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,
 - (c) conservation of biological diversity and ecological integrity, namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,
 - (d) Improved valuation, pricing and incentive mechanisms, namely, that environmental factors should be included in the valuation of assets and services, such as:
 - (i) polluter pays, that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,
 - (ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,
 - (iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

Eden Resort Hotel Pty Ltd
ABN: 59 091 363 165

CATTLE BAY MARINA

O.E.M.P.

Operation Environmental Management Plan

March 2015



Prepared by:



ADVANCED MARINA MANAGEMENT PTY LTD

ABN: 73 082 873 256

PO Box 460 DOUBLE BAY NSW 2028

Ph: 0408 696 969

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1. OBJECTIVES OF PLAN

The purpose of this preliminary Operation Environmental Management Plan (OEMP) is to provide guidance on environmental and safety control measures during the operation of the proposed marina¹. This OEMP integrates the various environmental management commitments, conditions and statutory requirements that cover the proposed marina operation. This OEMP has been prepared in order to meet the following objectives:

- A. To ensure that all relevant issues associated with the occupation, usage, inspection, maintenance and repair of the Cattle Bay Marina are identified and documented and that effective plans are prepared and implemented to provide a safe and well-managed asset.
- B. To satisfy the compliance requirements of the relevant Conditions of Development Consent imposed on the Cattle Bay Marina.
- C. To satisfy the requirements of all other statutory and regulatory authorities.
- D. To comply with the relevant requirements of the Cattle Bay Marina Head Lease.
- E. To identify the management resources involved in the ongoing implementation of this Plan and to define their roles and responsibilities.
- F. To ensure the implementation, periodic review and update of the plan by the Marina Manager.

This OEMP is applicable from the time of completion of the redevelopment of the marina and is to be in place for as long as the marina is operating. It should be subject to periodic review at no longer than three yearly intervals.

¹ The OEMP would be finalised following development consent when all consent conditions are known.

2. STATUTORY AND LICENCE REQUIREMENTS

The Marina Manager shall be responsible for ensuring all necessary approvals and licences are obtained prior to commencement of the operational phase of the marina. The Marina Manager must comply with the terms and conditions of all approvals and licences obtained. This includes, but is not be limited to, the conditions of development consent.

In addition to the conditions attached to the development consent and Head Lease, regard has also been given to the following requirements of the respective Government Authorities in connection with issues related to marina operations, these are:

- a. **New South Wales Health**
 - Fuel and Oil Spillage – prevention of spreading
 - Discharge of waste including soil and chemical closet wastes from mooring boats
 - Mobile sewage pump-out unit – accidental spillage
 - Collection, on a regular basis, and disposal of visible garbage or other materials in the marina waters.
 - Collection, storage and removal of garbage from the marina.
- b. **Roads and Maritime Services**
 - Navigation Lights
 - Noise
 - No discharge of vessel outlets in the marina
 - Mobile sewage pump-out unit and maintenance thereof
 - Prevention of oil and fuel spillage
 - Fire extinguishing appliances – maintenance thereof and restriction of use
 - Living aboard vessels for extended periods
(Not permitted at the Marina)
- c. **Office of Environment and Heritage (OEH)**
 - Marine flora and Fauna
 - Aboriginal Cultural Heritage
- d. **Environment Protection Authority (EPA)**
 - Noise
 - EPA Licence

3. MANAGEMENT AND REPORTING

3.1 Management Responsibilities

The Cattle Bay Marina operations team is led by the Marina Director/Owner who shall have the overall responsibility for Marina operations and maintenance. The Marina Director/Owner is assisted by the Marina Manager, and Marina Dockmasters.

The Marina Owner shall:

- ensure all appropriate licences and consents are obtained for the operational phase;
- ensure the Marina Manager complies with statutory and licence requirements;
- oversee the marina operations and overall implementation of the OEMP; and
- undertake monitoring and inspections of the site, as required.

The Marina Manager shall:

- ensure implementation of the OEMP at site level;
- ensure compliance with statutory and licence requirements;
- maintain a register of all required permits and licences with information including regulatory authority, licence/permit reference, purpose, licence holder and expiry/renewal date.
- ensure all records are completed as required in the OEMP;
- ensure that all environmental protection and safety measures are in place and functioning correctly;
- ensure incident reports and complaint reports are completed and followed up as required;
- ensure adequate training of all employees;
- ensure monitoring is conducted as required in the OEMP;
- ensure non-conformance and corrective actions reports are reported to the Marina Owner;
- ensure corrective actions are undertaken in response to the requests made by the Marina Owner regarding specific environmental or safety issues; and
- ensure all sub-contractors comply with statutory and licence requirements and conditions of the OEMP.

3.2 Reporting

The following reporting shall be undertaken:

- environmental and safety incident reports, to be completed on site and promptly notified to the Marina Manager. All complaints shall be noted and reported to the Marina Owner and relevant authority if appropriate. Where appropriate, the incident shall also be investigated and action taken to minimise any adverse environmental effects wherever possible;

- site walkover check, to be completed by the Marina Manager during regular site inspections to check compliance and record corrective measures required; and
- site personnel register, to be completed at induction.

4. MARINA MANAGEMENT GUIDELINES

The Cattle Bay Marina as shown on plan in **Appendix A** constitutes a key facility complementing Snug Cove by providing direct access to Eden Harbour for residents and visitors to Bega Valley Shire.

Cattle Bay Marina shall set up procedures and methods which will assist all marina users to enjoy the safe use of the marina facilities and services including all navigable waterways within and adjacent to the Cattle Bay Marina whilst observing the rules and regulations designed to protect the marine and local environment.

Cattle Bay Marina shall establish a basic training program for the marina users and the marina staff, as well as all visiting specialist contractors, who shall undergo induction training including relevant sections of this Plan before commencing any work on site.

Cattle Bay Marina shall ensure, in accordance with current Work Health and Safety (WHS) Regulations, all contractors to prepare and provide Safe Work Method Statements (SWMS) and Public Liability Insurance prior to commencing work. These statements shall be reviewed by Cattle Bay Marina to verify consistency with this Plan and compliance with all statutory requirements before any work is undertaken.

An independent environmental audit of Cattle Bay Marina shall be conducted after 12 months and again after 3 years operation and thereafter at 5 yearly intervals. This will ensure that Cattle Bay Marina will:

- Eliminate the unnecessary use of energy by introducing best industry site-specific practices where possible and ensuring any current practices to reduce usage are up-to-date.
- Avoid waste and encourage the conservation, reuse and appropriate recycling of resources.
- Reduce air, land and water pollution due to a process of continuous improvement.
- Actively manage and monitor the minimisation of noise pollution, especially relating to possible impacts on nearby properties.
- Apply principles of risk management in order to pre-empt rather than respond to environmental problems and always apply the 'precautionary principle'. This shall be achieved through the implementation of a site-specific maintenance schedule and this environmental management plan.
- Promote understanding and participation in environmental issues through education, information provision and consultation with employees specifically, customers, local residents and the community generally.
- Review all its environmental practices.

Work with industry and other stakeholders at a local level to encourage good environmental practices. Cattle Bay Marina shall maintain an updated listing showing the following details in the Management Office:

- Vessel Name
- Vessel Dimensions
- Vessel Type and Model
- Vessel registration details
- Owners name and contact details
- Tenants name and contact details
- Induction completion dates for each marina user
- Training attendance dates for each marina user

Cattle Bay Marina shall maintain Marina Manager and Dockmaster Reports recording incidents and site conditions. This should take the form of a checklist containing the following headings:

- Incidents and actions taken
- Visits by statutory authorities
- Complaints received and actions taken
- Matters requiring notification to the Marina Director/Owner.

All marina users must sign a standard/typical marina berthing agreement **Appendix B** upon arrival at the marina.

5. INDUCTION/TRAINING

Cattle Bay Marina shall ensure that the marina management, marina staff, marina tenants and marina users are provided with appropriate training and instruction in the safe use and management of the marina facility. Of particular concern are those elements relating to safety, vessels and property, environmental management, hazard and fire management, storm preparation and clean up, fuel and oil spillage response, solid and liquid waste management, sewage pollution control, movement and mooring of vessels, navigation safety, water quality management, user amenity and marina berthing terms and conditions and/or rules and regulations compliance. The Marina Director/Owner shall:

- i) Utilise the Guidelines for marina management, marina maintenance, marina operations and the marina berthing terms and conditions and/or rules and regulations contained within this plan as training reference documents.
- ii) Establish a practical training program covering all aspects of the marina operations and maintenance, with particular emphasis on safety, environmental management, storm procedures, fire and hazard response procedures and medical emergencies.
- iii) Measure effectiveness of the training program by regular inspections of facilities and activities and monitoring of marina user complaints **Appendix C** and suggestions for improvements.
- iv) Measure Marina Manager's performance by an appraisal.
- v) Ensure that all marina staff both permanent and casual are trained in all facets of marina operations and maintenance as set out in Management Plans.
- vi) Ensure marina staff develop and maintain a personal commitment to constant improvement in both corporate and personal performance through the establishment of performance measurement and staff reward mechanisms.
- vii) Train all permanent marina staff in marina operations so as to assist each other where possible.

6. SAFETY

Cattle Bay Marina shall provide systems and procedures for the protection and safety of all persons utilising the marina and facilities as well as the protection of marina property and the property of marina users, including boat owners and guests.

- i) Ensure that the Operational Environmental Management Plan and the marina berthing terms and conditions and/or rules and regulations are issued to all marina users. A summary of this OEMP shall be displayed on site.
- ii) Recommend and maintain adequate signposting within the marina highlighting safety issues and providing warnings to vessels navigating in the vicinity.
- iii) Recommend and maintain lifesaving equipment including emergency life buoys (with whistles fitted) and apparatus to facilitate exit from the water.
- iv) Conduct regular inspections of all berthed vessels to confirm mooring line and fendering systems integrity and normal level of vessel at waterline.
- v) Instruct marina berth users in the securing of their vessels at berths to ensure no part of the vessel overhangs defined lease boundaries. The Mooring Line Plan is to be used by all vessels.
- vi) Ensure boardwalks, gangways and berthing pontoons are free of loose equipment that may hinder safe pedestrian access and movement of emergency personnel and equipment.
- vii) Formally notify the Roads and Maritime Services in writing of any incident where a person on a pontoon is knocked off their feet due to the motion of the pontoon. The notification shall comprise a report investigating the incident and identifying the likely cause(s).
- viii) In the event of falling in the water accidentally, or responding to a call for help from someone who has fallen in, the following procedure shall be followed:
 - a. Raise the alarm by calling "Man Overboard - Help" in a loud voice. Continue until help arrives.
 - b. If possible, throw the person in the water a life buoy from the nearest safety equipment cabinet or moored vessel, whilst holding on to the loose end of the attached retrieval line.
 - c. Guide the person in the water towards the nearest boarding apparatus or towards the nearest safe exit point and assist them from the water.
 - d. Report any water safety incident to the Marina Manager promptly.

- e. If the person in the water is unable to help themselves or you suspect they may have suffered an injury in their fall, call '000' immediately.
- ix) The users of the site shall adhere to the site operating rules and any specific code of conduct and be aware of liquid, fuel and other substances that may be a hazard.
- x) The users of Cattle Bay Marina shall ensure that all equipment is operated according to the agreed methods of operation.
- xi) The manager of Cattle Bay Marina shall undertake an annual review of the site and identify additional hazards.

7. FIRE PREVENTION

Fire may be generated by fuel and gas leakages and ignition, damaged or inappropriate use of electrical equipment and vessel collisions. Effective management of these hazards will be required as follows.

- i) The primary consideration is to ensure personnel and public safety by effective management of hazards which may generate fires, including on-board fires due to fuel / gas leakage and ignition and explosion / fire caused by vessel collisions.
- ii) In the event of a fire or explosion, the primary responsibility is to ensure that all persons are quickly evacuated to a safe area and fire authorities notified immediately. In the case of injured persons, they should not be moved unless they are in a position of continuing danger. After personnel have been removed, all surrounding mobile property, including boats, and other portable items should be removed to a safe area.
- iii) Training drills shall be conducted on a regular basis involving the Marina Management staff and marina users to ensure all are familiar with fire and explosion risks and response procedures, including notification of emergency services and movement of adjacent vessels away from the danger zone.

If a fire or explosion is observed aboard a berthed vessel marina staff and users must respond as follows:

- a. Raise the alarm by calling "Fire" in a loud voice until help arrives
- b. Assist in moving any injured persons away from danger
- c. Ensure Fire authorities are notified promptly
- d. Assist in fighting the fire as required

8. MEDICAL EMERGENCY

Cattle Bay Marina shall ensure that all medical emergencies in the marina are handled as quickly as possible and the site is adequately equipped to manage them. Management measures shall include:

- i) The Marina Manager shall establish and ensure the ongoing maintenance of an accessible first aid kit containing adequate first aid equipment and supplies.
- ii) The Marina Manager shall be responsible for co-ordination of activities in the event of any emergency.
- iii) All such emergencies shall be recorded by marina staff and reported to the Marina Director/Owner promptly.

9. HAZARD MANAGEMENT

Management tasks relating to potential hazards include:

i) Fuel/Oil Spills or leaks from berthed vessels

- a) The Marina Manager shall conduct regular inspections to monitor the site for leaks and spills.
- b) A spill kit clearly labelled and easily accessible shall be in place. This spill kit shall consist of absorbent booms to prevent further waterway pollution. The booms will be adequate to fit around spills and all adjacent drains.
- c) Marina staff and users shall be trained in the correct procedures and correct usage of the spill kit.
- d) Marina staff shall undergo hazardous materials handling training and be trained to a high level of competency.

ii) Sinking of Vessels

- a) Marina Management shall maintain an Ownership Register of vessels to enable ready contact at all times with owners or their nominated representative.
- b) Marina Management shall take all necessary action to prevent the sinking of any vessel.

iii) Fires / Explosions and Fire Water Runoff

- a) Cattle Bay Marina shall provide a training program for mooring owners and users in the use of fire fighting equipment.
- b) A regular liaison and consultative meeting shall be undertaken with the local Fire Brigade service for the purpose of identifying access to the marina.

iv) Discharge of Sewage and Waste

- (a) Cattle Bay Marina shall establish procedures for the users of the mobile sewage pump out unit so they are adequately trained in the correct use of the equipment.
- (b) Cattle Bay Marina shall monitor the site to prevent discharges of bilge water and grey water from sinks, showers or other sources

v) Electrical Equipment Hazards

Cattle Bay Marina shall provide procedures so that marina users are familiar with the safe use of electrical equipment near water and the

need to use and test earth leakage circuit breakers before each use of power leads connected to berth services pedestals.

10. MARINA MAINTENANCE

- i) Cattle Bay Marina shall undertake/arrange the following maintenance inspections:
 - a) Weekly – by Cattle Bay Marina
 - Floating berthing pontoons
 - Piles
 - Gangways
 - Service reticulation and outlets for power, water and lighting
 - Fuel spill containment booms
 - Fire-fighting equipment
 - Mobile sewage pump out unit
 - Navigation aids
 - Signs
- ii) Cattle Bay Marina shall inform all marina users of the marina berthing terms and conditions and/or rules and regulations, requiring them to report any breakdown or malfunction of equipment promptly.
- iii) All major repairs and maintenance to the marina are to be carried out by the marina manufacturer/supplier.

WEEKLY MAINTENANCE SCHEDULE for month of _____

JOB DESCRIPTION	COMPLETED or EXCEPTION NOTED
Marina	
Check ramps	
Check for any loose waste	
Location of waste bins & disposal	
Yard / Area - General	
Outside contractors	
Building	
Check water taps	
Noise	
Power tools	
Air compressors	
Spillage	
Check containers are safely positioned	
Check all spill trays	
GENERAL	
General clean-up	
Sweep floors	
Sweep benches	
Clean machines	
Check noise levels for radios etc	
Waste removal	
Sort recycling	
Check all bunding	
Staff	
Safe behaviour	
Smoking policy	

Initial each day upon completion of schedule

1	2	3	4	5	6	7	8
9	10	11	12	13	14	15	16
17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	

11. NAVIGATION SAFETY

Navigation safety is important for the protection of marina staff and users. The following specific mitigation measures shall be adopted:

- i) A network of Aids to Navigation shall be installed in compliance with System A of the International Association of Lighthouse Authorities (IALA).
- ii) The water surface adjacent to the marina shall be regularly inspected to identify any floating obstacles to navigation [eg floating debris following heavy rain] and remove.
- iii) Navigation aids shall be installed including signs to ensure their effective operation and visibility.
- iv) Marina users shall be educated as part of their marina induction they shall also be given a brief outline of navigational rules. All marina customers shall be required to have a current valid NSW Boat License (or equivalent) before berthing at the marina.
- v) Marina users shall also be instructed to not exceed 4 knots when navigating around the marina and navigate with caution in the main shipping lanes of the waterway.

12. SIGNAGE & LIGHTING

The following specific mitigation measures shall be adopted relating to signage and lighting:

- i) The Marina Manager shall ensure reliable operation of lights.
- ii) Appropriate navigation warning signs shall be erected.
- iii) Appropriate Environmental Harm Minimisation signage shall be erected.
- iv) Signage shall be developed in consultation with Fisheries NSW that notifies patrons of the location of aquaculture leases and the need to be vigilant in regard to maintaining water quality and avoiding collisions.
- v) The Marina Manager shall monitor vessel movements within the marina fairways and immediate approaches and take all necessary action to ensure that all vessels berthed at the marina navigate safely without causing danger to other moored vessels or persons using the marina facilities.
- vi) The Marina Manager shall ensure erection of signs as required.
- vii) The Marina Manager shall regularly inspect and effectively maintain all lights, signs and navigation aids to ensure complete operational integrity at all times.
- viii) The Marina Manager shall ensure vessels take all reasonable steps to reduce the need for permanent lighting.
- ix) Lighting shall be low-level bollard style lighting.
- x) To ensure the safety of pedestrians, visitors or users with wheelchairs or with other physical disabilities, lighting of all walkways and pontoon wharf walkways shall conform to the safety requirements of AS/NZS 1158.3.1.
- xi) To ensure the proposed development does not create any adverse night lighting effects on the surrounding roads and residential areas, all indoor and outdoor lighting shall be designed and installed to ensure that appropriate lighting guidelines and thresholds as specified by AS 4282 - 1997: Control of the obtrusive effects of outdoor lighting.
- xii) To ensure that all lighting associated with the development is designed, installed and maintained properly for the two

conditions above, it shall be designed, installed and maintained according to the specifications of AS/NZS 3827.

13. SOLID WASTE MANAGEMENT

The Cattle Bay Marina shall prevent degradation of the marina and the adjacent waterways by implementing the following controls relating to litter accumulation and disposal consistent with health requirements.

- i) No garbage or waste materials shall be permitted to be placed on the marina pontoons and the marina users shall be notified of this restriction in the marina berthing terms and conditions and/or rules and regulations and by appropriate signage.
- ii) The Marina Manager shall ensure that any visible rubbish or other materials discharged or blown into the water shall be collected and disposed of properly.
- iii) The Marina Manager will coordinate monthly beach rubbish collection and annual sea bed rubbish collection.
- iv) Adequate waste receptacles shall be provided and marina users shall be instructed to use the marina waste recycling and disposal facilities.
- v) Recycling bins for glass, paper and aluminium cans shall be provided in readily accessible locations. Waste and recycling containers shall be clearly labelled and shall all have lids to prevent litter escaping. Marina staff shall check them regularly and external collection shall be regular and when required during peak seasons.

14. LIQUID WASTE MANAGEMENT

- i) Cattle Bay Marina staff shall undertake regular inspections of the harbour waterways for detection of wastes, debris, oil slicks, coloured dye and other such material, and will trace the source in order to stop the discharge where possible and report to the Marina Manager.
- ii) Cattle Bay Marina shall employ use of a mobile sewage pump-out unit for removal and disposal of sewage waste from vessels. The mobile unit shall be a Keco portable 500 series cart, as distributed by M-TECH Marine Technologies, or similar. The unit shall incorporate a tank overfill protector that automatically shuts the pump off when the tank is full, preventing spillage. Refer **Appendix D** for specifications of the unit.
- iii) Cattle Bay Marina shall provide practical training in the use of the mobile sewage pump-out unit and develop procedures for the deployment, operation and retrieval of the unit, and discharge of sewage from the unit to the local sewer system.
- iv) Cattle Bay Marina shall actively engage with boat owners to regularly pump out sewage holding tanks while at the berth.
- v) The Marina Manager shall keep records of the use and effectiveness of the mobile sewage pump-out unit including dates, times, name and berth of vessel using the unit, number of uses and volume and type of waste removed.
- vi) No liquid wastes such as oils or solvents shall be released into the sewer or stormwater drains, on the ground or into trenches.
- vii) Bilge water absorbing pads and certified collection shall be provided.
- viii) All marina user boat owners shall be encouraged to place bilge water absorbent materials in their bilges.
- ix) The waste storage facility shall provide for disposal of containers of waste oil, bilge absorbing pads etc. These drums shall be serviced periodically by a commercial waste collector.
- x) Liquid wastes shall be stored within a double lined bin for liquid waste with a self closing lid while awaiting collection by a commercial waste collector.

15. WATERWAY POLLUTION

Waterway pollution during operation may result from:

- discharges from vessels including oily bilge water, sewage and/or gross pollutants;
- copper leaching from vessel antifouling paint; and
- fuel spills and other pollutant discharges from marina operations.

The following specific mitigation measures shall be adopted:

- i) Cattle Bay Marina shall provide a mobile sewage pump-out unit and shall implement a ban on the discharge of sewage or other pollutants to the waterway;
- ii) Cattle Bay Marina shall provide practical training in the use of the mobile sewage pump-out unit.
- iii) Cattle Bay Marina shall supply bilge water absorbing pads to all vessels and implement a ban on bilge water discharge to the waterway.
- iv) Use, discharge or disposal of environmentally hazardous antifouling paints containing tributyltin, organo-tin and other similarly hazardous components at Cattle Bay Marina shall be prohibited.
- v) In-water hull cleaning of vessels painted with any biocide including copper-based antifouling shall be banned.
- vi) Use of any biocide including copper-based antifouling on in-water infrastructure shall be prohibited.
- vii) Cattle Bay Marina shall implement measures, policies and procedures to prevent spills to the waterway.
- viii) Marina staff shall immediately investigate the source of any spill and take steps to prevent further spillage and clean up or remove spilt material, in the case where the spill is from marina property, marina users, or results from marina operations. In the case that the source of the spill is identified as being outside marina property and control, the Marina Manager shall immediately notify the Council.
- ix) Cattle Bay Marina shall train staff to deploy booms in the event of an emergency and the appropriate use of the absorbent materials for clean-up activities.
- ix) Cattle Bay Marina shall conduct periodic inspections of the water surface in the vicinity of the marina and arrange for prompt removal of any unsightly flotsam / jetsam, particularly anything which creates a navigational hazard to vessels.

16. WATER QUALITY

Cattle Bay Marina shall ensure that the safeguards implemented for water quality control are effective and that the water quality within the marina lease areas is maintained at a high level. Specific management measures include:

- i. Detect and trace the source of any adverse impacts on water quality.
- ii. Take all necessary steps to remove/rectify water pollution sources within the marina facility
- iii. Implement a water quality testing program which includes:
 - o post construction monitoring of physico-chemical parameters (i.e. temperature, salinity, pH, electrical conductivity, dissolved oxygen) and turbidity at two 'impact' sites within Cattle Bay and two 'control' sites on either side of Cocora Point;
 - o comparison with baseline monitoring results and relevant ANZECC water quality guidelines to assess any impacts.
- iv. Testing is to be carried out by a firm qualified and NATA registered for the purpose.
- v. Test reports are to include a comparison of results with relevant water quality standards and recommendations for any action required to correct non-compliance.

