

All communications to be addressed to:

Headquarters
4 Murray Rose Ave
Sydney Olympic Park NSW 2127

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Headquarters
Locked Bag 17
Granville NSW 2142

Facsimile: 8741 5433



The General Manager
Eurobodalla Shire Council
PO Box 99
MORUYA NSW 2537

Your Ref: 242/19
Our Ref: D18/8334
DA18120516426 BB

ATTENTION: Katrena Browne

18 January 2019

Dear Sir / Madam

Integrated Development Application - 49 Beach Road & Tuna Streets, Batemans Bay 2536

I refer to your correspondence dated 28 November 2018 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted. General Terms of Approval, under Division 4.8 of the 'Environmental Planning and Assessment Act 1979', and a Bush Fire Safety Authority, under Section 100B of the 'Rural Fires Act 1997', are now issued subject to the following conditions:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works, and in perpetuity, all land within the subject site shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

2. The provision of all water, electricity, and gas services shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for internal roads is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area. To achieve this, the following conditions shall apply:

3. To allow for emergency service vehicles to access the site, the proposed internal access arrangements shall comply with section 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

4. A Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014' and Australian Standard AS3745 2010 'Planning for Emergencies in Facilities'.

Landscaping

5. All landscaping within the subject site shall comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

Should you wish to discuss this matter please contact Bradley Bourke on 1300 NSW RFS.

Yours sincerely



Martha Dotter

Acting Team Leader, Development Assessment and Planning

For general information on bush fire protection please visit www.rfs.nsw.gov.au

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The General Manager
Eurobodalla Shire Council
PO Box 99
MORUYA NSW 2537

Your Ref: 272/19
Our Ref: D18/8334
DA18120516426 BB

ATTENTION: Katrena Browne

22 March 2019

Dear Sir / Madam

Integrated Development Application - 49 Beach Road & Tuna Streets, Batemans Bay 2536

I refer to your correspondence dated 4 March 2019 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has considered the information submitted and raises no objections subject to compliance with our previous terms of approval dated 18 January 2019.

Should you wish to discuss this matter please contact Bradley Bourke on 1300 NSW RFS.

Yours sincerely

A handwritten signature in black ink, appearing to read "JL", written over a light blue horizontal line.

Jeff Lucas
Director, Planning and Environment Services

For general information on bush fire protection please visit www.rfs.nsw.gov.au



Natural Resources Access Regulator

Natural Resources Access Regulator

Locked Bag 5123,
Parramatta NSW 2124
T 1800 633 362
www.industry.nsw.gov.au/nrar

Contact: Ellie Randall
Phone: 02 4275 9308
Email: ellie.randall@nrar.nsw.gov.au

General Manager
Eurobodalla Shire Council
PO Box 99
Moruya NSW 2537

Our ref: IDAS1111660
Your Ref: DA272/19

Attention: Katrena Browne

2 July 2019

Dear Katrena

Re: Integrated Development Referral – General Terms of Approvals

Development Reference: DA272/19

Description: Concept proposal (residential and seniors living development) and development proposal – stage 1 – 18 seniors living units, associated infrastructure and partial demolition of existing buildings

Location: Lots 12 DP 124295 Lot 101 DP 850637, 49 Beach Road & Tuna Street Batemans Bay.

I refer to your recent letter regarding an integrated Development Application (DA) I refer to your recent letter regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Natural Resources Access Regulator's (NRAR) General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, NRAR request these GTA's be included (in their entirety) in Council's development consent. Please also note NRAR requests notification:

- If any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, or lake or estuary; (ii) on the banks of any river, lake or estuary; (iii) on land within 40 metres of the highest bank of a river, lake or estuary; or (iv) any excavation which interferes with an aquifer.

NRAR will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- If Council receives an application under s96 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- Of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, NRAR recommends the following condition be included in the development consent:

The attached GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for a Controlled Activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity.

A completed application form must be submitted to NRAR together with any required plans, documents, application fee, security or bank guarantee (if required) and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

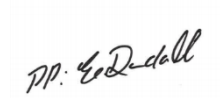
Application forms are available from the NRAR website at:

www.industry.nsw.gov.au » [Water](#) » [Licensing & Trade](#) » [Approvals](#).

NRAR requests that Council provide a copy of this letter to the development consent holder.

NRAR also requests a copy of the determination for this development application be provided by Council as required under section 91A (6) of the EPA Act.

Yours sincerely



Alison Collaros
Manager Licensing and Approvals (East)
Natural Resources Access Regulator

General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1111660
Issue date of GTA: 02 July 2019
Type of Approval: Controlled Activity
Description: Residential and seniors living development - Stage 1 -18 seniors living units, associated infrastructure and partial demolition of existing
Location of work/activity: 49 Beach Road and Tuna Streets BATEMANS BAY
DA Number: DA272/19
LGA: Eurobodalla Shire Council
Water Sharing Plan Area: CLYDE RIVER UNREGULATED AND ALLUVIAL WATER SOURCES 2016

The GTA issued by NRAR do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to NRAR for the relevant approval **after development consent** has been issued by Council **and before** the commencement of any work or activity.

Condition Number	Details
Design of works and structures	
GT0009-00010	Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.
GT0019-00003	Any proposed excavation on waterfront land must be undertaken in accordance with a plan submitted as part of a controlled activity approval, to be approved by Natural Resources Access Regulator.
Erosion and sediment controls	
GT0014-00007	A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.
GT0021-00004	The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.
Plans, standards and guidelines	
GT0002-00719	A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 272.19 provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.
GT0004-00003	A. A security deposit must be provided, if required by Natural Resources Access Regulator. B. The deposit must be: i. a bank guarantee, cash deposit or equivalent, and ii. equal to the amount required by Natural Resources Access Regulator for that controlled activity approval.

General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

Reference Number: IDAS1111660
Issue date of GTA: 02 July 2019
Type of Approval: Controlled Activity
Description: Residential and seniors living development - Stage 1 -18 seniors living units, associated infrastructure and partial demolition of existing
Location of work/activity: 49 Beach Road and Tuna Streets BATEMANS BAY
DA Number: DA272/19
LGA: Eurobodalla Shire Council
Water Sharing Plan Area: CLYDE RIVER UNREGULATED AND ALLUVIAL WATER SOURCES 2016

- GT0005-00220 A. The application for a controlled activity approval must include the following plan(s): - i. Detailed civil construction plans with outlet designs; ii. Vegetation management plan with a fully structured vegetation riparian corridor outlining details of vegetation species and densities; iii. Bushfire assessment identifying the asset protection zone outside of the fully structured vegetation riparian zone; iv. Erosion and sediment control plan; v. Project costings. B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities>.
- GT0008-00031 A. Before the proposed controlled activity can commence, a riparian corridor must be clearly marked, protected and maintained in accordance with a plan submitted as part of the controlled activity approval, and approved by Natural Resources Access Regulator. B. The corridor must extend for: i. a width of 10 m, measured horizontally landward from the highest bank of the river, and ii. the length of the site directly affected by the controlled activity.
- GT0010-00006 All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.
- GT0012-00004 Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by Natural Resources Access Regulator.
- GT0030-00008 The application for a activity; controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities>.

Reporting requirements

- GT0016-00003 The consent holder must inform Natural Resources Access Regulator in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA272/19 as provided by Council:

- Stormwater Concept Plan (15/11/2018)
- Stage 1B Landscape Concept Plan (14/11/2018)
- SEPP65 Stage 1B DA Design Statement (November 2018)
- Statement of Environmental Effects (November 2018)

7 January 2019

Katrena Browne
Senior Development Assessment Officer
Eurobodalla Shire Council
PO Box 99
MORUYA NSW 2537

Dear Ms Browne

Concept Proposal – 18 Seniors Living Units, Associated Infrastructure and Partial Demolition of Existing.

Lot 104 DP 850637 – 49 Beach Road & Tuna Streets, Batemans Bay.

Thank you for your referral of 27 November 2018 seeking comment on the concept proposal for the redevelopment of the Coachhouse Marina Resort.

In relation to this referral, the responsibilities of DPI Fisheries include ensuring that;

- fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update).
- within marine parks, marine biological diversity and marine habitats are conserved and ecological processes are maintained. With regard to land use planning and approvals the Department ensures that development activities comply with or are consistent with the requirements of the *Marine Estate Management Act 2014* (MEM Act), *Marine Estate Management Regulation 2017* and *Marine Estate Management (Management Rules) Regulation 1999*.

DPI Fisheries has reviewed the Statement of Environmental Effects and associated documents referred to the Department and make the following comments.

The proposal has 2 separate, a “concept proposal” for the entire development and a formal Development Application (DA) for the construction of Stage 1B.. In relation to the ‘concept’ proposal, the following information is provided as general advice only. Formal assessment and advice under S55 and S56 of the *Marine Estate Management Act 2014* and any General Terms of Approval in accordance with s.91A(3) of the *Environmental Planning and Assessment Act 1979* will be provided once a formal Development Application is referred to the Department.

The proposed development site is situated adjacent to Hanging Rock Creek. Hanging Rock Creek is part of the Batemans Marine Park and is classified as a Type 1 (highly sensitive), Class 1 (major) Key Fish Habitat (KFH). There are areas of the proposal which are of particular interest to the Department, of both the concept proposal and Stage 1B DA, which will require further assessment, information and/or modification.

Coastal protection works

We note that the concept proposal is seeking approval for the replacement of the existing temporary wall with a rock revetment wall. This is not supported by DPI Fisheries.

DA390/16 for previous works at this location included a condition that the construction of a retaining wall at this location was to be undertaken in accordance with designs approved by DPI Fisheries. The final agreed staging plans for the foreshore are available in the *Statement of Environmental Effects* (SEE) as provided for in Condition 1 of the final development consent for DA390/16. The retaining wall in its present form has not been constructed in accordance with the approved plans therefore requires modification to be compliant. We have been informed that a final construction certificate has not been issued for the temporary wall that is currently in place.

DPI Fisheries will consider their final consent status for this aspect of the proposal when the future detailed DA for these works is received by the Department for comment. The DA should incorporate the same (or equivalent) design parameters as previously provided in the approved SEE for this location - some of the key parameters that must be incorporated include:

- A staged approach to the rectification of the wall will be required to manage environmental risks (4 stages initially proposed in approved SEE plans).
- A portion of dredge spoil will need to be removed from site to allow for a 1:10 battered beach slope on the foreshore stabilised with marram grass or similar salt tolerant plant at toe (minimum 2m wide), preceding a 1:3 battered back slope also stabilised with vegetation.
- The temporary blocks must be removed once the vegetated shoreline is stabilised - any future development consent must stipulate timing for staging and final removal of the temporary wall as provided in the SEE plans.
- The blocks with additional rock toe embankment should remain in place on the western edge of 'area 1' – adjacent to the creek - to prevent future scour during heavy rainfall events - as provided in the SEE.

The Department supports the inclusion of a public access walking track adjacent to the foreshore, however the concept proposal will need be redesigned to complement and protect the rectified foreshore area and riparian buffer zoned as described above.

Clearing of All Vegetation and Earthworks

It is unclear if the site preparation works to clear all vegetation and undertake earthworks will be undertaken for the entire site at one time, or will be undertaken in a staged approach to match construction of new dwellings.