17. STORMS

Cattle Bay Marina shall ensure all practical steps are taken to minimise storm damage or injury to moorings users and guests, moored vessels, moorings infrastructure and adjacent property. These include:

- i) Provide all berth users with storm preparation procedures.
- ii) Ensure adequate supplies of emergency equipment are readily available.
- iii) Ensure that all vessel owners and crews are provided with information relating to appropriate precautions to weather the storm, including removal and stowage below decks of all furled sails and loose deck equipment and fittings. All bimini covers shall be removed and stowed.
- iv) Ensure that vessel owners and crews are familiar with the location of emergency supplies and equipment.

18. NOISE AND GENERAL AMENITY

Cattle Bay Marina shall ensure the overall amenity is preserved for marina users, including vessel crews, passengers, and local residents by controlling noise and smoke emissions and other disturbing influences. The visual amenity of the site for all users, visitors and local residents shall also be maintained. Specific management measures include:

- i) Public access to the beach and foreshore shall be retained at all times. Public access to the jetty shall also be retained at all times. Access to the marina shall be as provided for by the lease.
- ii) Marina berth users shall observe marina berthing terms and conditions and/or rules and regulations requiring them to secure all lines, rigging and halyards so as to prevent noise from rigging slap and the like.
- iii) In the event of rigging and halyard noise occurring upon an unattended vessel, the Marina Manager shall have authority to board the offending vessel for the purpose of stopping noise.
- iv) The Marina Manager shall take action to ensure full compliance with marina berthing terms and conditions and/or rules and regulations which prevent the excessive running of engines whilst at marina berths. Excessive idling and revving of engines shall be policed and avoided. Excessive smoke from engines shall be monitored and appropriate preventive action taken.
- v) The Marina Manager shall ensure marina users preserve the visual amenity of the marina and do not hang washing or items of clothing from the rigging or superstructure of vessels.
- vi) The Marina Manager shall ensure that marina users shall refrain from using public address systems as well as loud hailers, sound horns and the like, and shall direct that radios, musical equipment and other noise generating apparatus shall be kept to a minimum level at all times.
- vii) The Marina Manager shall ensure that alcoholic beverages are not consumed within the marina except on board private vessels.
- viii) The Marina Manager shall ensure that marina berthing terms and conditions and/or rules and regulations restrictions on animals within the marina are observed. Animals aboard vessels shall be subject to marina noise control requirements.
- ix) The Marina Manager shall ensure that all vessel owners are aware of and comply with the requirements of the Bylaw prohibiting the installation and operation of intruder alarm devices

aboard vessels with an audible signal having a cut-off period greater than 10 minutes.

- x) No overnight accommodation is permitted on any of the vessels.
- xi) The Noise Management Plan in **Appendix E** must be complied with.

19. CONTAMINATED SEDIMENTS

Testing of sediments within the marina footprint showed that the sediments were uncontaminated prior to construction of the marina. Mitigation measures were adopted during construction to prevent contamination of the sediments. Potential sources of contamination to the sediments during operation of the marina include:

- discharges from vessels including oily bilge water, sewage and/or gross pollutants;
- paint chips from vessels including antifouling paint; and
- fuel spills and other pollutant discharges from marina operations.

Management measures to prevent contamination of the sediments are included in Section 15 of this OEMP.

Monitoring of surface sediments shall be undertaken one year after construction of the marina. If no contamination is observed, monitoring every 5 years shall be undertaken.

20. MARINE ECOLOGY

In order to minimise impacts on marine ecology, the following management measures shall be implemented:

- i) A marina user Environmental Harm Minimisation Publication shall be provided to marina users during their induction and be available on all vessels leaving the marina.
- ii) An Introduced Marine Species (IMS) removal and inspection plan for the marine infrastructure shall be prepared and implemented.
- iii) A Marine Mammal Protection Plan (MMPP) shall be prepared and implemented comprising the following management measures (a number of which have been described in previous sections of the OEMP):
 - inspection and regular clearing of marine debris from the waters inside the marina and along the Cattle Bay beach-line.
 - use of downwards directed lighting supplemented with dimmer systems, or timed lights with trip mechanisms as necessary.
 - education of marina users to reduce excessive noise ie protocols and specific information on the marine animals that boaters are likely to encounter at various times of the year, and the steps that boaters should take to minimise their impact on these animals, including lower speeds and minimum off-set distances.
 - collection of daily information on known marine mammal activity (via close relationships with the existing network of whale watchers including residents, commercial fishers, mussel farmers, NPWS whale-watch and Cat Balou Cruises).
 - Consideration of the future need for variable or zoned (time and place) speed limits to be enforced, particularly in relation to Southern Right Whales and Humpback Whale feeding aggregations and during peak marine mammal visitation periods as the number of recreational vessels in Twofold Bay increases.

21.

FLOODING EMERGENCY RESPONSE PLAN

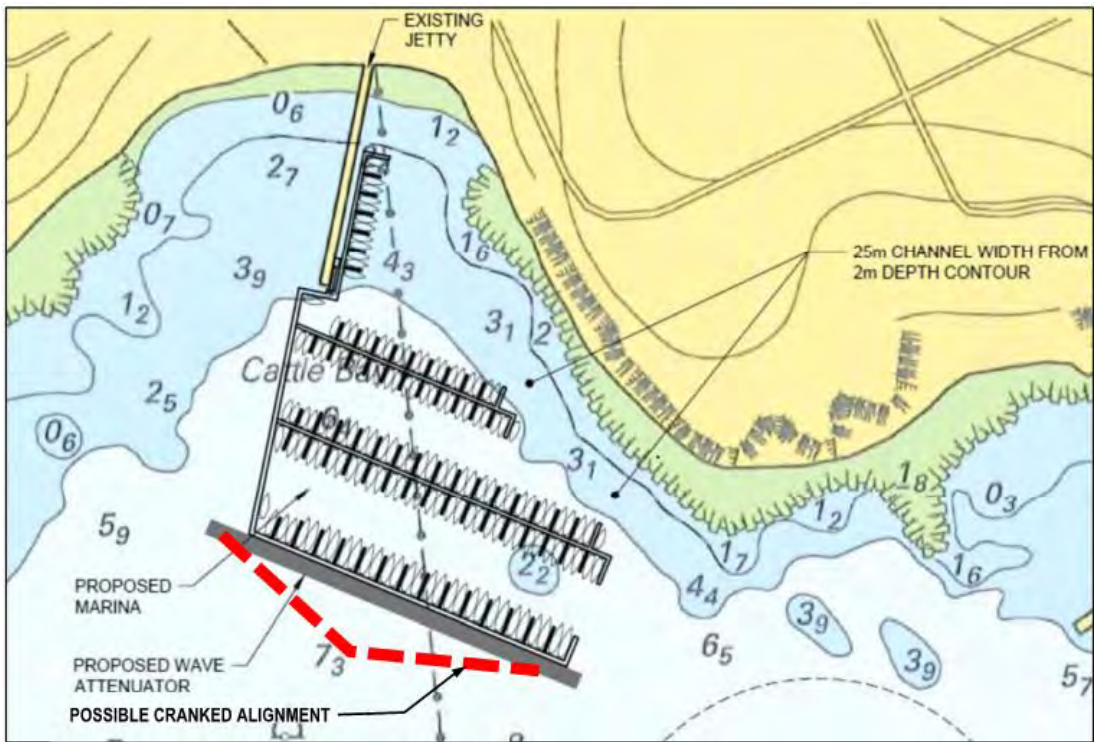
In order to address flooding impacts on the proposed temporary land based facilities at the site, a Flooding Emergency Response Plan shall be prepared comprising the following key elements:

- i) Prepare a simple 1 page flood evacuation plan for evacuation of staff and visitors from the land based facilities to a safe location (e.g. the jetty or elevated land).

Detailed design of the land based facilities (building, lighting and fencing) shall take into account flood water loading including debris.

- ii) Train all marina staff in the implementation of the flood evacuation plan and display a copy of the plan in a prominent location at the temporary land based facilities.
- iii) The Marina Manager or their nominee shall act as and be suitably trained as Flood Warden for the site.
- iv) Practice a flood evacuation of all staff at least once every 6 months.
- v) Ensure evacuation routes are kept free and open.
- vi) Install flood signage which includes an indication of the depth of flooding.
- vii) Regularly monitor rainfall forecasts.
- viii) Visually monitor flood levels.
- ix) Register to receive flood warnings from the BoM and SES.

22. APPENDIX - A



Note: The cranked alignment has now been adopted by the Applicant.

23.

APPENDIX - B – Page 1



MARINE CRAFT BERTHING, STORAGE AND MOORING AGREEMENT



AGREEMENT	
Agreement No.	
BETWEEN	(Licencee) [Partner's Name]
of	ACN.
Telephone (Home)	(Bus) (Mob) (Fax)
Boat Driver's Licence No.hereinafter called Licensor
AND	ACN.
Telephone (Home)	(Bus) (Mob) (Fax)

TO supply marina ☐ berth ☐ moor ☐ store facilities ☐ tender service and use marina facilities for: Tick one box only and initial.

LICENCEE'S MARINE CRAFT ("the craft")	
Registration Number:	Name of the Craft:
Type:	Model:
Year:	Manufacturer:
Hull Identification (Boatcode) No.:	
Inboard / Outboard / Stern Drive / Sail / Single / Twin / Petrol / Diesel / Fibreglass / Aluminium / Timber / Steel	
Colour/Markings:	
Centreline Length:	Max. Beam:
Draft:	Engine Brand: hp: Year:
Serial No.:	
Insurance Company	Policy Number: Expiry Date:
At or near("the Property")

SECURITY DEPOSIT	
On the signing of this Agreement the Licencee shall pay to the Licensor or its authorised agent the sum of \$..... as a security deposit which shall be refunded to the Licencee on the termination of this Agreement subject to the right of the Licensor to deduct from the security deposit any amounts whatsoever that are due and payable by the Licencee to the Licensor under this Agreement.	
LICENCE FEE	
The Licencee shall pay to the Licensor a licence fee of \$..... per <input type="checkbox"/> temporary stay <input type="checkbox"/> week <input type="checkbox"/> month <input type="checkbox"/> quarter	
The fee is payable: weekly, monthly, quarterly in advance or as the Licensor may direct in writing.	
All licence fees shall be paid by way of <input type="checkbox"/> cheque <input type="checkbox"/> credit card <input type="checkbox"/> direct debit from the Licensor's nominated account.	
If payment is to be made by credit card or direct debit a separate form needs to be completed.	
All fees and payments are inclusive of Goods and Services Tax.	
LICENCE TERM ("the Licence Term")	
The terms of the licence shall be <input type="checkbox"/> weekly <input type="checkbox"/> monthly <input type="checkbox"/> quarterly <input type="checkbox"/> year commencing / /20	
at am/pm and thereafter on a <input type="checkbox"/> temporary stay <input type="checkbox"/> weekly <input type="checkbox"/> monthly <input type="checkbox"/> quarterly <input type="checkbox"/> yearly basis	
Berth No.	Mooring No. Hard Stand No.

LICENCEE'S ACKNOWLEDGEMENT	
I, the Licencee acknowledge that I have received a copy of this agreement signed by me and certify that I have carefully read the agreement including the Conditions printed overleaf and agree to those Conditions as part of the Agreement. I am over eighteen (18) years of age.	
Dated this	day of 20
Signature of Licencee	Signature of Licencee
Signature of Witness	Signature of Witness

Licensor copy - white Licencee copy - yellow

© MANSW VS AUG 2005

23.

APPENDIX - B – Page 2

CONDITIONS

1. INTERPRETATION

In this Agreement

- (a) words importing the singular number include the plural and vice versa and words denoting a gender include all other genders;
- (b) the word person includes a firm, a body corporate, an unincorporated association and an authority.
- (c) headings are for convenience only and do not affect the interpretation; and
- (d) references to any party to this Agreement shall include that party's executors, administrators and permitted assignees.

2. LICENCE TO USE AND OCCUPY THE LICENSOR'S MARINA FACILITIES ("the facilities")

The Licensor grants to the Licensee a personal non-exclusive right to use and occupy the Facilities to: berth, or store or moor or dock the craft. Cross out the part that does not apply and initial.

3. OBLIGATIONS OF THE LICENSEE

The Licensee agrees that

- (a) it shall operate, maintain and store the vessel and its equipment with due care and diligence;
- (b) it shall be at the licensee's own expense to keep and maintain the vessel and its equipment including but not limited to the ropes, lines, chains and tackle of, on or attached to the vessel (which ropes, lines, chains and tackle shall remain the property of the licensee) in good and proper working order and condition and in good and substantial repair;
- (c) it shall be responsible for all damage to the Property, or to persons using the Property, arising from any act, omission, neglect or default by the Licensee or its employees, agents, contractors or invitees;
- (d) it shall indemnify and keep indemnified the Licensor from and against all actions, claims, demands, losses, damages, costs and expenses for which the Licensor shall or may become liable in respect of or arising from loss, damage or injury to any person or property arising out of the use of the Facilities or any act, omission, neglect, breach or default by the Licensee or its employees, agents, contractors or invitees;
- (e) it shall comply with the Rules and Regulations determined by the licensor from time to time with respect to the management of the Property, including any amendments made thereto by the Licensor from time to time;
- (f) it shall use the Facilities solely for the use and enjoyment of the Craft;
- (g) it shall not assign, sub-license or part with possession of the Facilities;
- (h) during the term of this Agreement and while the Craft is moored, stored or berthed at the Facilities, it shall not sell or attempt to sell the Craft or advertise the Craft for sale without the prior written consent of the Licensor or its authorised agent;
- (i) during the term of this Agreement and while the Craft is moored, stored or berthed at the Facilities, it shall not carry out or have carried out repairs and/or maintenance on the Craft without the prior implied or express authority of the Licensor or its authorised agent.
- (j) the Licensor shall note that under all relevant legislation, all forms of pollution are prohibited. Any person or Licensor contravening this legislation leaves themselves open to action by all State and Federal authorities.
- (k) it shall take out and maintain proper and adequate insurance including public liability insurance in respect of the Craft and its fittings and contents;
- (l) it shall promptly comply with the requirements of all statutes, regulations and by-laws relating to the use and occupation of the Property. Without limiting the generality of the foregoing, the Licensee shall comply with and shall cause all of its employees, agents, contractors and invitees to comply with the provisions of any legislation and regulations made thereunder relating to pollution affecting any part of the environment and however caused including but not being limited to all relevant State and Federal legislation. The Licensee shall indemnify and keep indemnified The Licensor from and against all actions, claims, demands, losses, damages, costs and expenses for which the Licensor shall or may become liable in respect of or arising from any act, neglect, breach or default by the Licensee, its employees, agents, contractors, or invitees under this clause.

4. LIABILITY OF LICENSOR

The Licensee agrees and acknowledges that the Licensor shall not be liable for the care and protection of the Craft and its fittings and contents and shall not be liable for any loss or damage (including consequential loss or damage) however caused which may be suffered or incurred or which may arise directly or indirectly by or in respect of the Craft or its fittings or contents. To the full extent permitted by law, all implied terms and conditions are hereby excluded. Where an implied term cannot be excluded, the liability of the Licensor is limited (to the extent permitted by law) to the resupply of the affected goods and services or the cost of resupply of those goods or services.

5. EMERGENCY PROCEDURES

The Licensee agrees and acknowledges that the Licensor may in the event of an emergency and its sole discretion move the Craft at the risk and expense of the Licensee.

6. LIEN

The Licensor shall have a lien on the Craft, its fittings and contents for the payment of all moneys due to the Licensor under this Agreement. The Licensee authorises the Licensor to take possession of the Craft, its fittings and contents on default in payment of an account and authorise the Licensor to sell the Craft its fittings or contents if the account remains unpaid for 21 days after demand for payment has been made in writing by the Licensor to the Licensee.

7. TERMINATION

- (a) Either party may terminate this Agreement after the expiration of the Licence Term by not less than one month's prior written notice expiring at the end of that period or at any time thereafter. Notice of Termination from the Licensee shall be accompanied by payment of all fees and other amounts payable by the Licensee.
- (b) The Licensor may forthwith terminate this Agreement by written notice to the Licensee:
 - (i) if the Licensee is in breach of any of the provisions of this Agreement of the Rules and Regulations;
 - (ii) if in the opinion of the Licensor any of the Facilities become unserviceable; or
 - (iii) if in the opinion of the Licensor any conduct by the Licensee or its employees, agents, contractors, or invitees is prejudicial to the interests of the Property or of the Licensor.
- (c) Either party may forthwith terminate the Agreement by written notice to the other party if:
 - (i) a receiver, liquidator, trustee in bankruptcy or official manager or administrator of the party or any of its business or property is appointed;
 - (ii) the other party enters into any discussion or liquidation proceedings or any event equivalent.

8. LICENSEE NOT TO BE A TENANT

Nothing in this Agreement shall confer on the Licensee any right as a tenant of the Property or any part, nor create the relationship of landlord and tenant.

9. RULES AND REGULATIONS

The Licensor reserves the right to amend or cancel the Rules and Regulations or any of them if the Licensor considers that such amendment or cancellation is necessary for the proper management safety, care or cleanliness of the Property or for the preservation of good order therein and all such amendments and cancellations shall bind the Licensee when notice of them has been given to the Licensee in writing by the Licensor. The Licensor shall not be liable for any non enforcement of any Rule or Regulation.

10. AUTHORITY

The Licensee hereby certifies that the legal and beneficial owner or duly authorised agent of the owner of the Craft and that it will be personally liable for all fees, amounts, costs, claims or liabilities of whatsoever nature arising out of this Agreement. The Licensee undertakes to pay all such moneys on demand.

11. LICENSEE'S RELIANCE ON OWN JUDGEMENT

The Licensee acknowledges and warrants that it has examined the Facilities and relies on its own judgement in accepting use of the Facilities.

12. NOTICES

Any notice to be served hereunder shall be duly served if delivered personally to the other party or sent through the post in a prepaid envelope addressed to that party at its address set out in this Agreement or any other address notified by one party to the other in writing as being its address for service of notice and any notice sent through the post shall be deemed to have been duly served at the time when such letter would in the ordinary course or the post be delivered. Licensee agrees to notify Licensor of change of address and contact details within 14 days.

13. WHOLE AGREEMENT

This Agreement constitutes the whole agreement between the Licensor and the Licensee in relation to its subject matter and the Licensee warrants that it has not relied upon any statement, representation or warranty made by the Licensor or its servants or agents which is not expressed in this Agreement.

14. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of _____ and the parties agree to submit to the jurisdiction of the courts of _____.

Further supplies of this Agreement are obtainable from:
THE MARINA ASSOCIATION OF NEW SOUTH WALES

53 Hume Street, Crows Nest, NSW 2065 PO Box 1204, Crows Nest NSW 1585 Tel: (02) 9438 2077 Fax: (02) 9439 3993
Email: info@bia.org.au

24. APPENDIX - C**COMPLAINTS / INCIDENTS REGISTER**

Name of Site: _____

Name of Manager: _____

Date	Person Reporting	Type	Complaint / Incident details	Action/Result	Date resolved

Key for Type: EC = environmental complaint; EI = environmental incident; S = Safety incident/complaint

25. APPENDIX D

MOBILE SEWAGE PUMP-OUT UNIT



Call Toll Free **800.900.PUMP**
ph. 619.298.3800 | fax: 619.298.3300

Pump it, Don't Dump it!®

MODEL: 509 / 510 Portable Pump-Out Cart



The Model 509 was designed with the customer in mind. Assembled using a light weight aluminum frame and Keco's rugged diaphragm pump, this cart is easy to maneuver and built to last.

FEATURES

- 8" Stainless Steel swivel casters with non-metallic bearing & brake
- Optional Honda 3.0 HP 4 stroke engine with low oil shutoff
- Optional Trailer Hitch (*unit not approved for highway usage*)
- T-6 Aluminum portable cart, axle, hose rack and push/pull handle.
- PVC components Schedule 40/80

SPECS

- Dimensions (LxWxH):
54" x 38" x 48" W/ Hose Rack
44" x 38" x 48" W / Out Hose Rack
- Weight: 210 lbs Empty / 545 lbs Full

OVERVIEW

Keco's portable 500 series is built with the customer in mind. Assembled using all stainless steel hardware and a heavy duty marine grade aluminum frame, the 500 series is built to last. 9" stainless steel locking swivel casters and 18" pneumatic tires allow the 500 series to effortlessly move throughout your facility. The 500 series is a great way to offer boaters a quick and clean pumpout, without the hassle of expensive plumbing. Keco's 500 series has a tank overflow protector that automatically shuts the pump off when the tank is full, preventing messy mistakes.

All pump components are assembled using non-corrosive materials, and finished with the same innovative three layer coating process found on offshore oil rigs. This pump is designed specifically for pumping sewage, and can pass solids up to 1.5" in diameter. Maintenance on the pump is very infrequent and only requires two .5" wrenches.



3 Position Offload Valve



Overfill Protection



Heavy Duty Hose Rack



18" Non-Metallic Wheels

PORTABLE PUMP-OUT CART





Call Toll Free **800.900.PUMP**
ph: 619.298.3800 | fax: 619.298.3300

Pump it, Don't Dump it!®

MODEL: 509 / 510 Portable Pump-Out Cart



Optional Trailer Hitch



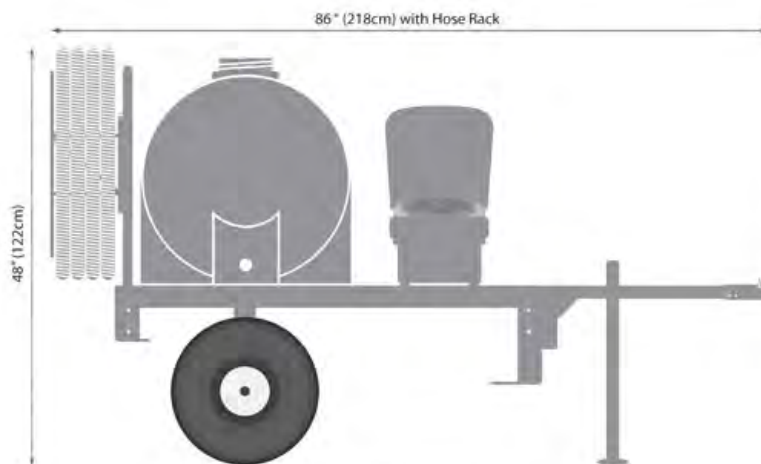
Offload Hydrant's Available



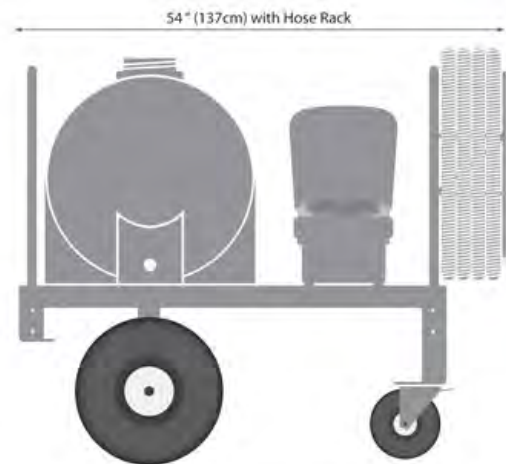
Gasoline Engine Available



Suction Hose & Accessories



** Maximum Width 38" (96.5cm)*



** Maximum Width 38" (96.5cm)*

PORTABLE PUMP-OUT CART

MODEL	CAPACITY (Max)	POWER DRIVE	TRAILER HITCH AVAILABLE
509-E	35 Gal / 130 L	3/4 HP TEFC 110/240 1PH 50/60 Hz	✓ YES
509-G	35 Gal / 130 L	3 / 3.5 HP Gasoline Engine 4 Stroke Honda/Briggs & Stratton	✓ YES
510-E	55 Gal / 210 L	3/4 HP TEFC 110/240 1PH 50/60 Hz	✓ YES
510-G	55 Gal / 210 L	3 / 3.5 HP Gasoline Engine 4 Stroke Honda/Briggs & Stratton	✓ YES







Industry First, Self Contained PumpOut Cart:

KECO is proud to introduce a new line of self propelled and self powered electric pumpout carts. The revolutionary line of potable carts greatly simplifies the user experience and eliminates the need to push or pull a heavy pumpout cart around a marinas property.