Large areas of bare earth exposed during the construction period pose a considerable risk to adjacent waterways. Particularly when staged construction could conceivably extend over 5 – 10 years.

The Department supports a staged approach to clearing and earthworks and will require further information in relation to work methods, environmental controls and the timing of each stage.

Buffer Zone

Riparian vegetation is critical to the health and viability of streams. In urban environments, the riparian zone plays a crucial role as a buffer and filter zone, as well as directly interacting with the stream by providing nutrients, shading, temperature control and stream stability.

DPI Fisheries will generally require riparian buffer zones to be established and maintained for developments of activities in or adjacent to Type 1 or class 1 waterways. As a guide a riparian buffer zone of 100m is required adjacent to this type of aquatic habitat. We note that a riparian buffer zone of this width is not feasible in relation to this proposal. The Department is willing to accept some flexibility in the width of the riparian buffer, provided that adequate justification or offsetting is proposed. DA's relating to the foreshore area should incorporate an area of riparian vegetation to act as a filter strip.

The stabilisation of the foreshore with marram grass (or equivalent) and removal of the temporary wall as outlined above will help improve the riparian buffer.

The following advice is applicable to both the “concept” and Stage 1B DA.

Sub-basement car parking

The proposed construction of an underground carpark in marine sands, within the groundwater system influenced by the tidal cycle and within flood prone land is of concern to this Department. The containment, treatment and monitoring of large volumes of turbid construction water during dewatering within a constrained, flood prone site, adjacent to a sensitive receiving environment poses a significant pollution risk to the waters of Batemans Marine Park.

The determining authority must ensure that all groundwater disturbed by the construction work does not enter the receiving waters. The groundwater should be treated and removed from the site. Mitigation measures should also be taken to ensure that future structural damage and potential contamination of groundwater, for example the breaking down of construction materials over time does not occur.

Water discharged from the property and delivered to the marine park should meet *NSW Water Quality Objectives* as required under the *Protection of the Environment and Operations Act 1997*. If it is not possible to meet these standards then polluted water will need to be contained and disposed of at an approved treatment facility.

The ongoing requirement for dewatering of the proposed sub-basement carpark following periodic flood events will also need to be considered. Floodwaters entering the carpark become polluted with hydrocarbons. Measures to contain and treat or dispose of this water must be developed. Measures should include provisions for monitoring and reporting if discharge is proposed to adjacent waters.

Details of containment and treatment or disposal of waste water from the proposed carwash bay within the carpark will also be required; measures must be incorporated to ensure there is no risk of this water entering the waterway.

There is potential that the sub-basement carpark component of the proposal would represent an unacceptable risk to the adjacent sensitive receiving environment and will not be supported by this Department. We request further information of the sub-basement carpark including;

- Detailed design, clearly showing where the floor of the carpark sits in relation to Highest Astronomical Tide and adjacent ground water levels

- Assessment of environmental risk during both construction and ongoing operation, including predicted frequency and impacts of flood inundation events
- Proposed methods of dewatering during both construction and ongoing operation, including containment, treatment, monitoring and reporting provisions
- Mitigation measures to protect the adjacent sensitive receiving waters and aquatic environments.

Water Quality

It is a stated objective of Eurobodalla Shire Councils Infrastructure Design Standards that stormwater be treated in order to “**protect and enhance natural water systems within urban environments**”. The standard water quality guidelines proposed for this development essentially permit the discharge of 20% of suspended solids, 55% of Nitrogen, 55% of Phosphorus and 30% of gross pollutants generated at the site to discharge directly into Batemans Marine Park for the lifetime of the development.

The Department does not believe that these targets will meet the stated objective at this location, more stringent water quality targets should be adopted.

During the works and following the completion of works any stormwater leaving the site should comply with the water quality benchmarks for estuaries of the catchments within the Clyde River as expressed in the *NSW Water Quality Objectives (WQOs)* developed in accordance with the *ANZECC 2000 Guidelines* on water quality.

Water discharged from the property and delivered to the marine park should meet these water quality requirements by the time it exits the property boundary. Infrastructure for managing water flow and water quality from the property now and into the future should meet the above mentioned *NSW Water Quality Objectives* as required under the Protection of the *Environment and Operations Act 1997*.

Section 6.2.1 states that the proposed concept development will “marginally” increase the impervious area and stormwater runoff. However an increase from 39% (2.4ha) - 65% (4.1ha) of impermeable area within 6.54 hectares would be considered a “significant” increase. On-site Detention (OSD) is proposed to manage stormwater generated, primarily by rainwater tanks. We require clarification of the following points:

- Are water tanks the **primary** or **only** proposed OSD? If they are the primary please advise of any other means
- Has the volume of OSD required been designed to detain only the **increase** resulting from the proposal, or the **total** of that generated by the proposal.
- How is the OSD water planned to be utilised in order to ensure capacity is maintained.
- What was the daily usage amount used in the calculations of the required OSD capacity.

Sediment and erosion control

Design, management and implementation of pollution controls during construction must be consistent with “*Managing Urban Stormwater: Soils and Construction*” (NSW Landcom 2004), to ensure containment of sediment to the immediate work site. All sediment control measures must be regularly inspected and cleaned out and/or repaired as necessary, and all collected silt disposed of appropriately.

Potential Acid Sulphate Soil (PASS)

A PASS Management Plan should be developed for the site and should state that if PASS is disturbed. It should be treated and disposed of at an approved facility that can lawfully accept it, and that no leachate should not enter the receiving waters.

Permit requirements

Any works below mean high water will require a permit under the MEM Act for works within a Marine Park. Any dredging or reclamation in a waterway (below the high bank or Highest Astronomical Tide) or harm to marine vegetation, including shading impacts will require approval from DPI Fisheries. To consolidate the permitting process the proponent is only required to lodge a single marine park permit application. The Department will require a signed and stamped copy of the final development consent before a permit can be granted to cover these works.