A truly unique feature is that the waste pump and the motorized cart share a common rechargeable battery pack. This allows the user to simply drive the cart to the slip and start the pump without the need to connect the pump to a power pedestal or start a separate gasoline engine.

The unit has a combined operating time (pumping or driving) exceeding 4 hours on a single charge. When the cart is not in use it is connected to an electrical supply (115/230V 50/60Hz) and the integrated battery charger maintains optimal battery performance. All electronics are marine grade and the entire system is designed to be washed down after use.

All units are equipped with standard safety features which include an automatic parking brake, runaway cart protection and tank overfill w/ automatic pump shut off. All units come equipped with an on/off key switch to prevent unauthorized use.

The power pumpout carts are based on the popular 500 & 900 series KECO portable pump systems and are available in both diaphragm and peristaltic pump models. The modular / skid design is constructed of aluminum and powder coated to US military specifications. The ingenious design allows customers to access all drive and battery components without disturbing the pumping system.

For additional information, please contact KECO Inc., via phone 800-900-PUMP (USA) / 619-298-3800 (Intl.) or by email sales@pumpahead.com.





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PUMP-A-HEAD

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25. APPENDIX E

NOISE MANAGEMENT PLAN CATTLE BAY MARINA

APPENDIX 2

CATTLE BAY MARINA
OPERATIONAL NOISE MANAGEMENT PLAN
At
CATTLE BAY ROAD EDEN
for
EDEN RESORT HOTEL PTY LTD

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APPENDIX 2

CATTLE BAY MARINA OPERATIONAL NOISE MANAGEMENT PLAN At CATTLE BAY ROAD EDEN for EDEN RESORT HOTEL PTY LTD

1.PROJECT DESCRIPTION

1.1.THE PROJECT

The project involves the construction of car parking, use of two portable building to house Marina Management, shower and toilet facility to be used by the Marina Tenants/Users, the reuse of the Cattle Bay Jetty, construction of the Cattle Bay Marina complete with pontoons and piles, wave attenuator, power, watering and lighting to each berth. Services provided by Marina Management include a portable sewage pump-out facility on a mobile cart for the Marina Tenants/Users vessels and discharge facility on-shore.

The project does not include any other onshore buildings, workshop, slipway or maintenance facilities.

1.2.APPENDIX 2 TO DEVELOPMENT APPLICATION ACOUSTIC REPORT

This Appendix 2 to the West and Associates Pty Ltd DA Acoustic report for the Cattle Bay marina #15068-App2 has been prepared to assist Eden Resort Hotel Pty Ltd with their submission of the Development Application for the proposed recreational Boating Marina at Cattle Bay Road, Cattle Bay Eden.

Appendix 2 is based on the following documents:

1. Black Architectural Drawings No's DA-DA01/A, A02/B and A03/A
2. Advanced Marina Management Pty Ltd and Royal Haskoning DHV Operational Environmental Management Plan(**OEMP**) dated March 2015
3. The Acoustic Group Pty Ltd, Acoustic Assessment Rose Bay Marina dated 14/10/2008 and in particular:
 - Joint Conference Report Addenbrooke Pty Ltd V's Woollahra Municipal Council, Land & Environment Court Proceedings No. 11179 of **2007** (**Rose Bay Marina Joint Conference Report**)

2.MARINA BERTHING TERMS AND CONDITIONS FOR NOISE

2.1.TERMS AND CONDITIONS FOR NOISE GENERALLY

2.1.1.Signing the Terms and Conditions for Noise

The Marina Manager shall be responsible for the instruction, education, demonstration, distribution of copies of the marina Berthing Terms and Conditions for Noise (**Terms and Conditions for Noise**) to the Marina Tenants/Users and

keeping a record of such induction, and receipt of signature that such induction has been carried out and understood.

The Marina Tenants/Users shall acknowledge that it is their responsibility to review the annual changes to the Terms and Conditions for Noise and agree to accept each annual change and acknowledge adhering to the requirements detailed on each subsequent published issue of the Terms and Conditions for Noise

The Terms and Conditions for Noise is only a part of the Terms and Conditions for the overall Cattle Bay marina site.

A copy of the current edition of the Terms and Conditions for Noise shall be made available on the Cattle Bay Marina web site along with summary of updated changes identified by their Section Heading and Paragraph items numbers. Copies of previous annual issues of the Terms and Conditions for Noise shall be made available by marina Management on written request made by Marina Tenants/Users

2.1.2. Annual Review of Terms and Conditions for Noise

The Marina Manager shall be responsible for the review of the current years Terms and Conditions for Noise and modify/update or add additional terms and Conditions as they see fit to facilitate the efficient and environmentally responsible operation of the Cattle Bay Marina on an annual basis.

The anniversary date shall be the date shown on the Occupation Certificate for the project.

Format of the Terms and Conditions for Noise shall be in the form of the following:

- Current Year and next anniversary date
- Section Heading item number and
- Paragraph item number.

The format for changes made to the Terms and Conditions for Noise shall be in the form of the following

- Identifying previous year being updated
- Section Heading item number and
- Paragraph item number, deleting entire paragraph item number and/or replacing it with revised wording

2.1.3. Facilities Provided by Cattle Bay Marina

The Cattle Bay Marina provides the following facilities, all of which are subject to the noise management as detailed here in the Terms and Conditions for Noise:

1. Marina patron road vehicle parking
2. Portable building housing the following:
 - Marina Management and their staff facilities
 - Marine tenants/users toilet and shower facilities
 - Lockable sewer pump-out tank/pump hand cart storage shed
 - Onshore sewer discharge point for discharge of sewer pump-out tank by users
3. Provision of 240V/1 phase 20A outlet and 415V/3 phase 15 Amp outlet on the pontoon adjacent to each berth complete with earth leakage protection
4. Portable sewage pump out facility on hand cart

The Cattle Bay Marina acknowledges that the vessels may have one or more of the following items of equipment, facilities and possibility to make noise associated

with their vessel that could cause an environmental noise disturbance and loss of amenity to other Marina Tenants/users and local residences at Cattle Bay. Marina Management herein place usage and noise level restrictions on such noises including noise produced by any of the following:

1. Vessel loose rigging causing slapping sounds
2. Bilge pumps
3. Inboard and outboard motor operational noise
4. Bow Thrusters typically installed on larger vessels
5. Intruder Alarms
6. Onboard amplified voice /music
7. Onboard mechanical services
8. Noise from excessive use of loud voice
9. Marina Tenant/User DIY maintenance Noise
10. Noise from animals both onboard and on shore

The Cattle Bay Marina does not provide the following facilities,

1. Restaurants
2. Site workshop
3. Fuelling facilities
4. Slip way
5. Tender vessels

Prohibited on vessels berthed at the Cattle Bay Marina are the following:

1. No on board parties
2. No unsocial behaviour on any of the onshore facilities or land including the car park, the Portable buildings, the jetty or the pontoons
3. No onshore accommodation in either the car park or onboard the vessels

The Cattle Bay Marina noise sources assessed specifically excludes noise from on shore accommodation, noise from overnight stay aboard berthed vessels and noise from every day heavy vehicle delivery or dispatch to and from the marina.

2.1.4. Portable Sewer Pump-Out Facility

Marina Management provide the portable sewer pump-out facility for the removal of sewage from vessels berthed at the marina and disposal of the sewage into town sewer at the nominated on shore sewer collection point.

Marina Management shall ensure the operational noise from the portable sewer pump-out facility noise levels generated do not exceed 75 dB(A SPL at 1.5 metres strictly in accordance with the POEO Regulations 2010.

Marina Management shall ensure that the portable sewer pump-out facility is stored under lock and key and made only available for use between the hours of 7 AM to 6 PM Monday to Saturday, 8AM to 6 PM Sunday and Public Holiday.

2.1.5. Marina & Pontoon Maintenance

Marina Management are required to provide corrective and programmed maintenance for the jetty and pontoons of the marina. The OEMP nominated that the installing sub-contractor shall carry out this work.

Noise from this operation shall generally be required to comply with the PSNL requirements which will result in this work being limited to the day period, preferable Monday to Friday

2.2.SPECIFIC TERMS AND CONDITIONS FOR NOISE BY MARINA TENANTS/USERS

2.2.1.Noise from Vessels with loose rigging

Marina Tenant/User with Vessels that have rigging are responsible to securely stow their rigging such that it shall not flap and cause a noise when slapping against other items of rigging.

Marina Management have the discretional authority to board any vessel they deem to have loose rigging and causing a noise disturbance to the other vessels or closest residences and temporarily secure/stow the offending items.

Marina Management shall advise the Marina Tenant/User in writing at their nominated contact and request they permanently rectify the noise problem.

2.2.2.Bilge Pump Noise

Vessels are prohibited to run their Bilge Pumps while moored at the Cattle Bay Marina except in an emergency to avert sinking of that vessel.

2.2.3.Inboard and Outboard Motor Boundary Noise Limitation

The Cattle Bay Marina place a 4 knots speed limit for all Marina Tenant/Users vessels within the surrounds of the marina including the entry and exit channels on the east and western side of the jetty up to 50 metres beyond the wave attenuator.

Marina Tenant/Users shall not create noise greater than the noise limit for site as documented in the DA Acoustic Report as heard at the nearest sensitive receivers either Cattle Bay Road, Cocora Street or Bay Street as set out as follows:

Table 1; Boundary Noise Limit at Nearest Residence

PERIOD OF THE DAY	Day L 7am-6pm	Evening L 6pm-10pm	Night L 10pm-7am
Boundary Noise Limitation LA _{Eq} T=5 min dB(A)	50 dB(A)	45 dB(A)	35 dB(A)

The modify factor for tonal characteristics shall be applied when determining the intrusive noise levels.

The boundary noise limit placed on the project in the night period is likely to restrict the movement of vessels in that period.

Marina Management shall have the discretional authority to warn Marina Tenants/User's that they believe infringe this requirement. Should disputes arise, Marina Management will proceed and carry out verification measurements of suspected non-compliance and if confirmed there is a knowingly fraughting this requirement, Management shall back charge the costs of such measurement and provide letter of demand to desist such non confirming operations. If continually non conformance continues, Marina management have the right to terminate the Marina Tenant/User lease.

Boats fitted with bow thrusters shall only be berthed at the outer pontoons namely Arm B on southern side, Arm C and the main north-south floating walkway linking Arms A, B and C.

The boundary noise limitation placed on the project in the night period is likely to restrict the use of bow thrusters in that period. Boats with bow thrusters shall strictly comply with the Boundary Noise Limit as set out in Table 1 above and be subject to the same warning, verification and lease termination requirements as set out above.

The modify factor for tonal characteristics shall be applied when determining the intrusive noise levels.

The Marina Tenant/User shall not:

- Idle the vessels motor excessively while berthed.
- Un-necessarily rev the vessels motor while manoeuvring within the confines of the marina pontoons and entry channels.
- Use signal horns to indicate forward/reverse/port /starboard manoeuvres while within the confines of the marina pontoons and entry channels

2.2.4.Intruder Alarms

The Marina Tenant/User are permitted to install Intruder Alarms in their vessels. Such alarms shall be installed and operated strictly in accordance with the Protection Of the Environment Operations Regulations 2010 (**POEO Regulations**).

Marina Management have the discretional authority to board any vessel they deem to have a faulty intruder alarm that is creating a noise disturbance to the other vessels or closest residences and disconnect the offending item.

Marina Management shall advise the Marina Tenant/User in writing at their nominated contact and request they permanently rectify the noise problem.

2.2.5.Onboard Amplified Voice /Music Noise

The Marina Tenant/User are permitted to use Onboard Amplified Voice /Music Noise but shall comply with the Boundary Noise Limitation for each the day, evening and night periods of the day. The modify factor for tonal characteristics shall be applied when determining the intrusive noise levels.

2.2.6.Onboard Mechanical Services Noise

The Marina Tenant/User are not permitted to use Onboard Mechanical Services Noise that run general pumps, air conditioning or fans

2.2.7.Excessive Use Of Loud Voice

The Marina Tenant/User are requested to limit their or any of their guests excessive use of loud voice while at the Cattle Bay marina and site areas, Loud shouting on board or between pontoon and vessel is to be kept to a minimum and is considered disruptive to the environmental amenity of the closest sensitive receivers on the adjacent Cattle Bay Road, Cocroa Street and Bay Road

Marina Management shall advise the Marina Tenant/User in person and document a warning in writing at their nominated contact and request they permanently rectify the noise problem.

2.2.8.Marina Tenant/User DIY Maintenance Noise

Marina Tenant/Users are permitted to carry out their own DIY Maintenance on their own vessels. Noise produced by such maintenance is to be limited to the use of hand tools.

Noise from the operation of such hand held tools shall comply with the Boundary Noise Limits for each the day, evening and night period of the day. The modify factor for tonal characteristics shall be applied when determining the intrusive noise levels.

2.2.9. Marina Tenant/User Animals Noise

Marina Tenant/Users are permitted to allow the presence of their own animals and pets on their own vessels. Noise produced by presence is to be limited to the same restrictions placed on the by the EPA NSW Noise Guided for Local Government 2010((NG).

Noise from animals shall not disturb the peace and quiet of other Marina Tenant/Users and local residences. Non compliance will be judged by the discretion of Marina Management

Marina Management who shall advise the Marina Tenant/User in person and request them to cause the noise to stop or be requested to remove the pet from the site. Marina management shall document a warning at their nominated contact and request they permanently rectify the noise problem.

2.3.COMPLAINTS/INCIDENT REGISTER

Marina Management shall document all Complaints and noise incidences that are either reported to them or they observe on site or adjacent to any closest sensitive receivers in the Complaint/Incident Register.

The format of the Complaint/Incident Register is contained in the Operations Environment Management Plan (OEMP) associated with the Cattle Bay Marina

Marina Management shall follow the procedures set out in the OEMP to assess incidences, to carry out or engage specialists to carry out any necessary acoustic measurements and reporting, submit any documentation or correspondence and resolve each and every incident.

3.VERIFICATION OF ACOUSTIC COMPLIANCE

3.1.VERIFICATION OF BACKGROUND NOISE LEVEL

This report assumed threshold background noise level was 30 dB(A) for the night period. The actual background noise level could be higher but this can only be verified by site logging when the site was unoccupied.

3.2.VERIFICATION OF VESSEL NOISE COMPLIANCE

This report has assumed the noise levels for vehicle movement based on the Rose Bay Marina monitored results. Actual vessel movement noise could be monitored at the closest sensitive receiver being the water front residences at Cocora Street Eden over several days once the Cattle Bay Marina was say 60 to 80 % occupied. It would be prudent not to allow the portable sewer pump-out facility to be used during that monitoring period.

3.3.RESOLUTION OF UNSOLVED ACOUSTIC PROBLEMS OR DISBUTES

Should acoustics not be resolved in a amiable way, Marina Management shall engage the services of a qualified and experienced acoustic consultant to assist to resolve outstanding acoustic problems

End of Report



Cattle Bay Marina

Construction Environmental Management Plan

Eden Cattle Bay Marina Pty Ltd

April 2015

Final

PA1042

Document title	Cattle Bay Marina Construction Environmental Management Plan
Document short title	Cattle Bay CEMP
Status	Final
Date	April 2015
Project name	Eden Cattle Bay Marina Pty Ltd
Project number	PA1042
Client	Eden Cattle Bay Marina Pty Ltd
Reference	PA1042

Drafted by	Matt Potter	
Checked by	Greg Britton	
Date/initials check	9/4/15	
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APPENDIX A ENVIRONMENTAL INCIDENT / COMPLAINT REPORT

1 INTRODUCTION

1.1 General

Royal HaskoningDHV (RHDHV) has been engaged by Eden Cattle Bay Marina Pty Ltd to prepare a preliminary Construction Environmental Management Plan (CEMP) for the proposed construction works associated with the Cattle Bay Marina development. The CEMP would be further refined based on the conditions of consent and prior to issue of a construction approval.

The CEMP describes the potential environmental issues associated with relocation of existing swing moorings, installation of the floating marina and wave attenuator structure, and refurbishment of the existing jetty and the associated mitigation measures.

1.2 Site Location

The site of the proposed Cattle Bay Marina is located approximately 1 kilometre west of the Eden town centre on the NSW south coast, in the Bega Valley Shire local government area. The site adjoins Cattle Bay Road to the east and encompasses part of Cattle Bay to the south.

The site proposed to be occupied by the marina comprises the part of Cattle Bay within Twofold Bay surrounding and encompassing the existing jetty and the landside area where the jetty joins the land as shown in Figure 1.

The land component comprises Lot 2 and part of Lot 4 in DP 1138056. Lot 2 is owned by Eden Resort Hotel Pty Ltd (ERH) and has an area of 1.67 hectares. It contains the majority of the remains of the former Heinz cannery. Lot 4 comprises a strip of foreshore land commencing northwards from the seawall to where it adjoins Lot 2. It is owned by Bega Valley Shire Council.

The overwater area proposed to be occupied by the marina (pontoons, berths and access ways) is approximately 7.5 hectares and is located on Crown Land.



Figure 1: Site location plan (Source: Google Maps)

1.3 Proposed Development

A plan of the proposed marina development is shown on Figure 2. The development proposal comprises the following main elements:

- A total of approximately 154 berths in three floating pontoon arms restrained by piles;
- Relocation of 25 swing moorings to locations to be confirmed with NSW Roads and Maritime Services (RMS) and the Eden Port Authority;
- A fixed wave attenuator that follows a 'cranked' alignment;
- Refurbishment of the existing jetty;
- A mix of berth sizes from 12m to 28m to cater for a range of watercraft from small local recreational craft to larger international super yachts;
- Provision of power, lighting, water, fire fighting equipment, mobile 'muck truck' (for sewage pump out) and security access controls to the pontoons and berths;
- Connection to existing potable water, sewer and power supplies to serve the temporary building and fire fighting;
- Refurbishment and temporary use of the existing stormwater drainage system (until redevelopment as part of mixed use development) incorporating provision of new

Gross Pollutant Trap where existing drainage pipe exits Lot 2 (before passing through Lot 4);

- Temporary car park comprising 97 spaces plus 3 loading/unloading spaces. The car parking spaces will be located on, and use, the existing concrete apron and stormwater drainage that remain following the demolition of the cannery buildings. This will involve minor rectification of the apron to make it suitable for use as a car park until the land side of the development is undertaken in accordance with the Concept Plan approval (when the car parking and servicing for the marina will be incorporated into the development of the site);
- The car park will utilise the existing site access gate off Cattle Bay Road; and,
- Temporary (portable) building to house marina administration and toilets. Access will meet disability standards.

No dredging or reclamation activities are proposed as part of the marina development.

No fuelling or repair and maintenance facilities are proposed as these are provided elsewhere in Twofold Bay.

Furthermore, no demolition of any existing structures within the site is proposed. The proposed works to the vegetation are limited to weed removal on the concrete slabs. The existing vegetation to the west and north within the site is not impacted by the proposed development.

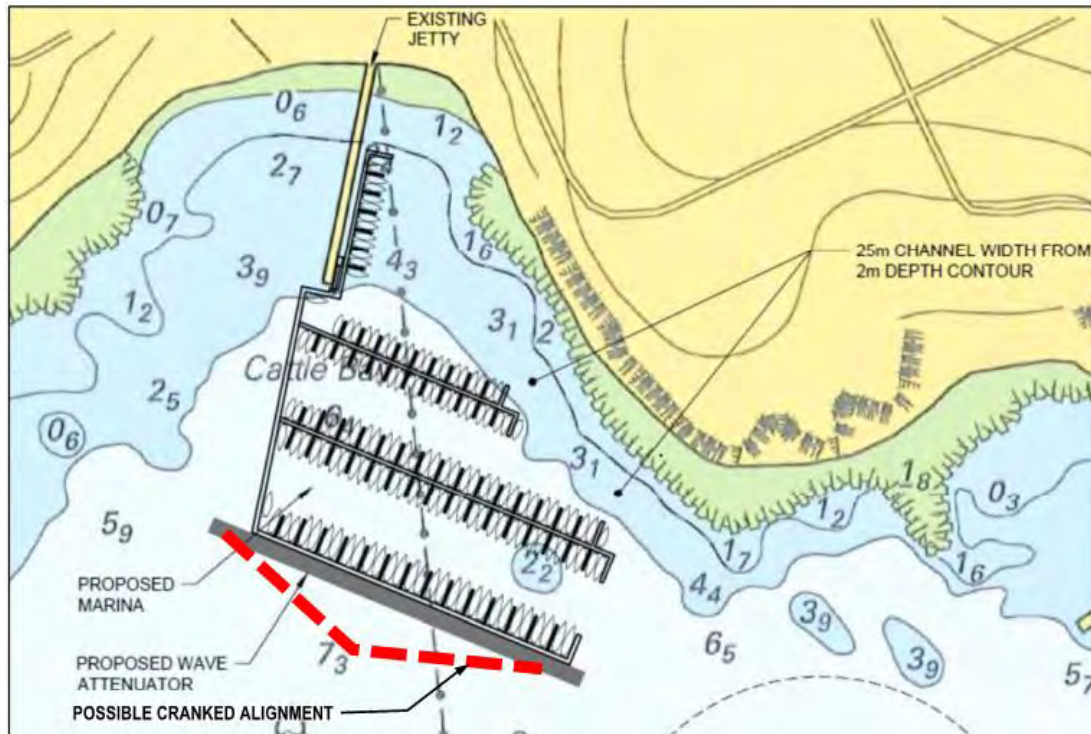


Figure 2: Proposed development

1.4 Construction Works

The construction works would comprise the following main activities:

- **Site Set Up and Establishment of Environmental Controls.**
- **Refurbishment of Existing Jetty** – The extent of work required to refurbish the jetty is subject to a detailed condition assessment and may involve rehabilitation of existing timber piles, headstocks, girders and decking in a controlled manner. The type of plant involved in the works would include barge mounted cranes, transport barges, work boats and hand held power tools.
- **Relocation of Swing Moorings** – The removal and relocation of swing moorings would be undertaken by a commercial mooring contractor licensed by RMS.
- **Lowering of Rock Pinnacle** – Lowering of the rock pinnacle to -4 m CD would be undertaken in the first instance with a barge-mounted excavator fitted with a hydraulic hammer. Should the rock prove too hard for this method, it is proposed to use a non-explosive rock splitting expansive agent to pre-split the pinnacle prior to removal by excavator. Disposal of the broken rock would either be to land or onto the surrounding seabed (below -4 m CD) for habitat creation, subject to consultation with relevant authorities.
- **Pile Installation** – Piles for the marina would be delivered to site by barge (from the port area within Snug Cove) and installed from the water using a piling barge.
- **Installation of Pontoon Units** – Pontoon units would be manufactured off site and launched into the water by crane from the port area within Snug Cove and towed across to Cattle Bay into their correct locations, guided by GPS, for interconnection.
- **Installation of Services and Access Ramp** – Access ramps would be delivered to the site as one unit by barge and installed by barge-mounted crane. Installation of services pedestals, fire fighting equipment and power and water, including service cables and pipework, would be undertaken on site by licensed contractor.
- **Construction of Wave Attenuator** – The construction of the wave attenuator would require a series of vertical and raked piles to be driven by a piling barge. The precast concrete panels that comprise the vertical wave baffle would be manufactured off site and delivered to the site by barge (from the port area within Snug Cove) for lifting into place by a barge-mounted crane. Alternatively, the concrete panels may be cast on site.
- **Temporary Building Installation** – The temporary (portable) building would be delivered to the site by road and connected to existing potable water, sewerage and power services.
- **Weed Removal** – Weeds would be removed from in between the existing concrete slabs covering the land portion of the site.

A preliminary construction program has been prepared that envisages an overall construction period of approximately 16 weeks, including 8 weeks of piling activity.

2 OBJECTIVES

The purpose of the CEMP is to provide guidance on environmental control measures for the construction of the proposed marina development. It provides a manual for use by management, the construction team and an advisory document for agencies and stakeholders.

The aims and objectives of the CEMP are to:

- describe the nature and scope of anticipated environmental impacts, address relevant legislation and approval conditions, and outline actions to be taken to ensure compliance and to mitigate the environmental impacts identified before and through the execution of the construction contract;
- establish the environmental management process involving cooperation between all parties involved in the construction process to ensure understanding of the key environmental issues for this project so that objectives and targets are met. Standard and site specific procedures and equipment for mitigation of environmental damage will be implemented;
- satisfactorily manage water quality any sediment disturbance during the construction phase of the marina;
- realise optimum performance in the areas of demolition, piling (noise, disturbance of seabed, water quality etc.) and waste minimisation and to complete the project with no environmental incidents. To achieve these objectives all site workers will be instructed in their responsibilities of care and reporting, and familiarised with environmental safeguards;
- identify statutory and non-statutory responsibilities; and,
- document the environmental management process.

The CEMP ensures the aims and objectives are met through the following:

- documenting of all measures to be taken to manage identified impacts;
- providing a clear indication of the respective environmental responsibilities;
- setting standards and/or performance measures for the relevant environmental issues associated with the construction work;
- describing what actions and measures will be implemented to mitigate the potential impacts of these construction works, and ensure that these works will comply with the relevant standards and/or performance measures; and,
- describing what procedures will be implemented to register, report, and respond to any complaints or non-compliances during the construction works.

3 STATUTORY AND LICENCE REQUIREMENTS

The marina development is local development and subject to assessment and determination under Part 4 of the EP&A Act. The proposed development is also 'Designated Development' under Schedule 3 of the EP&A Regulation and 'Integrated Development' as, in addition to development consent, it requires permits or approvals under the *Protection of the Environment Operations Act 1997*, *Fisheries Management Act 1994* and *Water Management Act 2000*. The operation of the development as a marina is also a 'scheduled activity' within the meaning of Schedule 1 of the *Protection of the Environment Operations Act*.

Prior to commencement of construction works, a Part 7 permit for 'dredging and reclamation' (in relation to piling activities) and to 'harm marine vegetation' under the *Fisheries Management Act 1994* is required from Fisheries NSW.

Prior to commencement of waterside construction works, Harbour Master approval for the proposal is required to be obtained under clause 67 of the *Management of Waters and Waterside Lands Regulations – N.S.W.* in relation to the proposed disturbance of the bed of a 'special port'.

The Proponent (Eden Cattle Bay Marina Pty Ltd) shall be responsible for ensuring that all necessary approvals and licences are obtained prior to commencement of any works. Contractors and sub-contractors must comply with the terms and conditions of all approvals and licences obtained. This includes, but is not be limited to, the conditions of Development Approval.

During construction of the works all personnel shall also comply with the applicable environmental regulatory requirements.

4 POTENTIAL ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

4.1 General

The following sections outline the environmental aspects and potential impacts associated with the construction activities for development of Cattle Bay Marina and the adopted mitigation measures, including specific undertakings arising from the environmental impact assessment and specialist studies.

4.2 Soil and Water Management

Due to the water-based nature of the construction works it is not envisaged that the construction period would involve any significant disturbance of the land portion of the site. The existing concrete slabs would be utilised as a hardstand area for establishment of site offices and amenities, storage of construction equipment and materials, car parking, delivery of supplies and land-based access to the site by construction personnel. However, it is noted that the eastern part of the site may be subjected to flooding due to insufficient culvert capacity beneath Cattle Bay Road leading to overtopping of the road.

To mitigate potential impacts on water management from temporary occupation of the land portion of the site by the Contractor, the following measures shall be adopted:

- a Flooding Emergency Response Plan should be prepared to establish protocols for monitoring of flood levels, evacuation of construction personnel from the site compound (e.g. to the existing jetty or elevated land) and securing of construction equipment and materials;
- all demolition and waste products generated during construction period should be contained and removed from the site and disposed of appropriately to prevent them from being washed on to the beach or into the waterway;
- diversion of stormwater from hard surfaces through a coarse filter (gross pollutant trap) should occur to prevent any construction rubbish or debris from being washed on to the beach or into the waterway;
- bunding of chemical storage areas on site to prevent any leakages from being carried away by site runoff; and,
- all land-based equipment used during construction should be well maintained and serviced to reduce the likelihood of oil / fuel leaks and spills.

4.3 Sediment Quality

Sediment sampling and analysis for a range of organic and inorganic substances was undertaken as part of EIS investigations. This concluded that the concentrations of substances were below the ANZECC sediment quality guidelines (Interim Sediment Quality Guideline – Low [ISQG Low]). As such, any minor disturbance of sediments that may occur during construction activities, such as pile driving, would not release contaminants into the water column that would adversely impact on the environment.

Sediments in the area of the proposed marina generally comprise fine to medium grained sand with less than 10% to 15% by weight mud (silts and clays). This fines fraction could exhibit acid sulfate soil potential, however the proposed construction works do not require the physical removal of any sediment or exposure of sediments above water to allow oxidisation to occur.

As such, the management of sediment quality is limited to issues associated with the potential for generation of turbidity from minor disturbance of bed sediments (refer Section 4.4).

4.4 Water Quality

The potential impacts of the construction works on water quality include turbidity caused by disturbance of the seabed and release of contaminants into the water as a result of fuel and oil spills, and leakages and release of sewage and bilge water, from floating plant. These potential adverse effects on water quality may impact on the surrounding aquatic ecology (refer Section 4.5) and the existing aquaculture industry.

To mitigate potential impacts on water quality from disturbance of bed sediments, the following measures shall be adopted:

- Contractors shall minimise propeller wash in shallow water (i.e. during refurbishment of the jetty) by avoiding weather and tide conditions that could heighten the risk of bed disturbance, this could be achieved by planning shallow water work for calmer early morning periods, high or rising tide conditions and avoiding shallow water work during periods of swell exposure;
- towing or pushing of vessels shall not involve the use of excessive engine power in shallow water areas and in the vicinity of seagrass beds and patches;
- undertaking works that may cause seabed disturbance during periods of calm weather where possible so that the potential for any suspended sediments to settle on inshore seagrass beds is minimised;
- turbidity control barriers (i.e. silt curtains) shall be used to enclose the areas of construction activities that have the potential to disturb the seabed (i.e. piling, jetty refurbishment);
- the use of sinking lines to secure or anchor floating plant shall be limited where possible;
- a Water Quality Management Plan (Ocean Environmental, 2015) shall be implemented by the Proponent, which includes a Water Quality Monitoring Program comprising the following elements:
 - baseline monitoring of physico-chemical parameters (i.e. temperature, salinity, pH, electrical conductivity, dissolved oxygen) and turbidity at two 'impact' sites within Cattle Bay and two 'control' sites on either side of Cocora Point;
 - collection of water samples and laboratory analysis of Total Suspended Solids (TSS) and turbidity to derive a relationship between TSS and turbidity for the site;

- monitoring of turbidity during construction at 'impact' and 'control' sites;
- the water quality trigger limit during construction shall be the exceedance of the background TSS (defined by measurement at 'control' sites) by more than 50 mg/L;
- NTU and corresponding TSS values shall be reported in a logbook that would be made available on request;
- 'stop work' procedures shall be put in place when turbidity values exceed the above trigger limit and be maintained until the turbidity levels return to less than 50 mg/L above background levels; and,
- post-construction monitoring and comparison with baseline monitoring results and relevant ANZECC water quality guidelines to assess any impacts.

To mitigate potential impacts on water quality from release of contaminants from operation of floating plant, the following measures shall be adopted:

- all floating plant and equipment used during construction should be well maintained and serviced to reduce the likelihood of oil / fuel leaks and spills;
- spill response kits suitable for the containment of fuel and oil spills shall be kept on construction vessels;
- any metal hardware which would leave marks on pontoon decks are to be kept in containers, any unnecessary cleaning of pontoon decks shall be avoided;
- work barges shall be kept clean and clear of unnecessary waste materials, operational oil and fuel cans shall be stored appropriately and securely fastened, and all pile barges equipped with oil absorbent pads and bunding as appropriate;
- work vessels shall be refuelled off site and bilge water or sewage shall not be discharged into the water at the construction site;

Mitigation measures associated with potential impacts to the aquaculture industry are outlined in the following:

- the Proponent shall notify the aquaculture permit holder(s) at least one week prior to commencement of any construction work (e.g. piling) that may result in the disturbance of any sediment.
- if any construction works cause water quality impacts that result in aquaculture lease area being closed to harvest by the NSW Food Authority, the Contractor must cease such works immediately and not recommence until the risk of adverse water quality impacts has been eliminated.
- if shellfish harvesting closure occurs as a result of water quality deterioration caused by construction works, the Proponent in cooperation with aquaculture permit holder(s) is to undertake testing, at the Proponent's cost, of the farmed shellfish to determine when shellfish is suitable for human consumption and the closure to harvest can be lifted; and,
- Fisheries NSW (1800 043 536) shall be immediately notified of any fish kills in the vicinity of the construction works. In such cases, all works other than emergency

response procedures are to cease until the issue is rectified and written approval to proceed is provided by Fisheries NSW.

4.5 Aquatic Ecology

The potential impacts of the construction works on aquatic ecology include:

- disturbance of bed sediments during jetty refurbishment, piling, propulsion (propeller wash) of floating plant and anchoring of vessels has the potential to cause turbidity;
- impact or high frequency pulse noise from use of piling, hammering, cutting and drilling tools may cause disruptive behavioural responses (e.g. animals moving away from the construction area) for marine mammals;
- shading or damage of seagrass by mooring of floating plant;
- anchors and cables used to secure floating plant may damage seagrass;
- the use of anchor cables that stretch and slacken in the water column presents a risk of cable strike or entanglement for marine mammals; and,
- introduced marine species (IMS) that may be supported on existing swing moorings could be transported to other locations within Twofold Bay during removal and relocation activities.

The potential impacts on aquatic ecology from disturbance of bed sediments shall be mitigated by implementing the water quality management measures outlined in Section 4.4.

To mitigate potential impacts on aquatic ecology from generation of construction noise, the following measures shall be adopted:

- avoid undertaking marine-based construction activities during October and November, which are the highest risk months for the presence of mother/calf whale pods in the region
- minimise construction activity in the remaining period of the core whale visitation season from mid-September to end September; and,
- undertaking works in the shoulder periods of the whale visitation season (i.e. August to September, and December) within the framework of a Marine Mammal Protection Plan, which incorporates:
 - establishment of safety zones around the construction area for 'observation' and 'shut-down' of construction activities subject to the proximity of marine mammals to the work area;
 - engagement of a suitability qualified marine mammal observer by the Contractor;
 - training of crew members in standard operational procedures for management of marine mammal monitoring and sightings; and,
 - preparation of piling activity reports, including records of marine mammal sightings and actions taken.

To mitigate potential impacts on aquatic ecology from mooring and the use of anchors and cables to secure floating plant, the following measures shall be adopted:

- floating plant shall not be moored directly over seagrass beds if there is a risk of there being less than 600 mm underkeel clearance at any time allowing for tide and wave action;
- floating plant shall not be moored over seagrass beds for longer than one complete 24 hour diurnal tidal cycle, in order to minimise shading impacts;
- avoid undertaking construction activities during the peak marine mammal visitation period and undertaking works in the shoulder periods within the framework of a Marine Mammal Protection Plan (as outlined above);
- placing floating plant on swing moorings overnight rather than a fixed mooring configuration to minimise cable oscillation;
- providing the Contractor with a geo-referenced map of seabed habitat limits with instructions that they cannot place anchors or other mooring apparatus into these habitats or allow cables to trail on the seabed ('cable scalping') and they are to target areas of bare sandy habitat for mooring and anchoring; and,
- the impacts of cable scalping shall be mitigated by the use of floating lines or buoying of sinking lines off the seabed.

To mitigate potential impacts on aquatic ecology from the potential spread or re-introduction of IMS within Twofold Bay, the following measures shall be adopted:

- preparation of an IMS Management Plan;
- fouling organisms from swing moorings to be relocated shall be removed, collected and disposed of to an appropriate landfill facility, or an alternative measure would be to undertake IMS surveys of the moorings prior to relocation with any priority IMS removed, collected and disposed of appropriately by the IMS survey team; and,
- preparation of a Marine Debris Clearance Plan for removal, collection and disposal of accumulated hard substratum rubbish under the existing jetty to a suitable landfill facility to prevent re-introduction of attached IMS to Twofold Bay.

4.6 Terrestrial Ecology

The land portion of the site is highly disturbed due to its former use as the Heinz cannery. As a result of disuse, the site has been subjected to regrowth with weed vegetation. Construction works undertaken on this area of the site will include the removal of weeds from in between the existing concrete slabs.

To prevent the spreading of weed species to surrounding vegetated areas and to minimise site disturbance, removal of weeds shall be carried out in a controlled manner by hand, with vegetation contained and disposed of at a landfill facility. Weeds may be eradicated by environmentally acceptable methods using a non-residual glyphosate herbicide in any of its registered formulae.

4.7 Air Quality

The proposed construction works are not expected to have any significant impacts on air quality.

Notwithstanding, the following mitigation measures shall be adopted as best practice:

- all plant and equipment should be registered to ensure it does not emit unacceptable levels of smoke/fumes; and,
- uncovered or stockpiled materials that may lead to the generation of dust should be covered or watered down.

4.8 Noise

The construction works are expected to generate noise, with the main source of noise being from piling activities and use of a hydraulic hammer in lowering the rock pinnacle. The generation of noise by the predominantly water-based construction activities could have a potential impact on nearby residential dwellings and on marine mammals (refer Section 4.5).

A Construction Noise Management Plan (West and Associates, 2015) shall be implemented by the Contractor, which comprises the following measures:

- general construction activities shall be restricted to the following hours:
 - Monday to Friday 7.30 am to 5.00 pm;
 - Saturday 7.30 am to 1.00 pm; and,
 - No work on Sundays and Public Holidays.
- piling activities shall be restricted to Monday to Friday 8.00 am to 12.00 midday and 2.00 pm to 5.00 pm;
- to reduce noise during impact piling, acoustically treated driving heads shall be used and pile driving noise shall be limited to a Sound Power Level $L_{A10,t=15 \text{ min}}$ of 105 dB(A);
- noise from site radios shall not exceed 50 dB(A) at the construction site boundaries;
- distribution of an introductory letter, construction program and sketches of the project works to all residences within a 50 metre radius of the construction site boundary;
- maintenance of a Noise Register by the Site Superintendent, which would record:
 - field noise measurements, including noise from radios at the site boundary and for required vehicles; and,
 - details of noise complaints received and rectification measures implemented.
- induction of all Contractor staff in noise management measures and procedures, including:

- construction hours for the site shall be displayed on the site shed;
- communication by construction staff to be done in close proximity or using two-way radios;
- shouting, use of horns, loud speakers etc. shall not be used to communicate over a distance;
- vehicle horns shall only be used as an emergency warning device;
- minimise slamming of vehicle doors;
- checking of noise levels from radios by the Site Superintendent and disallowed use of radios for repeat offenders;
- immediate reporting of noise complaints to the Site Superintendent; and,
- maintenance of equipment shall not be allowed on site except for the bobcat and front end loader and then only carried out during construction hours.

The following general measures shall also be implemented to reduce noise impacts:

- provision of signage at the perimeter of the site including Council information / feedback contact details for the works;
- prior approval of any variation of the above working hours by Council;
- provision of notification to residents and business regarding any variation of the above working hours and the duration of any change;
- use of equipment in good repair and condition;
- regular maintenance of all plant and equipment;
- fitting of appropriate silencers and mufflers on all plant and equipment when directed by Council;
- construction time on site shall be minimised through measures such as completing subassembly of the marina elements off site;
- multiple use of items of equipment shall be limited to avoid aggregation of noise levels;
- the Contractor would be required to meet all Occupational Health and Safety Regulations associated with workplace noise. This may include but is not limited to monitoring and appropriate control measures; and,
- all noise complaints received by the Site Superintendent / Council would be assessed and directed to the Contractor for immediate action and recording in the Noise Register.

4.9 Navigation and Waterway Usage

The constructions works will impact on navigation and waterway usage as a result of the relocation of a number of existing swing moorings and occupation of the footprint of the

proposed marina throughout the construction period. Construction vessels delivering plant, equipment and materials from the port area within Snug Cove to the site within Cattle Bay will also interact with existing shipping operations and will be required to navigate through existing swing moorings.

Mitigation measures to minimise navigation and waterway usage impacts during construction include:

- preparation and implementation of a Swing Mooring Relocation Strategy in coordination with RMS;
- in coordination with the Harbour Master and other relevant authorities, a 'Notice to Mariners' shall be issued to advise the boating community of the extent, nature and duration of the construction activities;
- provision of special marker buoys, lighting of marker buoys and moored construction vessels for night-time navigation and appropriate signage to delineate construction areas in accordance with the requirements of the Harbour Master and other relevant authorities;
- construction vessels navigating from Snug Cove to Cattle Bay shall:
 - follow all Harbour Master directions;
 - adhere to the guidance provided in the 'Safety on the Water' sections of the RMS Boating Handbook;
 - comply with the International Regulations for Preventing Collisions at Sea which are adopted in NSW through the *Marine Safety (General) Regulation 2009*;
 - when navigating near, in or through a mooring area:
 - drive slowly and keep wash to a minimum;
 - keep a lookout for people in the water, small dinghies, and trailing ropes; and,
 - when travelling at 10 knots or more stay at least 30 m from any moored vessel.

4.10 Aboriginal Heritage

Following the identification of an Aboriginal heritage site outside the subject site for the proposed construction works, further investigations have identified a moderate to high potential for Aboriginal heritage evidence to occur in the form of shallow sub-surface deposits of stone artefacts across those portions of the site not entirely affected by recent land use (i.e. former cannery). However, the proposed construction works will involve minimal disturbance of the land portion of the site as land-based activities will be limited to installation of a temporary (portable) building, connections to existing potable water, sewerage and power services, and weed removal from the concrete slabs.

The following measures shall be implemented to mitigate the risk of the recovery of Aboriginal heritage artefacts on the site:

- if any item of indigenous significance is found during construction, work shall cease in the immediate area and the matter referred to Council, OEH and the Local Aboriginal Land Council, in accordance with the *Heritage Act 1977*; and,
- all construction personnel shall be briefed on the known and potential location(s) of Aboriginal heritage artefacts and the associated control and management measures during site induction.

4.11 Waste Management

Minimal waste will be generated on site due to the significant prefabrication of the marina components off site. Where waste generation is unavoidable it shall be appropriately separated so that all recyclable materials are recycled. All non-recyclable materials shall be disposed to an appropriate licensed waste facility.

Bins will be provided on-shore for recyclables and mixed waste and emptied regularly. All waste from construction works shall be placed in bins appropriate to the material. Any waste generated at the existing jetty (loading/unloading sites) or brought to the site by floating plant and equipment will also be placed in appropriate recycling bins to limit the use of landfill.

All Contractors and sub-contractors shall be instructed to keep tools and materials, and to maintain a tidy work space, to ensure that items such as nuts, bolts and wrappings do not fall into the water. Items that fall into the water shall be immediately removed.

4.12 Public Access and Safety

Existing public access to the beach at the site is provided by informal pedestrian access tracks from Cattle Bay Road to the east, Bay Street to the west and the foreshore. The jetty is also used by the public informally as it can be accessed from the beach and from Cattle Bay Road. The surrounding waterway is occupied by swing moorings and can be accessed by boat users and for passive recreation (e.g. kayaks and canoes).

During construction it is anticipated that public access would be temporarily restricted in the following areas:

- area of the land portion of the site occupied by the work compound and vehicle access for deliveries;
- the jetty;
- waterway area beneath and around the jetty;
- the area of the beach immediately adjacent to the jetty; and,
- the waterway area in the footprint and around the perimeter of the proposed marina and wave attenuator and swing mooring relocation areas.

Protection of public safety would be achieved by public notification, signage and physical demarcation of work areas. Mitigation measures to minimise public access and safety impacts during construction include:

- notification of the construction schedule to local business owners, residents, waterway user groups and swing mooring licence holders;
- barricading / fencing off of the proposed construction site including the site compound;
- provision of adequate signage around the construction site;
- provision of safe access to pedestrians around the site including appropriate signage and barricades, with construction personnel stationed at site entry/exit points to direct pedestrians;
- continuity of beach access shall be facilitated where possible by designated construction personnel ensuring safe passage of pedestrians, subject to the nature and proximity of construction activities being undertaken; and,
- implementation of the navigation safety measures outlined in Section 4.9.

4.13 Traffic and Parking

During construction it is not anticipated that construction traffic would have a significant impact on local traffic flow around Cattle Bay. Use of local roads would be episodic and related to short duration activities such as site establishment, plant and equipment mobilisation, delivery of materials to the site, waste disposal, delivery of the temporary (portable) building, parking of vehicles by construction personnel and site disestablishment. The hardstand area provided by the existing concrete slabs is more than adequate to accommodate parking and manoeuvring requirements of construction personnel and deliveries to site.

The existing wharf facilities in the port area within Snug Cove would be used for delivery of piles, pontoon units and precast concrete panels. This area has established wharf areas for these activities and can accommodate traffic associated with the delivery of equipment and materials required for the proposed works.

5 MANAGEMENT AND REPORTING

5.1 Management Responsibilities

The Project Manager for construction of the Cattle Bay Marina (to be appointed by the Proponent) shall be responsible for the following:

- ensuring all appropriate licences and consents are obtained for the construction works;
- ensuring all contractors comply with statutory and licence requirements;
- overseeing construction works and overall implementation of the CEMP; and,
- undertaking monitoring and inspections of the site, as required.

The Contractor (to be appointed) shall be responsible for the following:

- ensuring that all Work, Health and Safety regulatory requirements are met including preparation, maintenance, implementation and administration of a Work, Health and Safety Plan;
- ensuring implementation of the CEMP at site level;
- ensuring compliance with any relevant conditions of the DA consent and regulatory requirements;
- ensuring all records are completed as required in the CEMP;
- ensuring that all environmental protection measures are in place and functioning correctly;
- ensuring daily site inspections (Work, Health and Safety and environmental) are undertaken and recorded and reported appropriately;
- undertaking continuous visual monitoring of surface water within the silt curtains;
- ensuring incident reports and complaint reports are completed and followed up as required;
- ensuring adequate training of all employees and contractors;
- ensuring monitoring is conducted as required in the CEMP;
- ensuring non-conformance and corrective actions reports are reported to the Project Manager;
- ensuring corrective actions are undertaken in response to the requests made by the Project Manager regarding specific environmental or safety issues; and,
- ensuring all sub-contractors comply with statutory and licence requirement and conditions of the CEMP.