If Council or the proponent require any further information, please contact Jillian Reynolds on (02) 4428 3406 or Justin Gilligan on (02) 4476 0801.

Yours sincerely.



Jillian Reynolds
Fisheries Manager
Coastal Systems - South



Justin Gilligan
Manager
Batemans Marine Park

Katrena Browne

From: Justin Gilligan <justin.gilligan@dpi.nsw.gov.au>
Sent: Thursday, 8 August 2019 4:19 PM
To: Katrena Browne; Gary Bruce
Cc: Sarah Fairfull; Natalie Moltschaniwskyj; Nicole Strehling; Clayton Birss
Subject: Marine park boundary - Coachhouse Marina Resort

Hi Katrena & Gary,

For your information, I just caught up with Clayton and Barry Birss (cc'd).

They said some confusion may still exist in relation to the location of the marine park boundary in relation to the Coachhouse Marina Resort.

As previously stated, the current boundary of the marine park is considered the area along the foreshore of the temporary block wall.

The reclaimed area landward of the block wall is considered above the mean high water mark and out of the park.

The boundary of the marine park moves with changes to the mean high water mark, and is not based on property boundaries or land tenure.

Any foreshore area (whether reclaimed or not) that's below the mean high water mark is considered to be within the marine park, regardless of the land tenure.

If you need further information, or wish to discuss please let me know.

Thanks,
Justin

Justin Gilligan
A/Manager, Batemans Marine Park

Marine Operations | Department of Primary Industries
T 02 4476 0801 | E justin.gilligan@dpi.nsw.gov.au
Cnr Burrawang & Graham Streets, Narooma NSW 2546
www.dpi.nsw.gov.au

**Stronger Primary
Industries**



Department of
Primary Industries



The Department of Primary Industries acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Katrena Browne

From: Justin Gilligan <justin.gilligan@dpi.nsw.gov.au>
Sent: Thursday, 8 August 2019 3:44 PM
To: Katrena Browne
Cc: Gary Bruce; Nicole Strehling
Subject: RE: Response to concept DA 272/19 - Beach Road - Seniors Living Units

Hi Katrena,

Thanks for your email.

The department is unable to support the boardwalk and deck infrastructure in the waterway for a private development (with piles below mean high water). In accordance with the 'Policy and Guidelines for Fish Habitat Conservation and Management (Policy & Guidelines)' for foreshore structures, the Department is unable to support/permit foreshore structures and works in TYPE 1 key fish habitat (e.g. marine park) unless special circumstances exist which don't apply in this case. As an alternative we recommend that these structures be located above the highest astronomical tide and therefore out of the marine park. If this occurs, then our concurrence or a marine park permit will not be required.

According to the Policy & Guidelines for foreshore stabilisation works, the department supports 'soft-engineering' options (e.g. revegetation) for stabilising foreshores. At this location we have also suggested the inclusion of a public access walking track adjacent to the foreshore that complements and protects the foreshore area and riparian buffer zone rather than the foreshore infrastructure (boardwalk) mentioned above. According to the Policy & Guidelines for foreshore stabilisation works, the department does not support the use of vertical retaining walls, gabion baskets or concrete lining for foreshore works and note that the current block wall was approved on the understanding it was a temporary measure.

The determining authority should also consider that once the temporary block wall is removed it will be difficult to determine where the mean high water mark will settle as natural coastal process define the new foreshore. In the future, additional foreshore works may be required. The determining authority should ensure access to the foreshore for maintenance work forms part of the assessment to help facilitate future foreshore remediation works. For example, adequate space should be available above the mean high water mark to allow machinery to work from the top of the bank, rather than from the waterway. This will not be achievable with the boardwalk and waterfront deck in their current location.

I've provided the following input into each of your section summaries below:

Section A1

- The deck must not incorporate infrastructure below the mean high water mark, recommend placement above the highest astronomical tide. Some possible options include cantilevering the boardwalk or alternatively reducing the width of the boardwalk. The reduction in width may result in the deck being above the maximum high tide level. Note - Council's Infrastructure Design Standard requires a minimum width of 2.5m.
- The existing rock toe embankment can remain along this section to ensure there is scour protection for the banks of Hanging Rock Creek.

Section A2

- The deck must not incorporate infrastructure below the mean high water mark, recommend placement above the highest astronomical tide. Some possible options include cantilevering the boardwalk or alternatively reducing the width of the boardwalk to ensure it is outside the maximum high tide level. The reduction in width

may result in the deck being above the maximum high tide level. Note - Council's Infrastructure Design Standard requires a minimum width of 2.5m.

- Any new rock toe embankment proposed for this area will require justification.

Section B

- We support the inclusion of native vegetation, which should be associated with a vegetation plan. Vegetation should be salt tolerant and planted at an adequate level to ensure it survives.
- The vegetation plan will need to be included as part of the marine park permit application
- The boardwalk must not incorporate infrastructure below the mean high water mark, recommend placement above the highest astronomical tide. Some possible options include cantilevering the boardwalk or alternatively reducing the width of the boardwalk to ensure it is outside the maximum high tide level. The reduction in width may result in the boardwalk being above the maximum high tide level. Note - Council's Infrastructure Design Standard requires a minimum width of 2.5m.
- Rock batter is not supported in this section

Section C

- The proposed waterfront deck and integrated boardwalk is not supported due to the presence of infrastructure below the mean high water mark. This will shade vegetation, which will play a role in stabilising the foreshore.
- Rock batter is not supported in this section

General Comments

- A vegetation plan should be developed with input from the Natural Resource Supervisor within the Eurobodalla Shire Council, or staff from the South East Local Land Services. Methods such as the 'long-stem tube stock' technique may increase the survival and growth rate of native riparian plant species. According to the Policy & Guidelines, *Casuarina spp.*, *Banksia spp.* and *Eucalyptus spp.* are some common plants that have roots that extend deep into the soil. Species such as *Lomandra longifolia* and native grasses can be planted as understorey, with rushes and reeds planted at or in the water's edge to protect the bank toe from erosion.
- Concurrence from DPI Fisheries through the development application process is required, along with a Marine Park Permit for works below the mean high water mark.