5.2 Reporting

The following reporting shall be undertaken:

- weekly reporting on piling operations, including any complaints, incidents, marine mammal sightings or evidence of non-compliance;
- weekly reporting covering outcomes of pollution and turbidity control and waste management;
- environmental incident reports (refer Appendix A), to be completed on site and promptly notified to the Project Manager. All complaints shall be noted and reported to the Proponent and relevant authority if appropriate. Where appropriate, the incident shall also be investigated and action taken to minimise any adverse environmental effects wherever possible;
- site walkover check, to be completed by the Project Manager during regular site inspections to check compliance and record corrective measures required; and,
- site personnel register, to be completed at induction.

6 REFERENCES

Ocean Environmental (2015), *Cattle Bay Marina – Water Quality Management Plan*, draft report prepared for Eden Cattle Bay Marina Pty Ltd, March 2015.

West and Associates (2015), *Cattle Bay Marina Development Application Acoustic Report*, prepared for Eden Cattle Bay Marine Pty Ltd, April 2015.

APPENDIX A ENVIRONMENTAL INCIDENT / COMPLAINT REPORT

ENVIRONMENTAL INCIDENT/COMPLAINT REPORT

Any accident or incident which may impact on the environment **MUST** be reported.
Any complaint **MUST** be recorded and reported.

Accident/Incident Date: _____ Time: _____

Time, Date, Location and Duration of Incident:

Person Reporting: _____

Nature / Details of Incident / Quantity of Pollutants etc:

Actual or Suspected Cause:

Action Taken or Proposed Action – Management & Prevention:

Contractor: _____

Reported to: _____

Signature: _____



3 November 2015

Leanne Barnes
General Manager,
Bega Valley Shire Council,
PO Box 492,
BEGA NSW 2550

Dear Leanne

Re Comment on the proposed Cattle Bay Resort / Marina Development

I write on behalf of the Eden Local Aboriginal Land Council with regard to the proposed Cattle Bay development. The following account is a summary of our concerns:

Provision of Safe Public Pedestrian Access

Following a review of the relevant documents, we are concerned that there appears to be only a cursory assessment of the need for the development of safe public access from the proposed development to Cocora Beach and Snug Cove and, in particular, with regard to the Bundian Way.

Although this issue of '**recreational use of foreshore and public access generally**', along with '**the protection of route of the Bundian Way**', was raised during the consultation and review phase of the preparation of the EIS (p70 of EIS), there appears to be little or no evidence of any real planning to assist in the development of any safe pedestrian access to the proposed marina from Snug Cove or Cocora Beach by the proponent. This is very disappointing given the assumed vested interest that the Eden Resorts Pty. Ltd. holds in the development of these public access walkways for its patrons. The access by cruise ship visitors to the marina development, following the construction of the cruise ship wharf at Snug Cove, is a further benefit that such pedestrian access infrastructure would provide to Eden Resorts Pty. Ltd..

Although the Eden LALC would like to be consulted in regard to the future development of these important walkways it will not be solely funding these as part of the Bundian Way Project due to the following reasons:

- The proponents of the proposed developments at Snug Cove and Cattle Bay (including NSW Trade & Investment??) should be required to provide adequate public pedestrian access as a basic requirement of these proposed developments and this should be stipulated as a mandatory condition of any development consent provided by the NSW State Government;

An Eden Local Aboriginal Land Council project.



The Bundian Way

- A boardwalk was previously proposed to be developed between Snug Cove and Cattle Bay in one of the marina development proposals;
- Bega Valley Shire Council (BVSC) also needs to consider developing these safe foreshore public access walkways from Snug Cove and Cocora Beach to provide adequate public pedestrian access to the proposed 'Convention Centre' at Cattle Bay and for the benefit of cruise ship visitors, other tourists and visitors, and the local community generally;
- The Eden LALC has insufficient funds to develop these walkways (which will need to be built to high standard of construction), and needs to focus on developing the Bundian Way trail outside of the Eden urban environment following the development of the BW Story Trail.
- The Eden LALC is concentrating its efforts on developing the Bundian Way Trail from Cocora Beach south around Twofold Bay, commencing with the 'Bundian Way Story Walk' to Quarantine Bay (see Diagram 'A'), then proceeding with a more primitive trail from there-on to Fisheries Beach (Bilgalera), and ultimately, to Mt Kosciuszko. It is imperative that the 'missing link' between Snug Cove and Cattle Bay is developed by other relevant parties.

It would seem reasonable to conclude that the responsibility for the development of these foreshore walkways should be funded and constructed as part of a partnership arrangement between the various project developers, the NSW State Government, and BVSC. This responsibility should not rest solely with the Eden LALC in its development of the wider Bundian Way project.

The Proposed Route of the Bundian Way through Eden

The map of the Bundian Way (P92 of the EIS) needs to be amended. The Eden LALC and the Bundian Way Advisory Committee are concerned that the route follows busy trafficable streets, including Cocora Street. It is considered that the Bundian Way, as it proceeds from north to south through Eden, should follow the route as indicated on the attached diagram 'B' below. This route is via the ?? walkway below the Killer Whale Museum down the steps to Snug Cove and then via the Crown land fronting Victoria Terrace, Cocora Street, and Cattle Bay Road to Cattle Bay (or alternatively via the proposed boardwalk). From here the trail should be developed to follow the existing rough bush trail south to Cocora Beach.

Any future road design/works from Imlay Street through to the port of Eden and Cattle Bay should ensure the safe public pedestrian access along the Bundian Way route, especially the section of road along Cocora Street between Albert Terrace and the Killer Whale Museum.

Diagram 'A' The Bundian Way Story Walk



Legend

- Locality feature
- National Parks
- Burdian Way Story Trail
- Burdian Way Tours Route



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The Bundian Way

Diagram 'B' The proposed Bundian Way Route through Eden

Bundian Way Tourist Trail - Eden to Bilgalera



0 0.5 1 1.5 2 Kilometers

Legend

- Locality feature
- National Parks
- Bundian Way Story Trail
- Bundian Way Tourist Route

An Eden Local Aboriginal Land Council project.



The Bundian Way

Yours faithfully

Noel Whitem

Manager, Bundian Way
Eden Local Aboriginal Land Council
0437 861 373



DA: 2014.430

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ABN. 26 987 935 332

DX. 4904 Bega

DATE

Eden Resort Hotel Pty Ltd
C/- Radiknox Investments Pty Ltd
Suite 600, 72 Liverpool Street
SYDNEY NSW 2000

DEFERRED COMMENCEMENT CONSENT

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 1.2, 2.3 of the *Bega Valley Local Environmental Plan 2013* subject to conditions.

DEVELOPMENT APPLICATION	2014.430
APPLICANT	Eden Resort Hotel Pty Ltd
LAND	Lot 1 DP 1138056, Lot 2 DP 1138056, Lot 4 DP 1138056 and waterway area
LOCATION	Cattle Bay Road EDEN
ZONE	Zone SP3 Tourist
PROPOSED DEVELOPMENT	154 berth marina and associated wave attenuator and piles in the waters of Cattle Bay, ancillary carparking, offices and amenities
CLASSIFICATION(S) UNDER BUILDING CODE OF AUSTRALIA	Class 5 – land based component
DETERMINATION MADE ON	-
CONSENT TO OPERATE FROM	The date Part A of the consent is satisfied and formal notice is received from Council (see Section 80(3) Of the Act)
CONSENT TO LAPSE ON (SEE NOTE 3)	-

development consent

Part A - Deferred Commencement

This is a 'Deferred Commencement Consent' under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended). This Consent does not become operative until the proponent has satisfied the following requirements:

- (a) The developer, in consultation with Council, shall secure an easement of access 6 metres wide over Council's foreshore public reserve (Lot 4 DP1138056). A copy of the registered plan of easement shall be submitted to Council upon registration at the Office of Land and Property Information.

All issues shall be satisfactorily resolved within a period of 12 months from the 'Determination Date', as shown on this Consent.

Upon compliance with the issues specified, and written confirmation from Council to that effect, the Consent shall become operative from a 'Consent to Operate Date' (to be included on the written confirmation) subject to the conditions listed in Part B to this Consent and any additional conditions arising from the requirement of Part A.

Part B - Conditions of Approval

1. Development shall take place in accordance with the Approved Development Plan, the application form and any supporting documentation received with the application, except as may be amended by the following conditions.

The plans and supporting documentation for the purpose of this condition are:

- a. Environmental Impact Statement Proposed Marina and Temporary Land Facilities Cattle Bay Road Eden Royal inclusive Appendices number 1 to 20 Haskoning DHV and Inspire Urban design and Planning 4 August 2014.
- b. Cattle Bay Marina Response to Agency Submissions Relating to Aquatic Ecology Ocean Environmental Consulting 30 March 2015.
- c. Cattle Bay Marina Operational Environmental Management Plan Royal Haskoning DHV and Advanced Marina Management Pty Ltd March 2015.
- d. Cattle Bay Marina Construction Environmental Management Plan Royal Haskoning DHV April 2015.
- e. Cattle Bay Marina Response to Submissions on EIS Geotechnical Investigations Royal Haskoning DHV April 2015.
- f. Cattle Bay Marina Operational Noise Management Plan at Cattle Bay Road Eden West and Associates Pty Ltd 7 April 2015.
- g. Cattle Bay Marina Construction Noise Management Plan at Cattle Bay Road Eden West and Associates Pty Ltd 7 April 2015.
- h. Cattle Bay Marina Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts Royal Haskoning DHV 8 April 2015
- i. Cattle Bay Marina Response to Submissions on EIS Refurbishment and Maintenance Works for the Existing Jetty Royal Haskoning DHV 8 April 2015.

- j. Response to Submissions Development Application No.2014.430 For Cattle Bay Marina Andrew Wilson Town Planning Consultancy Service 10 April 2015.
- k. Supplementary Report Cattle Bay Marina – Acoustic Services – Wave Attenuator Noise West and Associates Pty Ltd 3 June 2015.

Cattle Bay Marina Water Quality Management Plan Version #2 Ocean Environmental Consulting 23 June 2015.
- l. Supplementary Report Cattle Bay Marina Response to Agency Submissions relating to Aquatic Ecology #2 Ocean Environmental Consulting 30 June 2015.
- m. Development Application No. 2014.430 For Eden Cattle Bay Marina – Response to Second Round of Submissions Andrew Wilson Town Planning Consultancy services 9 July 2015.
- n. Modified Plans – Proposed Cattle Bay Marina and Wave Attenuator Detail General Arrangement Stages 1 and 2 Plan reference 8A0458/MA/SK 10 and SK 11 Royal Haskoning DHV 7 August 2015.
- o. Cattle Bay Marina Development Application Acoustic Report at Cattle Bay Road Eden West and Associates Pty Ltd Issue E 13 October 2015.
- p. Cattle Bay Marina Development Application Air Quality Report at Cattle Bay Road Eden West and Associates Pty Ltd Issue C 14 October 2015.

Reason: To ensure that the proposed development is undertaken in accordance with the above documentation and the conditions imposed in this Consent.

Construction Certification and Nomination of Principal Certifying Authority

- 2. The proponent shall obtain a construction certificate for both the land and water based components of the approved marina development from the Bega Valley Shire Council or an appropriately accredited private certifier prior to the commencement of any work. The proponent shall forward a copy of any construction certificate issued by a private certifier to the Bega Valley Shire Council at least 2 days before the commencement of work.
- 3. The proponent shall appoint a principal certifying authority before the commencement of work and provided details of the principal certifying authority (if not the Bega Valley Shire Council) to the Bega Valley Shire Council at least 2 days prior to the commencement of work.

Reason: To ensure that work associated with the construction of the approved marina development is compliant with the requirements of this consent and relevant construction standards.

Design Parameters

- 4. The proposed marina development shall be designed and constructed in accordance with:
 - a. Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'.
 - b. Australian Standard AS4997 – 2005 'Guidelines for the Design of Maritime Structures'.
 - c. NSW Maritime Authority Guidance Note 8.3.02.

5. Prior to the issue of any construction certificate, a design verification statement shall be submitted to the Principle Certifying Authority confirming compliance with the above Standards. The design verification statement shall be prepared by a suitably qualified and experience professional to the satisfaction of the Principle Certifying Authority.
6. The Construction Environment Management Plan shall be amended accordingly to give effect to this condition.

Reason: These conditions are required to ensure that the proposed marina development is designed and constructed to a standard which is structurally sound and does not comprise safe navigation, patron and public safety.

7. As part of any subsequent construction certificate application, detailed siting and engineering design plans for the wave attenuator shall be submitted to the Principal Certifying Authority for endorsement.

The siting and design of the wave attenuator shall be consistent with Approved Development Plans and the modelled design in the report prepared by Carno 'Cattle Bay Marina, Eden – Wave Modelling' dated 28 July 2014 and subsequent correspondence by Royal Haskoning DHV entitled "Cattle Bay Marina – Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts" dated 8 April 15.

The plans shall be prepared and certified by a chartered professional engineer.

8. All work required in the construction of the wave attenuator shall be undertaken and completed in accordance with the certified siting and engineering design plans. On completion, the works are to be certified by the chartered professional engineer as being compliant with the endorsed plans and documentation submitted to the Principal Certifying Authority to give effect to this condition.

Reason: These conditions are considered warranted to ensure that the wave attenuator has been suitably designed and constructed.

Developer Contribution

9. Payment to Council of the following contribution pursuant to *Section 94A of the Environmental Planning and Assessment Act* and *Bega Valley Section 94 and 94A Contributions Plan 2014* prior to the release of the Construction Certificate.

Contribution type	\$ Total	Allocation No.
Section 94A contribution	\$55,000.00	11320.1600.1612

Indexation: Where the monetary contribution is not paid before the first anniversary of the date of this development consent, the contribution amount must be indexed between the date of the consent and the date of payment, in accordance with annual movements in the Consumer Price

Index (All Groups Index) for Sydney published by the Australian Statistician.

Time for payment: Deferred payments of contributions may be accepted in certain circumstances and will need to be secured by bank guarantee. Refer to the contributions plan for Council's policy on deferred payments.

Reason: To ensure the provision and adequacy of public infrastructure within the Bega Valley Shire for the users of new developments.

State Agency Requirements

Trade and Investment - Crown Lands

10. Prior to the issue of any construction certificate by the Principal Certifying Authority, the proponent shall enter into an appropriate lease arrangement with Trade and Investment Crown Lands over the occupation of Crown Lands associated with the construction and operation of the proposed marina development.

A copy of the lease shall be submitted to Council prior to the commencement of works or occupation of the lands nominated in the lease.

Reason: To ensure the requirements of Trade and Investment Crown Lands.

NSW Environment Protection Authority

11. The marina development shall comply with the General Terms of Approval issued by the NSW Environment Protection Authority on 16 October 2015.

Note: The General Terms of Approval issued by the Authority are provided as Attachment A to this development consent.

Reason: To ensure the requirements of NSW Environment Protection Authority are imposed as conditions and are fully implemented to the satisfaction of the Authority.

Department of Primary Industries – Fisheries NSW

12. The marina development shall comply with the General Terms of Approval and supplementary conditions issued by the Department of Primary Industries Fisheries NSW on 28 May 2015 and 18 August 2015.

Note: The General Terms of Approval and supplementary conditions issued by the Department are provided as Attachment B to this development consent.

Reason: To ensure that the requirements of the Department of Primary Industries - Fisheries NSW are imposed as conditions and are fully implemented to the satisfaction of the Department.

Roads and Maritime Services

13. A Network of Aids to Navigation shall be installed on and around the proposed marina in consultation with Roads and Maritime Services (and in compliance with System A of the International Association of Lighthouse Authorities) at the proponent's cost.
14. The permissive occupancy licence issued by NSW Crown Lands for the proposed marina shall not include waters west of the fixed marina structure, or waters to the east of the fixed marina structure without further consultation with Roads and Maritime Services (to date, the extent of any occupation licence has not been provided to Roads and Maritime Services, and this will have implications for mooring relocation and navigation).

15. The proponent shall acknowledge that Roads and Maritime Services has provided comment only on the implications for navigation safety and swing moorings of the proposed development, and in doing so Roads and Maritime Services has not provided support or otherwise towards any other aspect of the proposal including whether government funding is to be provided for any part of the proposed infrastructure such as the breakwater/attenuator.

Reason: To ensure that the requirements of the Roads and Maritime Service are imposed as conditions and are fully implemented to the satisfaction of the Service.

Port Authority of NSW

16. Prior to the commencement of waterside construction works, Harbour Master approval for the proposal is required to be obtained under Clause 67 of the Management of Waters and Waterside Lands Regulations – NSW in relation to the proposed disturbance of the bed of a 'special port'.
17. Consultation with the Harbour Master for the Port of Eden regarding the proposed development should occur to discuss the requirements for the Harbour Master approval as well as to deal with concerns relating to lighting of the development during construction and operation and impacts on shipping navigation.
18. The Harbour Master shall be consulted in the development and endorsement of any subsequent swing mooring relocation plan.
19. For reporting purposes, Section 4.4 of the Construction Environmental Management Plan shall be appropriately amended nominating the Harbour Master as the first point of contact in the event of any spills or leaks into the waterway.
20. Section 9 of the Operational Environmental Management Plan shall be amended to include an additional management task to ensure all relevant authorities (including the Harbour Master) are immediately contacted in the event of any spills or leaks from vessels resident to or visiting the marina and/or from any marina infrastructure associated with the operation of the marina.

Reason: To ensure that the requirements of the Port Authority NSW are imposed as conditions and are fully implemented to the satisfaction of the Authority.

Public Access

21. Prior to the issue of any construction certificate, the proponent shall negotiate with and enter into a lease arrangement with the Department of Trade and Investment – Crown Lands which, among other things, shall secure lawful public access over the existing wharf component of the proposed marina development. A copy of the endorsed lease shall be submitted to Council within 3 months of its endorsement date to give effect to this condition.
22. Unrestricted public access to the existing wharf component of the marina shall be maintained at all times to Council's satisfaction unless closure is in the interest of public safety and/or security.
23. Public access to the floating component of the marina shall be maintained between the hours of 7am to 6pm (Summer daylight saving) and 7am to 5pm (non daylight saving) to Council's satisfaction unless closure is in the interest of public safety and/or security.

Reason: These conditions are required to ensure public access to the marina development.

Sustainable Design

24. The following requirements shall be designed and installed in the development:

- a) water efficient fixtures and fittings of minimum rating in accordance with Australian and new Zealand Standard AS/NZS 6400.2005;
- b) high efficiency lighting throughout the development;
- c) solar hot water system to service the needs of the management/facilities building.

All sustainable commitments shall be fully detailed on the construction plans and/or associated specifications and submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.

The Construction and Operational Environmental Management Plans shall be amended accordingly to Council's satisfaction.

Reason: This condition is required to help ensure an acceptable level of sustainability.

25. The Construction and Operational Environmental Management Plans shall be amended to reference the report prepared by Ocean Environmental Consulting entitled "Cattle Bay Marina Water Quality Management Plan #2 dated June 2015 inclusive of the water quality management and mitigation measures to be initiated during construction and operation of the marina and water quality monitoring protocols.

The Construction and Operational Environmental Management Plans shall be submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.

Reason: This condition is required to ensure water quality and the implementation of appropriate mitigation measure as warranted.

26. The Construction and Operational Environmental Management Plans shall be amended to address the management (inclusive of storage, resource recovery and spill prevention/mitigation) of solid, liquid and hazardous waste during the construction stage and over the long term whilst the marina is operating.

The Construction and Operational Environmental Management Plans shall be submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.

Reason: To ensure that appropriate waste management strategies are endorsed and implemented to ensure environmental quality, public safety and health.

Hazard Management

27. A flood emergency response plan shall be prepared and submitted to Council for endorsement prior to the issue of any construction certificate by the Principal Certifying Authority.

The Plan shall be referenced for implementation in the Construction and Operational Environmental Management Plans.

Reason: This Condition is required to ensure the appropriate monitoring of localised flood events and that appropriate protocols are adopted and implemented to mitigate the impact of flood events on public safety, marina infrastructure and property.

28. Prior to the issue of any construction certificate a preliminary site contamination report shall be submitted to Council for concurrence.
29. Prior to the issue of any occupation certificate, a site contamination validation report is to be submitted to Council for concurrence. Any subsequent Construction Environmental Management Plan shall be amended accordingly to give effect to this condition.

Reason: These conditions are required to ensure that potential site contamination is adequately addressed and as warranted, appropriate remediation works are carried to ensure environmental integrity and public health.

Off-Street Car and Bicycle Parking

30. A minimum of 97 off street carparking spaces shall be provided in accordance with Council's adopted Bega Valley Development Control Plan 2013 and the Roads and Traffic Authority publication 'Guide to Traffic Generating Developments' 2002.

Engineering design plans for the car park including parking layout, surface paving and drainage, shall be prepared and certified by a chartered professional engineer and submitted to Council for endorsement prior to the issue of any construction certificate by the Principal Certifying Authority.

All works required in the construction of the carpark shall be undertaken and completed in accordance with the certified engineering plans prior to the issue of any subsequent occupation certificate by the Principal certifying Authority.

31. The design and construction of the carpark and driveway areas shall incorporate the provision of suitable landscaping. A detailed landscape plan for the carpark area shall be submitted and approved by Council prior to the issue of any construction certificate by the Principal Certifying Authority. The plan shall be prepared by a qualified landscape architect.

All landscape works shall be completed in accordance with the approved landscape plan prior to the issue of any occupation certificate and maintained at all times thereafter to Council's satisfaction or until such time as the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032) comes to fruition.

Reason: These conditions are required to ensure that a suitable carpark is provided on site which satisfies the traffic generating potential of the marina development and to ensure that the carpark is constructed to a standard which ensures its effective use with a minimum of maintenance whilst effectively reducing its visual impact.

32. Secure bicycle parking in accordance with AS 2890.3 1993 – Parking Facilities – Bicycle Parking Facilities, shall be provided and made available to staff and patrons of the marina and the general public at all times. Details shall be submitted to Council for endorsement prior to the issue of any occupation certificate by the Principal Certifying Authority.

Reason: To ensure the provision of suitable on-site bicycle parking which meets the operational needs of the marina and the recreational opportunities of the general public.

Biodiversity

33. Prior to the issue of any construction certificate by the Principal Certifying Authority, a Construction Environmental Management Plan shall be prepared in consultation with all relevant authorities and submitted to Council for endorsement. The form and content of the Plan shall be compliant with the Plan prepared by Royal Haskoning DHV - Cattle Bay Marina Construction Environmental Management Plan dated April 2015 and shall include (but not all inclusive) the following amendments:
- (a) Section 1.3 of the CEMP being amended to address the scope of works associated with:
 - i. the final alignment of the wave attenuator inclusive of documentation being submitted by Royal Haskoning and/or Cardno which certifies that the final design and location of the attenuator is consistent with the modelled design in the report prepared by Cardno 'Cattle Bay Marina, Eden – Wave Modelling' dated 28 July 2014 and subsequent correspondence by Royal Haskoning DHV entitled "Cattle Bay Marina – Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts" dated 8 April 15; and
 - ii. the renovation and landscaping of the carpark area and site generally as required by this consent.
 - (b) Section 1.4 of the CEMP being amended to reference and to ensure compliance with the South Australian Government Department of Planning Transport and Infrastructure Underwater Piling Noise Guidelines 2012.
 - (c) Section 4.5 of the CEMP being amended to acknowledge the presence of the *Posidonia australis* weed bed to the east of the marina site and to facilitate its location on-site as an exclusion zone during construction.
 - (d) Section 4.8 of the CEMP being amended in relation to the public notification to the effect that an introductory letter (inclusive of the construction program and sketches of the project) shall be circulated to all residences within a 250 metre radius of the construction site as measured from the end of the existing wharf structure.
 - (e) Section 4.12 of the CEMP being amended to preclude Council's foreshore public reserve (Lot 4 DP 1138056) and Cocora Beach and adjacent foreshore areas from being used as a staging area for works associated with the refurbishment of the existing wharf or the construction of the floating components of the marina or wave attenuator
 - (f) Section 4.12 of the CEMP being amended to facilitate the erection of security fencing of the boundaries of Council's foreshore public reserve (excluding the access corridor) to Council's satisfaction for the purpose of precluding direct access from the construction site and Cattle Bay Beach during construction.
 - (g) Section 4.2 of the CEMP being amended to ensure that appropriate soil and water management controls are implemented and maintained in accordance with the Landcom publication Managing Urban Stormwater: Soils and Construction 4th Edition March 2004 (Blue Book)

On endorsement, the Construction Environmental Management Plan shall be fully implemented to the satisfaction of Council and all relevant State Agencies.

34. Prior to the issue of any construction certificate by the Principal Certifying Authority, an Operational Environmental Management Plan shall be prepared in consultation with all relevant authorities and submitted to Council for endorsement. The form and content of the Plan shall be compliant with the Plan prepared by Royal Haskoning DHV - Cattle Bay Marina Operational Environmental Management Plan dated March 2013 and shall include (but not all inclusive) the following amendments.
- (a) Appendix A of the OEMP being amended to reflect the final alignment of the wave attenuator.
 - (b) Section 4 of the OEMP shall be amended to facilitate:
 - i. the independent environmental audit process being undertaken by suitably qualified and experienced persons acceptable to Council and relevant State Agencies in all fields of operation as detailed in the OEMP.
 - ii. the submission to Council for endorsement of the environmental audit inclusive of any recommendations and/or actions considered warranted to ensure the effective operation of the marina.
 - iii. the implementation, to the satisfaction of Council and relevant State Agencies, of any recommendations and/or actions identified by the environmental audit process.
 - iv. a review of the endorsed OEMP as part of the environmental audit process and the update of the OEMP as considered warranted.
 - v. the submission upon written notice of any and all matters relating to the operation of the marina which are tracked and managed through the OEMP. The information being submitted to the relevant authority within 14 business days from the endorsement date of the notice and includes (but not limited to) logs, licenses, monitoring and incident reports, registers, training, insurances, complaints, check lists and agreements.
 - (c) Section 14 of the OEMP shall be amended to facilitate:
 - i. The provision and use of a minimum of 2 mobile sewage pump out units.
 - ii. The operation of mobile sewage pump out units being only carried out by suitably trained marina personnel.

On endorsement, the Operational Environmental Management Plan shall be fully implemented to the satisfaction of Council and all relevant State Agencies.

Reason: These conditions are required to ensure that the form and content of the Construction and Operational Environment Management Plans fully address the potential impacts of the proposed marina development on biodiversity.

Aboriginal Cultural Heritage

35. Prior to the commencement of any works associated with the renovation of the existing concrete slabs, the provision of service infrastructure and site landscaping, an Aboriginal Heritage Management Plan (AHMP) shall be prepared by a qualified archaeologist in consultation with the Office of Environment and Heritage and submitted to Council for endorsement.

36. No Aboriginal objects may be harmed unless an Aboriginal Heritage Impact Permit has been issued by the NSW Office of Environment and Heritage.
37. If any Aboriginal objects are unearthed during construction all work must cease immediately and the NSW Office of Environment and heritage must be contacted for advice before any works re-commence.
38. All site workers and contractors must be provided with induction training on the identification of Aboriginal artefacts, Aboriginal cultural awareness and procedural protocols as outlined in the Aboriginal Heritage Management Plan during the construction phases of the development.
39. Section 4.10 of the Construction Environmental Management Plan shall be amended to embody the requirements of above conditions
40. Section 4.10 of the Construction Environmental Management Plan shall be amended by deleting reference to 'Heritage Act 1977' and its replacement by National Parks and Wildlife Act 1974.

Reason: These conditions are required to ensure the integrity of Aboriginal culture and heritage.

Visual Quality

41. Detailed design and construction plans of the proposed temporary building shall be submitted to Council for endorsement prior to the issue of any construction certificate by the Principal Certifying Authority. The design of the building shall have regard to the visual quality of the locality and shall include:

- (a) a design solution which positively mitigates potential visual impacts;
- (b) external building finishes (including glazing);
- (c) a colour palette (including colour samples)

The buildings shall be constructed and finished in accordance with the approved plans to the satisfaction of the Principal Certifying Authority.

42. A detailed landscape plan shall be submitted and approved by Council prior to the issue of any construction certificate by the Principal Certifying Authority. The plan shall be prepared by a qualified landscape architect. The plan shall have regard to the visual quality of the locality and shall provide for:

- (a) the provision of landscaping having a minimum width of 6 metres across the Cattle Bay Road frontage of the site;
- (b) the provision of landscaping within the carpark area including the curtilage of the temporary building;
- (c) the provision of landscaping having a minimum width of 3 metres across common boundary with Council's public reserve (Lot 4 DP 1138056).

All landscape works shall be completed in accordance with the approved landscape plan prior to the issue of any occupation certificate by the Principal Certifying Authority and maintained at all times thereafter to Council's satisfaction or until such time as the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032) comes to fruition.

43. Lighting of the marina component shall be in accordance with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'.
44. All exterior lighting of the land based components of the marina shall be located and directed in such a manner so as not to create a nuisance to the surrounding land use. The lighting shall be the minimum level of intensity needed to ensure safe access and operation of the marina.

The lighting shall be designed in accordance with Australian Standard 4282 "Control of obtrusive effects of outdoor lighting" (1997).

Reason: These conditions are required to reduce potential visual impact of the marina development when viewed from adjoining and adjacent lands and Twofold Bay.

Noise and Vibration

45. Prior to the issue of any construction certificate by the Principal Certifying Authority, Construction and Operational Noise Management Plans shall be submitted to Council for endorsement. The Plans shall be generally compliant with the Report prepared by West and Associates entitled 'Cattle Bay Marina Development Application Acoustic Report at Cattle Bay Road Eden' October 2015.

The Construction and Operational Noise Management Plans shall be referenced in both the Construction and Operational Environmental Management Plans for the marina and shall be implemented to the satisfaction of Council.

Reason: To ensure that appropriate mitigation measures are adopted and implemented to ensure the acoustic amenity locality both during construction and operation of the marina.

46. To the satisfaction of Council, Section 4 of the Construction Environmental Management Plan is to be amended to reference and give effect to German Standard DIN 4150 – 3 – Effects of vibration on structures 1999 or any subsequent Standard.
47. Prior to the issue of any construction certificate, the proponent shall submit to the Principal Certifying Authority a dilapidation report for all individual properties likely to be affected by vibration associated construction piling. Section 4 of the Construction Environmental Management Plan shall be amended to give effect to this requirement.
48. Any substantiated damage caused to dwellings in the immediate locality of the marina development caused as a result of construction piling works shall be made good and repaired to a standard at least equivalent to that existing prior to commencement of construction. Such repair works will be undertaken as a priority to ensure minimal disruption and inconvenience to affected landowners.

Reasons: These conditions are required to ensure the structural integrity of nearby dwellings during the construction stage of the marina development.

Aquaculture Integrity

49. The Draft Construction and Operational Environmental Management Plans shall be amended as appropriate to give reference to the mitigation measures and recommendations made in the Report prepared by Marine Pollution Research Pty Ltd entitled "Cattle Bay Marina Project EIS – Aquatic Ecology Assessment May 2013 to Council's satisfaction.

Reason: To ensure environmental integrity in the interests of sustainable aquaculture.

Public Interest

50. Sections 6 and 18 of the Operational Environment Management Plan shall be amended to facilitate:
- a. the provision of emergency berthing of vessels.
 - b. the casual and emergency overnight stay on vessels but limiting the period to a maximum of 6 nights to any calendar month.
 - c. the minor emergency repair and/or maintenance of vessels to restore sea worthiness.

Reason: To provide safe anchorage in the interest of public maritime safety.

Signage and Advertising

51. No advertising sign shall be erected, painted or displayed without prior approval from Council except those in accordance with Schedule 2 of Bega Valley LEP 2013 and/or the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Reason: To ensure that appropriate signage is erected which contributes to the visual quality of the locality.

Building and Health Conditions

52. The final construction plans shall demonstrate compliance for the access of people with disabilities and must be provided in accordance with the requirements of the Building Code of Australia, AS 1428.1, AS3962 and with regard to the Disability Discrimination Act 1992 - Access to Premises Standards 2010. These plans shall be submitted to Council for concurrence prior to the release of any construction certificate.
53. A revised design of the shore based amenities incorporating an additional unisex sanitary compartment with shower and an outside cold water shower are to be submitted to Council for concurrence prior to the release of any construction certificate.
54. A separate application to obtain approval to connect to council's sewerage system, undertake sanitary drainage and plumbing work under Section 68 of the Local Government Act 1993 shall be submitted to Council for approval prior to the issue of any construction certificate. A plumbing and drainage design plan is to be submitted with the application to Council.
55. A fire safety list of essential fire or other safety measures shall be submitted prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building premises in the event of fire. The fire safety list must distinguish between the measures that are:-
- a. Currently implemented in the building premises; and
 - b. To be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.

56. Toilet and shower facilities shall be made available to casual and emergency users at all times during their stay at the marina.
57. Sanitary facilities are to be made available to all visitors to the wharf during daylight hours.
58. All wharf, ramp and pontoon decks are to be finished with non-slip surface.
59. All pontoon arm gates shall be readily openable in the direction of egress without a key by way of a single downward acting handle.
60. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
61. A final Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an occupation certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979 have been satisfied.
62. The owner of a building, to which an essential fire safety measure is applicable, shall provide Council with an annual fire safety statement for the building premises. The annual fire safety statement for a building premises must: -
 - a. Deal with each essential fire safety measure in the building premises; and
 - b. Be given:-
 - Within 12 months after the last such statement was given; or
 - If no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.
63. As soon as practicable after the annual fire safety statement is issued, the owner of the building premises to which the statement relates:-
 - a. Must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades; and
 - b. Prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

Reasons: To ensure the provision of adequate public amenity in all likely circumstances in the construction and operation of the approved marina development given its coastal location and isolation.

Engineering Conditions

Roads and Easements

64. Design and construction of the following in Cattle Bay Road from its intersection with Flinders Street to the southern extent of the proposed access to Lot 2 DP 1138056:
 - i. 6.4 metre wide bitumen sealed road pavement with a 1.2 metre wide sealed road shoulder on the eastern side of Cattle Bay Road,
 - ii. all associated stormwater and subsoil drainage works,

- iii. pavement design ESA 3 x10⁵,
- iv. installation of guideposts, protection fencing, pavement markings and signposting to standards specified in the Road Design Guide published by the NSW Roads and Traffic Authority, and
- v. all other works necessary to achieve the above.

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

Erosion and Sediment Control

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

Reason: to ensure that the development does not cause erosion, sedimentation or pollution due to uncontrolled stormwater runoff.

Traffic Control

66. No work shall be carried out within 3 metres of the carriageway of the public road subject to motor vehicle traffic until Council has endorsed a satisfactory Traffic Control plan relating to that work.

The Traffic Control plan shall be prepared by a person who is authorized by Roads and Maritime Services 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.

67. The Council endorsed Traffic Control Plan shall be referenced in any subsequent Construction Environment Management Plan for the marina development and shall be implemented to give effect to this condition.

Reason: so as to ensure construction works on or adjacent to public roads are performed safely.

Protection of Existing Services and Provision of Easements

68. Prior to any site works commencing, a detailed stormwater and sewerage asset protection plan shall be submitted to and endorsed by Council. The Plan is to be developed in consultation with relevant Council Staff and is to detail all protection arrangements to ensure the integrity of Council's infrastructure with regard to the movement of heavy plant in and around the development site.
69. The endorsed asset protection plan shall be referenced in any subsequent Construction Environment Management Plan for the marina development and shall be implemented to give effect to this condition.

Reason: to ensure the integrity of Council's infrastructure during the construction works.

70. Establishment of easements to drain water not less than 3.0 metres wide in favour of Bega Valley Shire Council within Lot 2 DP 1138056 to contain stormwater drainage works that form part of the Council-controlled drainage system. A copy of the plan registered by the NSW Land Titles Office creating this easement shall be provided to the Council to demonstrate compliance with this requirement.

Reason: to secure the authority for Council to operate and maintain stormwater drainage works.

71. Establishment of easements to drain sewage not less than 3.0 metres wide in favour of Bega Valley Shire Council within Lot 2 DP 1138056 to contain sewerage reticulation works that form part of the Council controlled sewerage system. A copy of the plan registered by the NSW Land Titles Office creating this easement shall be provided to the Council to demonstrate compliance with this requirement.

Reason: to secure the authority for Council to operate and maintain the sewerage system.

72. Establishment of easements for services as necessary to provide for the connection of water supply, sewerage, electricity and telecommunications services over Lot 4 DP 1138056 to service the proposed marina berths. A copy of the plan registered by the NSW Land Titles Office creating this easement shall be provided to the Council to demonstrate compliance with this requirement.

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

Access Parking and Driveways

73. The on-site driveways and carparking areas associated with the proposed marina development shall be made available at all times to the general public for the purpose of access and parking.
74. Prior to the issue of any subsequent occupation certificate, a suitable positive covenant shall be created over Lot 2 DP 1138056 to Council's satisfaction to give effect to this requirement. Council shall be nominated as having the benefit of the covenant and the sole authority to release, vary or modify the covenant.

A copy of the registered covenant shall be forwarded to Council within 3 months of its registration by the Office of Land and Property Information.

Note: The covenant may be extinguished at such time as an alternative public carparking area has been approved and constructed to Council's satisfaction in association with the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032).

Reason: To ensure public access and on-site carparking is available at all times for the purpose of enhancing the active and passive recreational opportunities offered by Cattle Bay Beach foreshore and marina wharf.

Entrance Driveway Location

75. Detailed design of the driveway and carpark area shall avoid conflict with existing and any proposed sewer manholes.

Reason: To ensure that proposed driveway accessing the site does not encumber the function of the sewer manhole.

Soil and Stormwater Management

76. Any subsequent flood emergency response plan shall be prepared to the satisfaction of Council and shall include (but not limited to) a review of existing flood modelling and shall include inundation plans showing the extent and depth of flooding during a range of extreme storms 10, 20, 50 and 100 year ARI.

If possible, a secondary flow path through the site to convey overland flow shall be located and provided.

Reason: To minimise human risk and damage to property during an extreme storm event.

77. Prior to the issue of any subsequent construction certificate full engineering detail of the Gross Pollutant Trap and proposed method of installation shall be submitted to and approved by Council.

Stormwater runoff from the proposed car park shall be directed through a Gross Pollutant Trap, prior to discharge to a Council controlled stormwater system, or an existing waterway.

The Gross Pollutant Trap shall be designed and Installed in such a way that there is no reduction in capacity of the existing stormwater pipelines and backflow through the Gross Pollutant Trap is prevented during surcharged conditions.

Reason: To ensure the Gross Pollutant Trap is adequately sited and designed so as not to adversely impact on the function and capacity of existing stormwater infrastructure and to ensure its effectiveness with a minimum of maintenance at all times.

Utility Services

78. A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 must be obtained prior to the issue of a Construction Certificate.

Note: The development has been assessed as imposing an additional load of 59.4ET to the water supply system and 59.4ET to the sewerage network. The payment due will be calculated at the rate specified in Council's adopted Fees and Charges *at the time of payment*.

Reason: To ensure that an equitable monetary contribution is payable for the provision of water supply and sewerage treatment infrastructure required to meet the loadings generated by this development.

79. Liquid Trade Waste application is required for this development. A separate application to obtain approval to discharge liquid trade waste to council's sewerage system under Section 68 of the Local Government Act 1993 shall be submitted to council for approval prior to issue of the construction certificate. If the applicant is not the owner of the site, the applicant must obtain the owner's consent to the application. Application forms are available from Council.

80. A detailed waste water management plan shall be provided to Council for endorsement. The waste water management plan shall include, but not be limited to, the management of discharge of any boat pump out system wastes including Bilge Water, Galley Waste, Toilet Waste and Chemical Toilet Waste, carting and disposal arrangements.

Note: Council does not permit any discharge of bilge water to the sewerage system.

Reason: These conditions are to ensure compliance with the Liquid Trade Waste regulation Guidelines.

81. Detailed design of a dockside waste water pump out point, or an on-land connection point to the local sewerage system for a mobile waste water pump out unit shall be submitted to, and approved by Council.

Any on-land connection point for a mobile waste water pump out unit shall be contained entirely within the development, and may not encroach onto road reserve or public land. This connection point shall include:

- a) Physical measures for the prevention of spills
- b) Provision for wash down / cleaning of the mobile unit within a bunded area
- c) Provision of a sampling point for the quality of discharge to Council sewer
- d) Measures for the prevention of odour
- e) Physical measures to exclude unauthorised public access
- f) Ongoing maintenance and ownership of this connection point will remain the responsibility of the marina owner/operator.

Reason: To ensure the provision of a sanitary method of disposal of waste water from vessels moored at the marina facility.

General Engineering Conditions

82. Conditions to be satisfied prior to Engineering Construction Certificate (approval under Section 138 of the Roads Act and Section 68 of the Local Government Act).

The following matters shall be completed prior to the endorsement of a Construction Certificate for any part of this development:

- a. approval of detailed construction plans and specifications for access road works by Council's Group Manager Infrastructure Waste and Water or his delegate.

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

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

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

- b. It appears that this proposed development may be located below Council's sewerage system. The applicant is to provide an internal sewer drainage diagram and a concept reticulated sewerage design which verifies that the proposed development can adequately drain to the Council's reticulated sewer.

Reason: To ensure that the development can drain to Council's reticulated sewer system

- c. Lodgement of security with Council in an amount of \$10,000.00 (Allocation No. 1096 7009) as security for remedying any defects in any public work required in connection with this consent (such as road work, footway construction, stormwater drainage, water supply and sewerage works and environmental controls) that arise within six months after the works are completed, and for making good any damage caused to Council property as a consequence of the doing of anything to which the consent relates.

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

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

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

Reason: To ensure that public works are in satisfactory condition when transferred to Council and that any damage to council property is remediated.

- d. Qualifications and insurance of engineering designers (Public Works)

All public works (such as road work, kerbing and guttering, footway construction, stormwater drainage, water supply and sewerage works and environmental controls) shall be designed by persons holding suitable qualifications for the design of works of this type and current professional indemnity insurance.

Reason: to ensure appropriate professional standard.

- e. Contractor's insurance (Public Works)

Each contractor engaged in the construction of public works (such as road work, kerbing and guttering, footway construction, stormwater drainage, water supply and sewerage works and environmental controls) must hold current public liability insurance for an amount of not less than \$20,000,000.00 suitably endorsed to note the contractor and Council for their respective rights and interests.

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

Reason: To ensure that contractors hold suitable public liability insurance.

83. Conditions to be satisfied prior to occupation subject to Council acceptance.

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

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

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

a. Extension of Sewer

Council's existing reticulated sewerage shall be extended by at least 1m past the boundary of Cattle Bay road and Lot 2 DP 1138056, and shall terminate at a manhole. This manhole shall form the junction between Council's reticulated sewer, and the service line to the marina development.

Detailed design of all sewerage works to service this development shall be in accordance with Council's Development Design Specification D12 and all plans and specifications for proposed sewerage works are to be submitted to, and approved by Council.

Construction shall be carried out by a Bega Valley Shire Council accredited contractor(s) and in accordance with Council's Development Construction Specification C402 – Sewerage System.

Reason: to ensure all waste discharge is managed within the development boundary, and to provide a clearly delineated separation between private and public sewer

b. A bulk water meter, compliant with the relevant standards for fire service, shall be provided to serve this development. The water service and water meter shall be sized by a qualified person and is subject to application. The qualified person shall undertake calculation as required by the current AS 3500 and the New South Wales Code of Practice - Plumbing and Drainage and certified as true correct and satisfactory to serve the proposed development.

This certification shall be lodged with, and approved by Council prior to making application for the metered service.

Reason: To ensure that all water connections to both the land and water based components of the marina development are appropriately metered in accordance with Council's requirements.

c. A suitably qualified person shall undertake a survey for a backflow device and the results of the survey shall be lodged with Council. Upon the results of the survey being lodged with Council, if required, an approved backflow prevention device (as approved by Council) shall be fitted and tested by approved qualified personnel and registered with Council.

Reason: To protect water quality in Council's reticulated town water supply.

d. The existing water service and water meter sizes may not be suitably sized for the proposed development and may require upsizing of the water service and water meter arrangement. A hydraulic consultant or similarly suitable qualified person is required to ascertain this. The qualified person shall undertake calculation as required by the current AS 3500 and the New South Wales Code of Practice - Plumbing and Drainage and certified as true, correct and satisfactory to serve the total development. This certification shall be lodged with Council and where required, make application for modification to the metered service.

Reason: To ensure an adequate water supply and pressure to the development.

- e. Construction of bitumen sealed vehicular entrance serving lot2 DP 1138056 in conformity with Council's standard drawing 2111. The entrance is to be sealed to the property boundary.

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

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

These public works must be inspected and tested either by Council's inspector, or by an Accredited Certifier at each of the following stages of construction to confirm compliance with the standards set out in the approved plans and specifications. Any inspection and testing performed by Accredited Certifiers shall be documented by Compliance Certificate(s) for those parts of the public work.

- after placement of all signs in accordance with the approved Traffic Control Plan.
- after stripping of topsoil from roads and fill areas, all Soil & Water Management Plan controls shall be in place at this stage.
- After completion of road subgrade.
- After placement and compaction of each layer of gravel pavement material.
- Prior to the application of bitumen seal or asphaltic concrete wearing surface.
- After laying and jointing of all stormwater pipelines prior to backfilling.
- After laying and jointing of all sewerage pipelines prior to backfilling.
- During pressure testing of all sewerage pipelines.
- During testing of all sewer manholes.
- After completion of works.
- As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls.

It should be noted that Council charges fees for inspections and Compliance Certificates. These fees must be paid prior to the endorsement of a Final Occupation Certificate.

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

- g. Works as executed plans

Upon completion of all development 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 development work.

A complete record of all cadastral information, roads, stormwater drains, water supply and sewerage infrastructure works for this development shall also be provided to Council in an electronic format.

The electronic / digital data must be suitable for inclusion in Council's Geographic Information System with a brief metadata description of the projection, survey control and layers.

The preferred format for this electronic/digital data is as follows:

- File format: AutoCAD DWG or DXF files.
- Map Projection: MGA94 Zone 55
- Map Layers: To delineate map data into subdivision, water, sewer and drainage.
- Survey Control: map point location and name or table format of control points showing name and coordinates used for survey.

Data will need to be resupplied if coordinates are not valid for the surveyed area.

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.

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

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

- a. construction of electricity reticulation works and associated facilities to service both the land and water based components of the marina, in accordance with the requirements of the appropriate supply authority.

Reason: to provide appropriate electricity servicing for the development.

- b. construction of telecommunications cabling and associated facilities to service both the land and water based components of the marina, in accordance with the requirements of the appropriate supply authority.