If you need further information please let me know.

Thanks,
Justin

Justin Gilligan
A/Manager, Batemans Marine Park

Marine Operations | Department of Primary Industries
T 02 4476 0801 | E justin.gilligan@dpi.nsw.gov.au
Cnr Burrawang & Graham Streets, Narooma NSW 2546
www.dpi.nsw.gov.au



The Department of Primary Industries acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From: Katrena Browne [mailto:Katrena.Browne@esc.nsw.gov.au]
Sent: Tuesday, 6 August 2019 11:57 AM
To: Justin Gilligan
Cc: Gary Bruce
Subject: RE: Response to concept DA 272/19 - Beach Road - Seniors Living Units

Hi Justin,

Thank you so much for taking my telephone call this morning. As mentioned in our discussion, my report is due to be submitted to the Planning Panel on Monday 12 August for final determination.

Can I please confirm our discussion? I will do this by discussing the requirements for each section as nominated on the attached plans. If there is anything I have missed or overlooked can you please let me know as soon as practical?

Temporary Retaining Wall

- Confirmation, in writing from the applicant that the intention is to remove the temporary retaining wall and replace with the works as indicated in the plans.

The following cross sections are nominated on the plans dated June 2019 and prepared by BHI Architects. Annotated as A.0102 Revision A and A.0101 Revision B. Attached.

Section A1

- The deck must not contain any construction within the maximum high tide level. The possible options include cantilevering the deck or alternatively reducing the width of the deck. The reduction in width may result in the deck being above the maximum high tide level. Note - Council's Infrastructure Design Standard requires a minimum width of 2.5m.
- The existing rock toe embankment must extend to the maximum high tide level. This is to ensure that there is scour protection for the banks of Hanging Rock Creek.

Section A2

- The deck must not contain any construction within the maximum high tide level. The possible options include cantilevering the deck or alternatively reducing the width of the deck to ensure it is outside the maximum high tide level. The reduction in width may result in the deck being above the maximum high tide level. Note - Council's Infrastructure Design Standard requires a minimum width of 2.5m.
- The new rock toe embankment will require a detailed justification due to the high velocity flows experienced within the Hanging Rock Creek catchment. Written justification must form part of any Marine Park Permit application and should be supported with a justification to vary the standard. It is not unreasonable in this location for this variation to be supported given the constraints and circumstances experienced in this location.

Section B

- This section nominates that vegetation will be installed in a location where it is subject to water coverage at low tide. The proposal will need to plant the vegetation at higher levels and allow for natural regeneration, rather than the installation of vegetation.
- The deck is also proposed below the maximum high tide.
- The proposed development must have the deck constructed above maximum high tide level. It may require it to be cantilevered off the proposed retaining wall.

- A Marine Park Permit will be required to be supported by a Vegetation Plan. This vegetation plan must include suitable species which allow for regeneration of natural sea grasses which have been known to exist in this location in the past.

Section C

- The proposed waterfront deck is not supported. This is because the works offer a large expanse which includes structural supports below mean high water mark. The deck will also shade the marine vegetation.
- Any works proposed must be above mean high water mark and can be considered on merit.

General Comments

- The vegetation species nominated are unsuitable. Consultation should be undertaken with Local Land Services or Council's Environmental Staff to establish the most appropriate forms of vegetation to stabilise the banks and promote regeneration of sea grasses.
- A Marine Park Permit is required for works associated with development below the mean high water mark. It is recommended that all structures be located above mean high water mark. No structural supports will be consented to below mean high water mark.
- It is recommended that Council impose a requirement for appropriate access to be provided through the site to maintain the rock walls, etc. Please note – there will be areas which enable access through the site to the waterfront for access and maintenance. Council can impose a condition requiring that these easements are legally created on the title of the land.

Thank you so much for your assistance. If you can please confirm this is your recommended outcomes, it would be greatly appreciated.

Kind Regards,

Katrena Browne

Senior Development Assessment Planner

t 02 4474 1211 | f 02 4474 1234

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From: Justin Gilligan [mailto:justin.gilligan@dpi.nsw.gov.au]

Sent: Tuesday, 23 July 2019 3:42 PM

To: Katrena Browne <Katrena.Browne@esc.nsw.gov.au>

Cc: Peter Gallagher <peter.gallagher@dpi.nsw.gov.au>; Gary Bruce <Gary.Bruce@esc.nsw.gov.au>; Sarah Fairfull <sarah.fairfull@dpi.nsw.gov.au>

Subject: RE: Response to concept DA - Beach Road - Seniors Living Units

Hi Katrena,

Thanks for the catch-up last week, I note that the Stage 1B section of the proposal that you are seeking concurrence for is for a single stormwater outlet adjacent to Hanging Rock Creek.

I also note there is an existing stormwater outlet at this location (to the west of the Stage 1 area) and that an upgrade and replacement of the system is currently being proposed within the existing stormwater management system footprint.

We have no objections to the proposed stormwater outlet replacement, however the following matters should be taken into consideration and reflected in the final consent conditions:

The determining authority should deem the system is of adequate capacity to cope with the expected volume of run-off generated by the development, and ensure that the new outlet falls within the existing footprint;

The water sensitive urban design measures outlined in the supporting documentation (flow dissipation device, water detention, bio-retention swales, revegetation and gross pollutant traps) should be implemented as described to minimise the impacts of stormwater run-off to the receiving waters of Hanging Rock Creek.

Please ensure that during construction works and once complete that any stormwater leaving the site should comply with the water quality benchmarks for estuaries of the catchments within the Batemans Marine Park (Clyde River and Jervis Bay) as expressed in the NSW Water Quality Objectives (WQOs) developed in accordance with the ANZECC 2000 Guidelines on water quality - Further info is available on the OEH website at (www.environment.nsw.gov.au/ieo/Clyde/index.htm).

Any infrastructure removed or replaced below the mean high water mark (i.e stormwater outlet) will require a marine park permit, the proponent can email us to apply - batemans@dpi.nsw.gov.au.

In relation to some of the other questions raised in relation to our response to the 'concept' proposal, please see further information below:

Partitioning of Development Applications:

We prefer to consider development proposals in their entirety so that the cumulative impacts of the entire proposal can be adequately assessed.

Foreshore design parameters:

The department is unable to support the boardwalk and deck infrastructure in the waterway for a private development (with piles below mean high water). In accordance with the 'Policy and Guidelines for Fish Habitat Conservation and Management (Policy & Guidelines)' for foreshore structures, the Department will not support/permit foreshore structures and works in TYPE 1 key fish habitat (e.g. marine park) unless special circumstances exist which don't apply in this case. As an alternative we recommend that these structures be located above the highest astronomical tide and therefore out of the marine park. If this occurs, then our concurrence or a marine park permit will not be required; According to the Policy & Guidelines for foreshore stabilisation works, the department supports 'soft-engineering' options (e.g. revegetation) for stabilising foreshores. At this location we have also suggested the inclusion of a public access walking track adjacent to the foreshore that complements and protects the foreshore area and riparian buffer zone rather than the foreshore infrastructure (boardwalk) mentioned above; and

According to the Policy & Guidelines for foreshore stabilisation works, the department does not support the use of vertical retaining walls, gabion baskets or concrete lining for foreshore works and note that the current block wall was approved on the understanding it was a temporary measure.

Thanks for attaching the approved plans for DA390/16. I acknowledge that this development consent was issued to the dredging of the Batemans Bay Marina. The approved *Statement of Environmental Effects* associated with this DA was the subject of our concurrence and a permit assessment. These plans should be used to guide future foreshore remediation at this site, and can answer Gary's questions below regarding around the achievement of the batter slope. Relevant agencies (including council) worked with the proponent to determine these final agreed staging plans for the foreshore, which were provided for in Condition 1 of the final development consent.

Any final design for the foreshore at this site will need to be developed in consultation with DPI Fisheries.

I note advice from Eurobodalla Shire Council that the marina DA390/16 is unrelated to the current concept proposal, and further note previous advice from Council that DA291/96 remains valid. Consistent with Council's advice, it is our understanding that the temporary block retaining wall does not form part of, or been constructed in accordance with the conditions attached to DA291/96. In the interests of resolving this issue, could you please confirm your understanding and intentions in relation to the status of the temporary block wall.

A condition of consent attached to DA291/96 is that the proponent is required to satisfy all conditions (a-g) of the development consent. To assist in resolving this matter could you please advise if you consider that these conditions of consent have been met.

Foreshore vegetation advice:

According to the *Policy & Guidelines*, *Casuarina spp.*, *Banksia spp.* and *Eucalyptus spp.* are some common plants that have roots that extend deep into the soil. Species such as *Lomandra longifolia* and native grasses can be planted as understorey, with rushes and reeds planted at or in the water's edge to protect the bank toe from erosion. Advice on successful methods of planting native species along banks can be obtained from Natural Resource Supervisor within the Eurobodalla Shire Council, or staff from the South East Local Land Services. Methods such as the 'long-stem tube stock' technique may increase the survival and growth rate of native riparian plant species.

Surrounding development:

The surrounding rock revetment walls in the vicinity of this property were constructed prior to the existence of the park. The foreshore area of the Coachhouse was a soft natural beach prior to DA390/16, concurrence was provided with the understanding the reclamation would result in a similar foreshore to what existed at the time of approval.

If you need further information, or if I've missed anything please let me know.

Thanks,

Justin

Justin Gilligan
A/Manager, Batemans Marine Park

Marine Operations | Department of Primary Industries
T 02 4476 0801 | E justin.gilligan@dpi.nsw.gov.au
Cnr Burrawang & Graham Streets, Narooma NSW 2546
www.dpi.nsw.gov.au



The Department of Primary Industries acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From: Katrena Browne [mailto:Katrena.Browne@esc.nsw.gov.au]
Sent: Tuesday, 16 July 2019 3:30 PM
To: Justin Gilligan
Cc: Peter Gallagher; Gary Bruce
Subject: RE: Response to concept DA - Beach Road - Seniors Living Units

Hi Justin,
Thank you for your email.

Please find attached both the overall concept for the stormwater disposal and the detailed plans for Stage 1B. The Stage 1B plans contain details for the stormwater for which we require the concurrence. The concept also includes stormwater works located outside Stage 1B.

The "existing stormwater infrastructure on site" document, indicates the location of the existing infrastructure (as shown in pink). The applicant proposes to maintain the existing lines, but upgrade as deemed necessary by the proposed and future development demands.

I have also attached a written justification submitted by the applicant relating to stormwater. The Statement of Environmental Effects for both the concept and Stage 1B was provided in a previous email.

I hope this provides some clarity in relation to the stormwater infrastructure.

The second issue I want to raise relates to the construction certificate for reclamation works and the sections submitted for the foreshore works. I have attached both for your reference. Pages 14 and 15 of the Construction Certificate provide cross sections of the approved development works including the beach, etc. Please note: these plans also contain the use of precast concrete blocks for retaining. These plans are on pages 20 and 21.