Reason: to provide appropriate telecommunications servicing for the development

Engineering Notes

- a. Contributions/fees/charges payable will be those applicable at the time of payment.
- b. The applicant should be aware of Bega Valley Shire Council's current fees and charges.
- c. Bega Valley Shire Council Water and Sewerage Services section can provide an estimate of cost for construction works relating to Council's water and sewer infrastructure and upon acceptance and payment of the relevant fees can carry out such works.

- d. Section 64 of the Local Government Act authorises the Council to issue Certificates of Compliance under section 305 of the Water Management Act 2000.
- e. Section 64 of the Local Government Act authorises the Council under section 306 of the Water Management Act 2000 to impose a pre-condition on the grant of a Certificate of Compliance requiring payment of a specified amount by way of contribution towards the cost of water management works.

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:

1. In accordance with the provisions of Section 82A of the *Environmental Planning and Assessment Act 1979* (as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan – Fees and Charges, is payable for such a review.
2. Section 97 of the *Environmental Planning and Assessment Act 1979* (as amended), gives the applicant the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.
3. In accordance with Section 95 of the *Environmental Planning and Assessment Act 1979*, this development consent will lapse 5 years after the date from which it operates ('Consent to Operate' date) unless work is physically commenced, on the land to which the consent applies, before the date on which the consent would otherwise lapse ('Consent to Lapse' date).
4. Before any building or subdivision works are commenced a Construction Certificate must be obtained from Council or an accredited certifier.
5. 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.

BEGA VALLEY DEVELOPMENT CONTROL PLAN 2013

The Plan supplements the Bega Valley Local Environmental Plan 2013 by providing detailed reasoning, guidelines, requirements and general information relating to the decision making process and ensures that future development is consistent with the desired future character and community vision for the Bega valley Shire's towns, villages, urban settlements and rural areas.

The development application has been assessed in accordance with relevant sections of the Plan which are outlined below with staff comment:

1. Access and Mobility (Clause 5.3)

The stated Objective of the Plan is:

“Improve physical access to the built environment which includes all public access building, paths of travel, streetscape, accessible parking, amenities and Council facilities.”

Among other forms of land use, the Plan applies to:

“other building intended for use by the public or development proposal deemed by Council to have likely access and mobility impacts.”

Comment

The EIS has acknowledged that the proposed marina development must be design compliant. However, specific detail has not been submitted.

Access across the land and water based components of the proposed marina must be compliant with the Building Code of Australia, Australian Standard 1428 – Design for Access and Mobility and AS 3962-2001 – Guidelines for the design of marinas.

Detail demonstrating compliance would be submitted to the Principal Certifying Authority with any subsequent application for the issue of a construction certificate.

2. Social and Economic Impacts (Clause 5.4)

The stated Objective of the Plan is:

“Ensure the impacts of certain development on social and economic factors are considered.”

Among other forms of land use, the Plan applies to the likes of:

“tourist facilities” and “any development proposal deemed by Council to have likely significant social or economic impacts”.

In order to enable a full assessment of social and economic impacts, the Plan requires the submission of a Socio-Economic Impact Assessment. No specific document has been submitted in support of the current application.

Notwithstanding, the EIS has identified the qualitative social and economic impacts (positive and negative) of the proposed marina development. The positive impacts being:

- An increase in the supply of locally based employment opportunities with Eden to meet the needs of residents; enhancing income, prosperity and quality of life.
- Access to short term employment opportunities and the provision and injection of additional wages and investment/expenditure within the community and local economy during construction;
- The effective use of a large underutilised parcel of land within the Eden Township having good access to complementary and support activities and infrastructure.
- Enhanced passive and active recreational opportunities through the creation of lawful public access to the Cattle Bay foreshore inclusive of the adjoining public reserve, beach area and existing wharf.
- The provision of new tourist facilities which would enhance the attractiveness of the Town and Region thereby having economic benefit.

The negative impacts being:

- Disruption associated with the relocation of existing swing moorings
- Potential environmental impacts.

Comment

The EIS concludes that the proposal would deliver a modern boating facility which would attract additional investment and expenditure in tourism and marine related industries through its construction and operation and would contribute to recreation and lifestyle opportunities for the local community and Shire generally.

It is considered that the social and economic impacts of the proposed marina development have been adequately addressed by the EIS and are generally beneficial.

3. Sustainable Design Principles (Clause 5.5)

The Plan embodies the Principles of Ecological Sustainable Development.

The stated Objective of the Plan is:

“Ensure that sustainable design principles are considered in developments.”

Ecological Sustainable Development, according to the National Strategy, means using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained and the quality of life for both

present and future generations is increased. Sustainable development in the National Strategy is embraced in four principles which are also expressed in Schedule 2, Clause 6 (Justification of Development).

These include:

The Precautionary Principle

Applying the precautionary principle requires an assessment to be made based on:

- whether or not the potential impacts of a development pose a threat of serious or irreversible damage on human health or the environment; and
- the lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Comment

It is considered that the potential impacts associated with the proposed marina development have been identified and quantified with an adequate degree of certainty and that they can be mitigated through the adoption and implementation of appropriate construction and operational management controls.

In this regard, the EIS is supported by draft construction and operational environmental management plans which acknowledge potential impacts and cite appropriate mitigation measures.

Intergenerational Equity

Intergenerational Equity requires that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

Comment

It is considered that the proposed marina development aims to provide boat storage facilities and services to meet demand whilst ensuring environmental integrity through best practice controls and management consistent with social and intergenerational equity.

In this regard, the EIS is supported by draft construction and operational environmental management plans which acknowledge potential impacts and cite appropriate mitigation measures.

Conservation of Biological Diversity and Ecological Integrity

Biological diversity refers to the diversity of genes, species, populations, communities and ecosystems and the linkages between them.

Comment

It is considered that potential impacts associated with the proposed marina development on biodiversity have been more than adequately addressed through the EIS and evaluation process.

On review, the proposed marina development would not have an adverse impact on biodiversity diversity and ecological integrity and would embellish environmental quality and habitat opportunity.

In this regard, the EIS is supported by draft construction and operational environmental management plans which acknowledge potential impacts and cite appropriate mitigation measures.

Improved Valuation, Pricing and Incentive Mechanisms

This principle is a component of “intergenerational equity” and establishes the need to determine economic values for services provided by the natural environment, for example, the atmosphere’s ability to receive emissions, cultural values and visual amenity.

Comment

The EIS concludes that the value of environmental resources affected by the proposed marina development has been acknowledged and provided for through the examination of environmental consequences and the identification of appropriate mitigation measures needed to address potential impacts, including any short term construction impacts.

In this regard, the EIS is supported by draft construction and operational environmental management plans which acknowledge potential impacts and cite appropriate mitigation measures.

In addressing ESD principles, consideration has also been given to:

- **Energy**

Comment

There is little opportunity to adopt measures to incorporate ESD principles into the design, construction and operation of the proposed marina due to the limited scope of works and operational activities.

The ongoing operation of the marina can adopt a number of measures that reduce its environmental footprint such as recycling and reduction in water and energy consumption. However, an influence would rely on the awareness and commitment of the marina operator and patrons.

The preparation, adoption and implementation of a water, waste and energy plan would help achieve a reasonable level of sustainability. Such a plan could form part of any subsequent construction or operational environmental management plan.

The following condition is recommended:

- **The following requirements shall be designed and installed in the development:**
 - a) **water efficient fixtures and fittings of minimum rating in accordance with Australian and new Zealand Standard AS/NZS 6400.2005;**
 - b) **high efficiency lighting throughout the development;**
 - c) **solar hot water system to service the needs of the management/facilities building.**

All sustainable commitments shall be fully detailed on the construction plans and/or associated specifications and submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.

The Construction and Operational Environmental Management Plans shall be amended accordingly to Council's satisfaction.

Reason: This condition is required to ensure an acceptable level of sustainability.

- **Water Resources**

The EIS is supported by a water quality Management plan. The Plan has been prepared by Ocean Environmental Consulting and is entitled 'Cattle Bay Marina Water Quality Management Plan #2 dated June 2015

The Plan quantifies a number of potential impacts on marine ecology and aquaculture activities in Twofold Bay.

In recognition, the Plan makes specific recommendations in relation to water quality management and/or mitigation measures to be employed in the construction and operation of the proposed marina.

Comment

It is considered that the Plan's form and content are acceptable and environmentally responsible. Accordingly, the Plan should be referenced in any subsequent construction environmental management plan and operational environmental management plan for implementation.

The following condition is recommended:

- **The Construction and Operational Environmental Management Plans shall be amended to reference the report prepared by Ocean Environmental Consulting entitled “Cattle Bay Marina Water Quality Management Plan #2 dated June 2015 inclusive of the water quality management and mitigation measures to be initiated during construction and operation of the marina and water quality monitoring protocols.**
The Construction and Operational Environmental Management Plans shall be submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.
Reason: This condition is required to ensure water quality and the implementation of appropriate mitigation measure as warranted.

- **Ecology**

The EIS and supplementary supporting documentation concluded that the biodiversity impacts have been adequately quantified and with appropriate mitigation measures (as detailed in the submitted Construction and Operational Environmental Management Plans), the land and water based components of the proposed marina development would not have a significant impact on biodiversity.

Comment

The position is supported by Council staff as well as the relevant State Agencies.

- **Stormwater Management**

The land based component of the proposed marina development comprises the erection of a temporary building, service infrastructure and the renovation of the concrete slabs to facilitate the on-site provision of carparking.

Refurbishment and temporary use of existing stormwater drainage system incorporating the provision of a new gross pollutant trap is proposed for the purpose of accommodating the development.

Comment

The issue of stormwater management is addressed in Section 8.7 of this Report.

- **Transport**

The marina development would be accessible by walking and/or cycling. However, the development would be remote from public bus routes in and around the Eden Township.

There is a local taxi service.

Comment

Given the above, the proposed marina development would be mostly car dependent which is not uncommon to marina developments given their operational characteristics.

- **Waste Management**

Given the siting and design characteristics of the proposed buildings and structures and documented construction techniques and standards, the volume of waste generated during construction would not be significant.

It is to be noted that construction would not involve land modification or dredging.

Operational aspects of the proposed marina development would result in the generation of waste in the form of solid and liquid waste comprising general garbage, sewage and bilge water.

Comment

The preparation of a waste minimisation and management strategies would be embodied in the preparation, adoption and application of construction and operation environmental management plans.

The following condition is recommended:

- **The Construction and Operational Environmental Management Plans shall be amended to address the management (inclusive of storage, resource recovery and spill prevention/mitigation) of solid, liquid and hazardous waste during the construction stage and over the long term whilst the marina is operating.**
The Construction and Operational Environmental Management Plans shall be submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.
Reason: To ensure that appropriate waste management strategies are endorsed and implemented to ensure environmental quality, public safety and health.

- **Indoor Environment Quality**

Comment

The design of the proposed temporary building would need to comply with the provisions of the Building Code of Australia.

- **Innovation and Area**

Comment

Given nature of the development, little opportunity exists to embrace innovation in design, technology and processes which positively influence sustainability of buildings and the surrounding area in general.

None the less, the building and water based components of the marina would integrate effectively:

- through the use of quality design and construction standards and methods commensurate with modern marina development;

- through the provision of access for all ages and capabilities;
- by improving landscape quality in context with the natural and built environments;
- by securing public access to the foreshore and wharf thus contributing to the availability of passive and active recreational opportunities.

Comment

It is considered that the Principles of Ecological Sustainable Development have been adequately addressed and responded to as warranted.

4. Planning for Hazards (Clause 5.8)

• Flood Planning (Clause 5.8.1)

The stated Objectives of the Clause are:

- “Minimise the impacts of flooding on development within flood prone land or potentially flood prone land.
- Ensure that development on flood prone land is consistent with the objectives of the NSW Flood Prone Land Policy 1984 and NSW Floodplain Development Manual 2005.
- Ensure the impact of climate change is considered when assessing development of flood prone land.”

The temporary buildings associated with the land based component of the marina may intermittently be exposed to minor flooding during major storm events.

Works to address the issue would be cost prohibitive given the nature and extent of any inundation and the level of development proposed (temporary building and open air carpark).

The EIS recommends the preparation, adoption and implementation of a ‘flood emergency response plan’. Such a plan could involve the monitoring of flood events, actions for evacuation of staff and visitors and recommendations relating to the provision of fencing, signage, power, lighting and mitigating the risk associated with debris impact to buildings.

The preparation, adoption and implementation of a flood emergency response plan is considered appropriate as previously discussed and would not be inconsistent with the Objectives of the Plan.

The following condition is recommended:

- **A flood emergency response plan shall be prepared and submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.**
The Plan shall be referenced for implementation in the Construction and Operational Environmental Management Plans.
Reason: This Condition is required to ensure the appropriate monitoring of localised flood events and that appropriate protocols are adopted and implemented to mitigate the impact of flood events on public safety, marina infrastructure and property.

- **Coastal Hazards (Clause 5.8.2)**

The stated Objectives of the Plan are:

- “To guide development in areas of potential coastal risk until detailed mapping is completed by Council.
- Ensure that development on coastal land is consistent with the objectives of the NSW Coastal Planning Guideline : Adapting to Sea Level Rise 2010
- Ensure the impact of climate change is consistent when assessing development on coastal land.”

The proposed marina development would be exposed to and would influence coastal processes. In response, the EIS quantifies the potential impacts associated with:

- Wave climate (local wind generated waves and ocean swells).
- Elevated water levels (climate change).
- Water movement patterns.
- Sediment movement and shoreline stability.

Comment

It is considered that the EIS has adequately identified and addressed potential impacts and responded through the siting and design of the proposed marina development. Accordingly, the Objectives of the Plan have been satisfied.

See Sections 8.4, 10.4 and 10.5 of this Report.

- **Contaminated Land (Clause 5.8.3)**

The stated Objective of the Plan is:

- “Safeguard and improve the quality of public and environmental health by ensuring that any land contamination issues are resolved in the planning process.”

The EIS has acknowledged that extensive site investigation and reporting was undertaken to address potential site contamination in the assessment and determination of the Major Project Concept Approved (05_0032).

The Concept Approval identifies that some site remediation would be necessary in accordance with the recommendations contained within the report prepared by Aargus dated June 2007 entitled 'Environmental Site Assessment'. A suitable condition was imposed on the Concept Approval.

The Report recommended the removal of the 150mm of the site and additional validation testing to confirm that all soils on-site meet respective land use criteria and concluded, that the site would be suitable to sustain the development provided the recommendations in the Report were acted on.

Comment

The Report did not address the potential contamination by asbestos.

Of more recent times, site contamination from asbestos has been confirmed. The contamination is not insignificant and resulted from the part demolition and vandalism of an old cannery building.

The matter is currently being addressed by Council. Remediation works are to be undertaken culminating in the issue of an occupational hygienists clearance certificate in the near future.

The current application does not involve the residential development of the land and only minimum site disturbance is proposed with the erection of the proposed management buildings, renovation of concrete slabs (carpark area) and provision of service infrastructure.

Notwithstanding, it is proposed to require a contamination report prior to the occupation of the site to ensure any asbestos contamination has been remediated.

The following conditions are recommended:

- **Prior to the issue of any subsequent construction certificate a preliminary site contamination report shall be submitted to Council for concurrence.**
- **Prior to the issue of any subsequent occupation certificate, a site contamination validation report is to be submitted to Council for concurrence. Any subsequent Construction Environmental Management Plan shall be amended accordingly to give effect to this condition.**
Reason: These conditions are required to ensure that potential site contamination is adequately addressed and as warranted, appropriate remediation works are carried to ensure environmental integrity and public health.

5. Off-street Car and Bicycle Parking (Clause 5.8.6)

The stated Objectives of the Plan are:

- “Determine the number of off-street parking spaces provided on the site to alleviate undue congestion in adjacent streets.
- Provide secure and accessible parking on-site to meet the needs of residents and visitors.”

The Plan does not specifically nominate the carparking requirements for marina development. However, in the absence of any nominated requirements, the Plan references The Roads and Traffic Authority publication ‘Guide to Traffic Generating Developments’ 2002.

The Guide recommends the provision of an on-site carparking requirement based on:

- 0.6 spaces per wet berth.
- 0.5 spaces per marina employee.

This equates to the need to provide 97 onsite carparking spaces. The application identifies the provision of the required 97 spaces as well as an additional 3 loading/unloading spaces.

The EIS is supported by a detailed traffic impact study prepared by Transport and Traffic Planning Associates entitled “Proposed Marina Development Cattle Bay Eden – Assessment of Traffic and Parking Implications” dated July 2014.

The carparking spaces would be located on the existing concrete slabs and stormwater drainage system remnant to the old cannery until such time as the land based, mixed tourist/residential development is constructed. At that time, the required on-site carparking and servicing arrangements for the marina would be incorporated into the design and construction of the land based development.

The existing concrete slabs would require renovation to ensure their effective use and maintenance for the purpose of carparking.

No detail (apart from brief comment in the EIS and notation on the submitted ‘Site Development and Stormwater Plan’) has been submitted as part of the current application which outlines the actual extent of the works involved.

Also, no detail has been submitted in relation to the provision of landscaping within the carparking area to help reduce its potential visual impact when viewed from adjoining and adjacent lands and waterway.

This matter will be discussed further in Section 10.7 to this Report.

The fact that the area has been subject to a Major Project Concept Approval (05_0032) for a mixed tourist and residential development should not limit the scope of the land based component of the proposed marina development in terms of

providing a carparking area which is compliant with relevant design standards and which contributes to the scenic quality of the area.

Should the mixed tourist and residential development proceed to the preparation and lodgment of a development application, it will need to address the loss of on-site carparking associated with the marina development and public availability at that time.

In light of the above, it is considered that the proposed carparking and driveway areas should be subject to the preparation and endorsement of engineering design plans which also provides for the establishment of suitable landscaped areas within the carpark. The works would need to be completed in accordance with the approved plans prior to the issue of any subsequent occupation certificate.

The following conditions are recommended:

- **A minimum of 97 off street carparking spaces shall be provided in accordance with Council's adopted Bega Valley Development Control Plan 2013 and the Roads and Traffic Authority publication 'Guide to Traffic Generating Developments' 2002.**

Engineering design plans for the car park including parking layout, surface paving and drainage, shall be prepared and certified by a chartered professional engineer and submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.

All works required in the construction of the carpark shall be undertaken and completed in accordance with the certified engineering plans prior to the issue of any subsequent occupation certificate by the Principal certifying Authority.

- **The design and construction of the carpark and driveway areas shall incorporate the provision of suitable landscaping. A detailed landscape plan for the carpark area shall be submitted and approved by Council prior to the issue of any subsequent construction certificate by the Principal Certifying Authority. The plan shall be prepared by a qualified landscape architect.**

All landscape works shall be completed in accordance with the approved landscape plan prior to the issue of any subsequent occupation certificate

and maintained at all times thereafter to Council's satisfaction or until such time as the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032) comes to fruition.

Reason: These conditions are required to ensure that a suitable carpark is provided on site which satisfies the traffic generating potential of the marina development and to ensure that the carpark is constructed to a standard which ensures its effective

use with a minimum of maintenance whilst effectively reducing its visual impact.

There is ample opportunity within the development site for the provision of bicycle parking for both staff and patrons of the marina and general public.

The following condition is recommended:

- **Secure bicycle parking in accordance with AS 2890.3 1993 – Parking Facilities – Bicycle parking facilities, shall be provided and made available to staff and patrons of the marina and the general public at all times. Details shall be submitted to Council for endorsement prior to the issue of any subsequent occupation certificate by the Principal Certifying Authority.**

Reason: to ensure the provision of suitable on-site bicycle parking which meets the operational needs of the marina and the recreational opportunities of the general public.

6. Signage and Advertising (Clause 5.11)

The stated Objective of the Plan is:

- “Ensure that the design and location of signage complements the development on which it is displayed and the amenity and character of the surrounding area.”

No details have been submitted as part of the current application.

As such, it is considered that a suitable condition should be imposed on any subsequent consent requiring the submission of a detailed development application for the erection of any commercial signage and/or advertising associated with the marina development.

The following condition is recommended:

- **No advertising sign shall be erected, painted or displayed without prior approval from Council except those in accordance with Schedule 2 of Bega Valley LEP 2013 and/or the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.**

Reason: To ensure that appropriate signage is erected which contributes to the visual quality of the locality.

7. Engineering Requirements (Clause 6)

The stated Objectives of the Clause are:

- “Ensure all aspects of design and construction of subdivision and development works conform to sound engineering practice, and recognised codes and standards.
- Implement best practice water quality controls.”

This section of the Plan applies to all development, including subdivision, where permissible within the Bega Valley Shire.

For the purpose of addressing the requirements of the DCP, comment has been sought from Council’s Development Engineering staff as detailed below.

Roads and Easements (Clause 6.1)

Cattle Bay Road upgrade requirement

Council’s Development Control Plan requires road pavements to be designed to accommodate the predicted traffic volume over a service life of not less than 25 years, taking into account the potential growth in traffic from the development of surrounding lands.

The EIS is supported by a detailed traffic impact study prepared by Transport and Traffic Planning Associates entitled “Proposed Marina Development Cattle Bay Eden – Assessment of Traffic and Parking Implications” dated July 2014.

The purpose of the Report being:

- describe the site and the proposed development scheme;
- describe the road network serving the site and the prevailing traffic conditions;
- assess the vehicle access arrangements and potential traffic implications
- assess the adequacy of the proposed parking provision; and
- assess the proposed internal circulation and servicing arrangements.

In addressing the capacity and function of the local road network and potential impacts generated by the proposed marina development, the Report draws technical data from a report prepared by Christopher Hallam and Associates Pty Ltd entitled “The Traffic and Parking Implications of Marina Developments dated November 2008.

Drawing on technical data from Hallam’s Report, the report by Transport and Traffic Planning Associates concludes that the capacity and function of intersections and access roads in the vicinity of the subject site would not require any upgrade to accommodate the construction and operation of the proposed marina.

In addressing the potential impacts of the proposed marina on the capacity and function of the local road network, Council's Engineer Staff has advised that the existing carriageway of Cattle Bay Road in the location of the development site varies in width between 5.0 metres and 7.5 metres wide. The majority of the carriageway is 5.4 metres wide, with an existing sealed shoulder, varying in width, on the eastern side of the road. The western side of the carriageway is unsealed and contains a table drain.



*View taken from within road reserve looking east across the frontage of the site -
Source: Bega Valley Shire Council September 2015.*



View taken from within road reserve looking west across the frontage of the site -

Source: Bega Valley Shire Council September 2015.

A road in this location, servicing a development of this nature, would normally require a construction standard comprising an 8.0 metre wide bitumen sealed carriageway, with kerb and gutter, and a 1.2 metre wide concrete footpath formed on one side.

Council's current minimum standard for a 2 lane bitumen sealed road which does not have kerb and gutter is a 6.4 metres wide bitumen sealed road pavement, with a 1.2 metre wide sealed road shoulder on each side of the carriageway. Initially, Council was of the opinion that the existing road formation should be upgraded to this standard from the south east boundary of the development site to the intersection of Cattle Bay Road and Flinders Street, a distance of approximately 450 metres.

This was conveyed to the proponent who responded by seeking a dispensation from any road upgrade based on the following:

- the traffic generating potential of the marina being 40 vehicle movements (in/out) per day (am/pm peak periods)
- the distribution of traffic being 70% to/from the Princes Highway and 30% to/from Cocora Street.
- the Cattle Bay Road – Cocora Street route to/from the marina development is in good condition.
- the operation of the former cannery employed a workforce of 500 persons at its peak and generated traffic in the form of heavy trucks and light vehicle far in excess of the traffic generated by the proposed marina development.
- the proposed marina development would generate very infrequent movements of large vehicles as compared to the past cannery operations.
- the Major Project Concept Approval (05_0032) for the mixed tourist and residential development would have a greater traffic generating potential to that of the proposed marina. The Approval did not require road upgrades to Cattle Bay Road beyond the frontage to the site.

In addressing the above, Council Engineering Staff have advised:

- that the standard of road construction along Cattle Bay Road from the south east boundary of the development site to its intersection with Flinders Street (a distance of approximately 450 metres) is inadequate to meet the traffic generating potential of the marina development and as such, requires upgrading to a minimum standard of construction over that distance to ensure road safety.
- the standard of road construction has been re-assessed and would comprise a 6.4 metre wide bitumen seal pavement, with a 1.2 metre wide shoulder on only one side of the carriageway. This differs from Council's previous advice to the proponent as mentioned above. This standard is considered appropriate as it would be accommodated on the existing road bench.

- Existing Intersection treatments in the vicinity of the subject site would not require upgrading.
- investigations indicate that the cannery employed a staff of 143 (at the time of closure) and 180 staff at its height. Also, the majority of staff lived locally and a large proportion walked to work. Accordingly, the reference made to the cannery operation and its assumed reliance on private vehicle usage would not sustain a waiver of the need to up-grade Cattle Bay Road.
- the fact that the cannery operation involved the road transport of product and use of heavy vehicles is not questioned. Notwithstanding, the cannery operated from 1944 to 1999 and existing road standards at that time were considered adequate.
- the proposed carpark area will be available to the public which will contribute to the traffic generating potential of the proposed marina development.
- the Major Project Concept Approval (05_0032) is just that. Any subsequent development on the site of the approval would be subject to the preparation and lodgment of a detailed development application. At that stage, the traffic generating potential of the proposed development would be assessed in context with the adequacy of the local road network. Road up-grades would be sought should existing road standards not satisfy the traffic generating potential of the proposed development.
- the Major Project Concept Approval (05_0032) and associated Statement of Commitments have identified, road upgrades to Cattle Bay Road, Chandos Street, Flinders Street, Stanley Street and Bay Streets. These are local streets in the immediate vicinity of the marina site. Their construction/up-grade has been considered warranted to facilitate access to the development and to improve local traffic management
- there is no guarantee that the Major Project Concept Approval (05_0032) will be activated in the future and as such, the proposed marina development must stand alone in terms of its impacts on road infrastructure.

Given the above, a waiver of the need to partially upgrade Cattle Bay Road is not supported.

Accordingly, the following condition is considered warranted:

- **Design and construction of the following in Cattle Bay Road from its intersection with Flinders Street to the southern extent of the proposed access to Lot 2 DP 1138056:**
 - i. **6.4 metre wide bitumen sealed road pavement with a 1.2 metre wide sealed road shoulder on the eastern side of Cattle Bay Road,**
 - ii. **all associated stormwater and subsoil drainage works,**
 - iii. **pavement design ESA 3 x10⁵,**
 - iv. **installation of guideposts, protection fencing, pavement markings and signposting to standards specified in the Road Design Guide published by the NSW Roads and Traffic Authority, and**
 - v. **all other works necessary to achieve the above.**

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

Erosion and Sediment Control

Advice from Council's Engineering Staff has been received to the effect that the earth works associated with the recommended Cattle Bay Road upgrade have not been quantified. Adequate erosion and sediment controls need to be in place prior to any excavation or surface disturbance occurring to avoid erosion, sedimentation or pollution from uncontrolled stormwater runoff.

Accordingly, the following condition is recommended:

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

Reason: to ensure that the development does not cause erosion, sedimentation or pollution due to uncontrolled stormwater runoff.

Traffic Control Plan

Council's Engineering staff have advised that there are only a few traffic generating developments accessing Cattle Bay Road (directly/indirectly) in the vicinity of the development site and that the proposed marina development would be located along a section of Cattle Bay Road which is relatively void of any development.

Construction associated with the proposed marina development (inclusive of the recommended Cattle Bay Road upgrade) would result in a significant increase in traffic using Cattle Bay Road and as a consequence, could result in an increased incidence in vehicle/pedestrian conflict if not adequately controlled during construction.

A Traffic Control Plan needs to be prepared and submitted to council for endorsement. The Plan should form part of the Construction Environment Management Plan for the marina development and should address such matters (but not all inclusive) relating to:

- movement and parking of construction vehicles;
- work hours;
- removal of unnecessary signage outside construction hours; and physical work on, or within 3 metres of the public carriageway.

The following condition is recommended:

- **No work shall be carried out within 3 metres of the carriageway of the public road subject to motor vehicle traffic until Council has endorsed a satisfactory Traffic Control plan relating to that work.**

The Traffic Control plan shall be prepared by a person who is authorized by Roads and Maritime Services 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.

- **The Council endorsed Traffic Control Plan shall be referenced in any subsequent Construction Environment Management Plan for the marina development and shall be implemented to give effect to this condition.**

Reason: so as to ensure construction works on or adjacent to public roads are performed safely.

Protection of Existing Services and Provision of Easements

Advice has been received from Council's Engineering Staff to the effect that there are 2 existing 1200mm diameter stormwater pipes and an existing sewer pipeline located on the development site and that these pipelines have not been accurately shown on the carpark site plan.

The pipelines are required to be protected during construction to ensure their structural integrity.

Accordingly, the following condition has been recommended:

- **Prior to any site works commencing, a detailed stormwater and sewerage asset protection plan shall be submitted to and endorsed by Council. The Plan is to be developed in consultation with relevant Council Staff and is to detail all protection arrangements to ensure the integrity of Council's infrastructure with regard to the movement of heavy plant in and around the development site.**
- **The endorsed asset protection plan shall be referenced in any subsequent Construction Environment Management Plan for the marina development and shall be implemented to give effect to this condition.**

Reason: to ensure the integrity of Council's infrastructure during the construction works.

In addition, ongoing access to the pipelines needs to be secured for reasons such as emergency response, maintenance, replacement or repair.

This advice was conveyed to the proponent who in response requested that the creation of easements should be delayed until such time as the Major Project Concept Approval (05_0032) comes to fruition.

Council's Engineering Staff are concerned that there is no guarantee that the mixed tourist and residential development endorsed under the Concept approval will come to fruition and there is no mechanism for ensuring the creation of suitable easements over the existing infrastructure assets in the event that the development does not proceed.

Furthermore, Council's Engineering Staff have considered it appropriate to ensure the creation of suitable easement over proposed service infrastructure designed and installed specifically to service the proposed marina development.

On this basis, Council's engineering staff consider it imperative to secure suitable easements as part of the current application.

The following conditions are recommended:

- **Establishment of easements to drain water not less than 3.0 metres wide in favour of Bega Valley Shire Council within Lot 2 DP 1138056 to contain stormwater drainage works that form part of the Council-controlled drainage system. A copy of the plan registered by the NSW Land Titles Office creating this easement shall be provided to the Council to demonstrate compliance with this requirement.**

Reason: to secure the authority for Council to operate and maintain stormwater drainage works.

- **Establishment of easements to drain sewage not less than 3.0 metres wide in favour of Bega Valley Shire Council within Lot 2 DP 1138056 to contain sewerage reticulation works that form part of the Council controlled sewerage system. A copy of the plan registered by the NSW Land Titles Office creating this easement shall be provided to the Council to demonstrate compliance with this requirement.**

Reason: to secure the authority for Council to operate and maintain the sewerage system.

- **Establishment of easements for services as necessary to provide for the connection of water supply, sewerage, electricity and telecommunications services over Lot 4 DP 1138056 to service the proposed marina berths. A copy of the plan registered by the NSW Land Titles Office creating this easement shall be provided to the Council to demonstrate compliance with this requirement.**

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

Access, Parking and Driveways (Clause 6.2)

The land component of the proposed marina development would provide carparking for up to 97 vehicles for both the marina occupants and the general public. To ensure access to the foreshore and the marina is always available to the general public, it is considered that a condition of consent should be imposed to this effect.

Accordingly, the following condition is recommended:

- **The on-site driveways and carparking areas associated with the proposed marina development shall be made available at all times to the general public for the purpose of access and parking.**

Prior to the issue of any subsequent occupation certificate, a suitable positive covenant shall be created over Lot 2 DP 1138056 to Council's satisfaction to give effect to this requirement. Council shall be nominated as having the benefit of the covenant and the sole authority to release, vary or modify the covenant.

A copy of the registered covenant shall be forwarded to Council within 3 months of its registration by the Office of Land and Property Information.

Note: The covenant may be extinguished at such time as an alternative public carparking area has been approved and constructed to Council's satisfaction in association with the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032).

Reason: To ensure public access and on-site carparking is available at all times for the purpose of enhancing the active and passive recreational opportunities offered by Cattle Bay Beach foreshore and marina wharf.

Location of Entrance Driveway

Council's Engineering Staff have advised that the final design of the entrance driveway would need to avoid conflict with an existing manhole. There is adequate room to achieve this.

A suitable condition would need to be imposed. The following condition is recommended:

- **Detailed design of the driveway and carpark area shall avoid conflict with existing and any proposed sewer manholes.**

Reason: To ensure that proposed driveway accessing the site does not encumber the function of the sewer manhole.

Soil and Stormwater Management (Clause 6.3)

In addressing the issues, Council's Engineering Staff has acknowledged that:

- potential issues regarding stormwater drainage and flooding were quantified as part of the investigations into the appropriateness of the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032) and that a range of stormwater upgrade works were recommended

to cater for the nature and extent of the proposed development as part of that process;

- the proponent for the marina development is not proposing any major upgrades of the existing stormwater system apart from the installation of a new gross pollutant trap on the basis that the cost and scale of the works required to be undertaken would be prohibitive given the proposed temporary nature of the land based component of marina.
- the proponent considers that the existing stormwater system should be retained and utilised until the mixed tourist and residential development comes to fruition and in the interim, is recommending the preparation of a flood emergency response plan to ensure the safety of patrons and the general public, and to limit potential impact on private infrastructure and property.

Council's Engineering Staff are concerned with this approach as there is no guarantee that the mixed tourist and residential development approved under the Major Project Concept Approval (05_0032) will come to fruition. Accordingly, the adequacy of stormwater drainage through the site needs to be suitably addressed on the basis that the drainage catchment to the site is not insignificant, and as noted in Section 6.10.1 of the EIS, the site is subjected to flooding.

Council's adopted BVDCP 2013 recommends that stormwater flows for rainfall events of a 100 year average recurrence interval (ARI) and greater should pass without causing damage to property and infrastructure. Stormwater flows for events larger than the 10 year ARI for commercial and industrial development are not required to be contained within piped drainage systems. However, the overland flow path must be planned, clearly evident on the site and contained within suitable easements.

It is the opinion of Council's Engineering Staff that the proponent should review the previous flood modelling for the purpose of determining the size of the storm event that can be catered for by the existing infrastructure and to determine the depth and extent of flooding for more extreme storm events. The ARI at which damage will be incurred to the floor of the facility buildings, and any parked vehicles should be determined.

Council's Engineering Staff are of the opinion that the proponent should plan a secondary flow path through the site to cater for any major storm event. It may be possible to significantly reduce the effects of flooding by using measures such as raising parking levels slightly higher than driveways within the carpark. Also, the proponent should plan to avoid flood damage to permanent structures, and in particular, should provide protection of the sewerage discharge point.

The following conditions are recommended:

- **A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 must be obtained prior to the issue of a Construction Certificate.**

Note: The development has been assessed as imposing an additional load of 59.4ET to the water supply system and 59.4ET to the sewerage network. The payment due will be calculated at the rate specified in Council's adopted Fees and Charges *at the time of payment*.

Reason: To ensure that an equitable monetary contribution is payable for the provision of water supply and sewerage treatment infrastructure required to meet the loadings generated by this development.

Liquid Trade Waste

Council's Engineering Staff has advised that all liquid wastes discharged into the sewerage system, other than domestic sewage, are classified as trade waste and need to be approved under Section 68 of the Local government Act, 1992.

The Liquid Trade Waste Regulation Guidelines (April 2009) contain specific requirements for Ship-to-shore pump-outs, including the need for galley waste to pass through a grease arrestor.

The following conditions in the provision of utility services are based on the Liquid Trade Waste Regulation Guidelines. Council considers these conditions are reasonable and justified, and should be included in any subsequent development consent.

The following conditions are recommended:

- **Liquid Trade Waste application is required for this development. A separate application to obtain approval to discharge liquid trade waste to council's sewerage system under Section 68 of the Local Government Act 1993 shall be submitted to council for approval prior to issue of the construction certificate. If the applicant is not the owner of the site, the applicant must obtain the owner's consent to the application. Application forms are available from Council.**
- **A detailed waste water management plan shall be provided to Council for endorsement. The waste water management plan shall include, but not be limited to, the management of discharge of any boat pump out system wastes including Bilge Water, Galley Waste, Toilet Waste and Chemical Toilet Waste, carting and disposal arrangements.**

Note: Council does not permit any discharge of bilge water to the sewerage system.

Reason: These conditions are to ensure compliance with the Liquid

Trade Waste regulation Guidelines.

- **Detailed design of a dockside waste water pump out point, or an on-land connection point to the local sewerage system for a mobile waste water pump out unit shall be submitted to, and approved by Council.**
Any on-land connection point for a mobile waste water pump out unit shall be contained entirely within the development, and may not encroach onto road reserve or public land. This connection point shall include:
 - a) Physical measures for the prevention of spills**
 - b) Provision for wash down / cleaning of the mobile unit within a bunded area**
 - c) Provision of a sampling point for the quality of discharge to Council sewer**
 - d) Measures for the prevention of odour**
 - e) Physical measures to exclude unauthorised public access**
 - f) Ongoing maintenance and ownership of this connection point will remain the responsibility of the marina owner/operator.**

Reason: To ensure the provision of a sanitary method of disposal of waste water from vessels moored at the marina facility.

General Engineering Requirements and Conditions

Council's Engineering staff have recommended general engineering conditions relating to the design and construction of public infrastructure which have been included in the draft consent attached to this report.

Accordingly, the following condition is recommended:

- **Any subsequent flood emergency response plan shall be prepared to the satisfaction of Council and shall include (but not limited to) a review of existing flood modelling and shall include inundation plans showing the extent and depth of flooding during a range of extreme storms 10, 20, 50 and 100 year ARI.**

If possible, a secondary flow path through the site to convey overland flow shall be located and provided.

Reason: To minimise human risk and damage to property during an extreme storm event.

Council's Engineering staff has also advised that the existing surface on which the temporary marina buildings and carpark areas are to be constructed are largely impervious, and as such, would not result in any significant increase in stormwater generation. On that basis, onsite detention of stormwater is not considered necessary.

It's noted that the proponent proposes to install a gross pollutant trap on the existing stormwater pipeline. Council's Engineering Staff are fully supportive of passing stormwater runoff from the car park through a gross pollutant trap. However, have concerns on a location directly on top of the existing stormwater pipeline.

In the absence of any engineering detail in the current application, Council's Engineering staff has recommended the need to submit engineering detail addressing how the gross pollutant trap would function, whether there would be any reduction in capacity and efficiency of the existing stormwater pipeline and whether there would be any effect on surcharge in the existing pipeline.

Accordingly, the following condition has been recommended:

- **Prior to the issue of any subsequent construction certificate full engineering detail of the Gross Pollutant Trap and proposed method of installation shall be submitted to and approved by Council.**

Stormwater runoff from the proposed car park shall be directed through a Gross Pollutant Trap, prior to discharge to a Council controlled stormwater system, or an existing waterway.

The Gross Pollutant Trap shall be designed and Installed in such a way that there is no reduction in capacity of the existing stormwater pipelines and backflow through the Gross Pollutant Trap is prevented during surcharged conditions.

Reason: To ensure the Gross Pollutant Trap is adequately sited and designed so as not to adversely impact on the function and capacity of existing stormwater infrastructure and to ensure its

effectiveness with a minimum of maintenance at all times.
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Utility Services (Clause 6.4)

Headworks Charges for the Provision of Water and Sewer Services

Council's Engineering Staff have advised that under the provisions of Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000, Council has the ability to levy a headworks contribution for water and sewer.

This levy is based on water consumption and discharge loads to Council's sewer infrastructure, and allows Council to levy an equitable monetary contribution for the provision of water supply and sewerage treatment infrastructure required to meet the loadings generated by both residential and non-residential development.

In this instance, the proposed marina development comprises:

- 154 Berths
- Toilet block containing 4 WC, 5 Hand Wash Basins, 2 Urinals, 1 Shower Update
- Administration Block containing Meeting room, kitchen and storage – no toilets proposed.

All headworks credits associated with the previous use of the site as a cannery have been applied to the mixed tourist and residential development endorsed by the Major Project Concept Approval (05_0032). Therefore, no credits are available to the proposed marina development.

The Water Directorate recommends using 0.6 Equivalent Tenement (ET) for Water and 0.9 Equivalent Tenement (ET) for Sewer per berth for a marina development. Council, in calculating headwork charges previously, used the Water Directorate's criteria for the purpose of providing advice to the proponent during the initial notification and exhibition of the current application.

The EIS is supported by a detailed report prepared by Royal Haskoning DHV entitled "Water and Wastewater Servicing Strategy dated 2014.

The Strategy is based on monthly water usage figures obtained from 4 operating marinas in Sydney. Using data from those marinas, the Strategy effectively calculates an average water usage of between 146 litres/berth/day to 218 litre/berth/day.

The Strategy also estimates a water consumption of 56 litre/person/day and the number of people per vessel ranging from 2.5 persons per vessel to 6 persons per vessel based on vessel length.

Using the above data, the Strategy adopts a water use figure of 207 litres/berth/day.

Council's Engineering Staff have advised that based on the Domestic Average Annual Consumption of 205 kilolitres/ET/year (Bega Valley Shire), this would equate to 0.37 ET/berth as opposed to the Water Directorate's adopted criteria of 0.6 ET.

This is derived from the following:

- 207 litres/berth/day x 365 days = 76 kilolitres/berth/year;
- 205 Kilolitres/ET/year ÷ 76 kilolitres/berth/year = 0.37 ET/berth

The Strategy also provides the following ET values used by other Water Agencies.

Water Authority	Description	Water Design	Sewer Design
Hunter Water Corporation	Marina	0.61 ET/berth	10 ET/built up Ha
Sydney Water Corporation	Marina	Individually Assessed	Individually Assessed
SEQWater – Gold Coast City Council Area	Marina (Transient Moorage)	0.4 ET/berth	0.4 ET/berth
	Marina (Live Aboard)	0.8 ET/berth	0.8 ET/berth
	Marina (Commercial)	0.2 ET/berth	0.2 ET/berth
SEQWater – Redland Council Area	Marine Services	0.1 ET per 100m ² floor area	0.07 ET per 100m ² floor area
SEQWater – Queensland Urban Utilities	Marina	Individually Assessed	Individually Assessed
TasWater	Marina	0.008 ET per m ² (Gross Building Floor Area)	0.008 ET per m ² (Gross Building Floor Area)

The water usage figure of 0.37 ET/berth is similar to the rate of 0.4 ET/berth used by SEQWater Gold Coast for a Transient Moorage. Council's Engineering Staff have advised that they are prepared to accept this figure for the calculation of headwork charges.

The Strategy has also calculated a value of 0.03 ET/berth for sewer, based on the amount that a portable muck truck can pump out. The explanation given for the discrepancy between water demand and sewer discharge is that the excess water will be used for boat washing. Boat washing was not included in the value of 207 litres/berth/day previously calculated.

Council's Engineering Staff consider the value of 0.03 ET/berth for Sewer is overly conservative, given the figures in the aforementioned table and as such, are not prepared to accept this figure in the calculation of ET values.

Council's Engineering Staff consider headworks charges of 0.37 ET/berth for water and 0.37 ET/berth for sewer are appropriate, and in line with headworks charged elsewhere.

The development has been assessed as imposing an additional load of 59.4 ET to the water supply system, and 59.4 ET to the sewerage network. Based on Council's current adopted fees and charges, this would equate to \$477,576.00 Water and \$668,606.40 Sewer.

CHRONOLOGY OF ASSESSMENT

Application lodged with Council.	29 October 2014
Referrals to internal Council Staff.	6 November 2014
Referrals to State Agencies.	7 November 2014
Exhibition and Notification.	13 November 2014 – 15 December 2014
Letter from Trade and Investment – Crown Lands issuing owners consent to lodge DA.	17 December 2014
Site visit with SRJRPP.	17 February 2015
Email to proponent with attachment – Agency responses received at that date.	23 January 2015
Email from proponent confirming receipt of Agency submissions.	23 January 2015
Email to proponent with attachment – public submissions.	27 January 2015
Email from proponent confirming receipt of public submissions.	27 January 2015
Email to SRJRPP with attachment – Agency and public submissions received to date.	28 January 2015
Email to proponent with attachment – submission from NSW Cultured Mussel growers Assoc.	17 February 2015
Email to SRJRPP with attachment – submission from Crown Lands.	19 February 2015
Email to proponent with attachment – submission from Crown Lands.	19 February 2015
Email to proponent with attachment	20 February 2015

outlining Council's concerns regarding short comings in the level of detail in the application.	
Email from proponent acknowledging receipt of submissions and planned response time.	20 February 2015
Email from proponent advising that they are preparing a response to public submissions and Agency responses.	11 March 2015
Email from proponent seeking confirmation on specific engineering standards - traffic generation/road standards.	11 March 2015
Email to proponent addressing engineering matters.	12 March 2015
Email from proponent seeking confirmation on suitability of mobile sewage pump out units.	19 March 2015
Email to proponent detailing Council's revised position regarding use of mobile sewage pump out units.	27 March 2015
Submission by the proponent of supplementary detail and reporting addressing public and Agency submissions.	10 April 2015
Supplementary detail and reporting referred to Agencies.	28 April 2015
Supplementary detail and reporting referred to SRJRPP.	29 April 2015
Re-exhibition and notification of supplementary detail and reporting.	30 April 2015 – 1 June 2015

Referral of supplementary detail and reporting to internal Council Staff.	20 May 2015
Email to proponent with attachment advising that Office of Environment and Heritage unable finalise response and requesting additional information.	1 June 2015
Email from proponent acknowledging OEH comments and advising that additional information will be submitted.	1 June 2015
Email to proponent seeking confirmation on now proposed staging program	10 June 2015
Email from Environment Protection Authority advising that the Authority is unable to issue General Terms of Approval due to insufficient detail in amended application.	22 June 2015
Submission from proponent addressing public and Agency submissions received as part of 2 nd exhibition/referral process.	9 July 2015
Referrals to EPA, DPI and OEH with attachments addressing Agency concerns.	15 July 2015
Email from EPA with attachment confirming that the GTAs unable to be issued due to lack of detail in application.	5 August 2015
Email to proponent with attachment – EPA response.	5 August 2015
Email from proponent advising that EPA submission referred to appropriate consultant for action.	6 August 2015

Email from proponent confirming staging of marina with attached modified plans.	10 August 2015
Email from proponent with attachment – revised acoustic report.	18 August 2015
Email response from DPI Fisheries NSW to additional information submitted by the proponent 9 July 2015.	18 August 2015
Email response from OEH to additional information submitted by the proponent 9 July 2015.	18 August 2015
Email to EPA with attachment – revised acoustic report.	27 August 2015
Email to proponent requesting copy of site contamination report prepared in support of Major Project Concept Approval 05_0032.	8 September 2015
Additional response from OEH regarding Aboriginal heritage matters.	10 September 2015
Email from proponent with attachment – site contamination report.	15 September 2015
Email response from EPA advising that GTAs issued	16 October 2015
Council report finalised.	November 2015
Council's report submitted to SRJRPP.	November 2015