We are now reaching a critical point in the assessment of this application. I am trying to understand what the issue is with the proposed boardwalk and how we can resolve the issue?

I have reviewed the cross sections provided by the applicant in "190613 – Batemans Bay – Foreshore Sections" vs those cross sections approved in the Construction Certificate. I believe that the approved plans are similar to those previously approved. On review, it appears that the cross sections are similar.

I acknowledge the main difference between the two is the boardwalk. If this is the case, can the applicant alter the surface material used for the decking to allow for light penetration? If the applicant was to propose the use of a product, like Envirowalk (<http://www.envirowalkgrating.com/>), or similar, would this achieve the desired outcome? I have noticed this and/or similar products used in other environmentally sensitive locations such as National Parks.

I hope this email clarifies the stormwater issues as you have requested. If we can discuss the boardwalk to resolve the situation it would be appreciated. Gary and I are happy to meet to discuss the issue if you think that would assist.

If you have any questions, please let me know.

Kind Regards,

Katrena Browne

Senior Development Assessment Planner

t 02 4474 1211 | f 02 4474 1234

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From: Justin Gilligan [mailto:justin.gilligan@dpi.nsw.gov.au]

Sent: Tuesday, 16 July 2019 10:22 AM

To: Gary Bruce <Gary.Bruce@esc.nsw.gov.au>

Cc: Katrena Browne <Katrena.Browne@esc.nsw.gov.au>; Peter Gallagher <peter.gallagher@dpi.nsw.gov.au>

Subject: RE: Response to concept DA - Beach Road - Seniors Living Units

Hi Gary,

Thanks for your email.

Could you please send through plans for the following:

- current stormwater system at the site
- proposed stormwater system at the site

Will the stormwater be diverted into council's existing stormwater management system?

Thanks,
Justin

Justin Gilligan
A/Manager, Batemans Marine Park

Marine Operations | Department of Primary Industries
T 02 4476 0801 | E justin.gilligan@dpi.nsw.gov.au

Cnr Burrawang & Graham Streets, Narooma NSW 2546

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From: Gary Bruce [mailto:Gary.Bruce@esc.nsw.gov.au]

Sent: Monday, 15 July 2019 3:58 PM

To: Justin Gilligan; Peter Gallagher

Cc: Katrena Browne

Subject: FW: Response to concept DA - Beach Road - Seniors Living Units

Hello Justin and Peter

I refer to my email of last week and the above documentation provided by the applicant. I think that you are unnecessarily holding up concurrence for a stormwater outlet (which NRAR have issued their General Terms of Approval (GTA's) for) on the basis of future works that are conceptual and not directly seeking development consent.

Would it not be possible to deal with the issue in the following way;

- Issue concurrence for the stage 1B works (have no information to suggest that you have issues with this)
- Issue comments for the concept application noting you are not happy with specific matters and that concurrence would not be provided for those works that you are concerned about.

In this regard, would it be possible to meet in the near future to discuss.

Can I also clarify your comments;

- "1:10 batter slope should commence closer to high tide mark". This would appear to mean more fill and very flat profile but what are you anticipating happens at the boundary?
- "A battered and vegetated 1:3 slope should occur along section B and C". the vegetated plan could be submitted as part of the CC documentation or just subject to your approval prior to works commencing. Is there a guideline for preferred vegetation types? If there is, then you could propose a condition that the vegetation meets this criteria. Section B largely meets this slope so are you saying that section C is not acceptable or do you have issues with both sections.
- "we are also concerned about the practicalities of the foreshore in relation to section B where the buildings are located within 10 metres of the waterway". The section B diagram show that buildings area minimum of 12 metres away from boundary. There are also many existing building on this site and off the site that are within 10 metres of the waterway. This is consistent with the area and buildings on the existing site (see attached aerial).

This is the only issue outstanding with a large and complicated \$150 million development. It would be good to work through this issue so that Council and the applicant can better understand what outcomes are important for you.

Regards Gary

Gary Bruce RPIA

Divisional Manager Development Services

t 02 4474 1087 | m 0428 915 805 | f 02 4474 1234

From: Gary Bruce

Sent: Monday, 8 July 2019 4:38 PM

To: 'Justin Gilligan' <justin.gilligan@dpi.nsw.gov.au>; Katrena Browne <Katrena.Browne@esc.nsw.gov.au>

Cc: Peter Gallagher <peter.gallagher@dpi.nsw.gov.au>

Subject: RE: Response to concept DA - Beach Road - Seniors Living Units

Hello Justin

Thanks for your email. I will review your email in more detail but would like to once again make the following comments;

- DA 390/16 relates to the dredging of the Batemans Bay Marina and is not related to the Coach House Resort (other than it was proposed that the sand may be placed there). Condition 4 specifically states that it does not approve any works on the Coach House Resort site and that it was and is subject to a historic approval (DA291/96) (attached).
- I disagree with your approach regarding the development application and the concept application. Concurrence is only sought for a stormwater outlet apart of stage 1 (which NRAR have issued their General Terms of Approval for).
- You have not provided your reasoning for why you continue to not support the application and treat this site differently to surrounding development

I trust that you will consider my comments and as previously offered, I am happy to meet and discuss this issue with you and Peter.

Regards Gary

Gary Bruce RPIA

Divisional Manager Development Services

t 02 4474 1087 | m 0428 915 805 | f 02 4474 1234

From: Justin Gilligan [<mailto:justin.gilligan@dpi.nsw.gov.au>]

Sent: Monday, 8 July 2019 4:00 PM

To: Gary Bruce <Gary.Bruce@esc.nsw.gov.au>; Katrena Browne <Katrena.Browne@esc.nsw.gov.au>

Cc: Peter Gallagher <peter.gallagher@dpi.nsw.gov.au>

Subject: RE: Response to concept DA - Beach Road - Seniors Living Units

Hi Gary & Katrena,

Thanks for your emails.

In relation to the two parts of this development application, we are of the view that as the foreshore area and the broader development are related, we would therefore like to see the matter of the foreshore resolved before concurrence is issued.

The determining authority should consider future conflict that may arise between all parties if the parties involved are provided approval for the broader development, whilst the foreshore issue remains unresolved.

DA390/16 for previous works at this location included a condition that the construction of a retaining wall at this location was to be undertaken in accordance with designs approved by DPI Fisheries. All of the relevant agencies worked with the proponent to determine the final agreed staging plans for the foreshore as provided for in Condition 1 of the final development consent for DA390/16 - these plans are available in the associated Statement of Environmental Effects (SEE) and should be considered as a potential model for the foreshore at this site.

As you are aware, the retaining wall in its present form has not been constructed in accordance with the approved plans, therefore requires modification to be compliant. We have been informed that a final construction certificate has not been issued for the temporary wall that is currently in place.

In terms of the most recent foreshore plans we have received for this location, we would like to reiterate our following comments:

- We do not support the boardwalk & waterfront deck structures on the foreshore at this location
- We support the inclusion of a public access walking track adjacent to the foreshore that complements and protects the foreshore area and riparian buffer zone

Further detail around previously agreed design parameters of this foreshore are included in the attached correspondence.

In considering the above, the determining authority should consider that once the temporary block wall is removed and remediation works commence it will be very difficult to determine where the mean high water mark will settle as natural coastal process define the new foreshore.

Additional foreshore works may also be required in the future at this site, as is the case with many foreshore areas (both natural and artificial) throughout the shire. The determining authority should ensure access to the foreshore for maintenance work forms part of the assessment to help facilitate future foreshore remediation works. For example, adequate space should be available above the mean high water mark to allow machinery to work from the top of the bank, rather than from the waterway. This will not be achievable with the boardwalk and waterfront deck in their current location.

Please let me know if you require additional information.

Thanks,
Justin

Justin Gilligan
A/Manager, Batemans Marine Park

Marine Operations | Department of Primary Industries
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From: Gary Bruce [mailto:Gary.Bruce@esc.nsw.gov.au]

Sent: Monday, 8 July 2019 11:22 AM

To: Justin Gilligan

Cc: peter.gallagher@dpi.nsw.gov.au

Subject: RE: Response to concept DA - Beach Road - Seniors Living Units

Hello Justin and Peter

I am writing to seek some revised comments relating to a development application for a \$150 million concept approval for seniors housing and residential apartments. The application will be reported to the Southern Region Planning Panel in July or August. A site inspection and public meeting was held by the Panel on the 9 May 2019 and the Panel Chair requested that the matter of the land/water interface and the interaction of the development with the Marine Park needed to be resolved.

It is Council's understanding that the applicant has revised their proposal to accommodate some of the requirements of NSW Fisheries/Marine Parks but that sign off is not occurring due to strict adherence to NSW Fisheries guidelines. However, it is unclear what you are accepting and what you have concerns about.

Following on from Katrena's email, Council needs clear guidance from Marine Parks about the proposal. There are two issues here;

1. Concurrence for the stormwater outlet in stage 1B (which is seeking development consent) under clause 55 of the Marine Estate Management Act noting that the NRAR have issued GTA's for the same works,
2. Parameters around what you would like to see occur for the development at the water/land interface noting that these works are concept approval only and would be subject to further development applications. It is Council's view that the comments are too specific and that Marine Parks are assessing the concept as if it is an application seeking development consent.

There are a number of other comments that I feel need to be stated here:

- DA 390/16 relates to the Batemans Bay Marina and should have no bearing on this current application.
- Irrespective of what has occurred previously on the site, this current development application proposes new works and a new interface between the land and water. References to previous approvals are not relevant to the current application and Council is required under the Environmental Planning and Assessment Act 1979 to consider the current proposal on its merits.
- It is Council's view that a far better outcome can be achieved with the current application given the unreliability of the development consent (291/96) that permitted the land fill, i.e. there is no time frame around that temporary wall and this has been discussed with Marine Parks on numerous occasions.

- Council does not understand the strict adherence to DPI Fisheries guidelines when by their very nature, they are nominated as guidelines. Given the character of the locality, this site would be the only location where a pristine interface is being pursued when in the context of the site, there are rock revetment walls either side of the site and the site is also protected by a break wall.
- There is a public benefit in the provision of a boardwalk as it promotes public access to the foreshore and this is consistent with the Coastal Management Act. This is also not currently available on the existing development site.

I hope that you can consider my comments and come back to Council with some guidance. This is a large development application with a multitude of issues including traffic, building height and amenity concerns aside from the Marine Park area and the applicant has resolved the majority of these issues to Council's satisfaction except for this matter.

I would be happy to meet and discuss this matter over the next week or two should you wish to do so.

Regards Gary

Gary Bruce RPIA

Acting Director – Planning and Sustainability Services

t 02 4474 1087 | m 0428 915 805 | f 02 4474 1234

From: Katrena Browne

Sent: Friday, 5 July 2019 2:35 PM

To: Justin Gilligan <justin.gilligan@dpi.nsw.gov.au>

Cc: Gary Bruce <Gary.Bruce@esc.nsw.gov.au>

Subject: RE: Response to concept DA - Beach Road - Seniors Living Units

Hi Justin,

Thank you for your response in relation to DA 272/19.

The proposed development application contains two components. The first being the concept development application for the entire development. The second relates to the construction of Stage 1B which includes the upgrading of the existing stormwater infrastructure parallel with the southern boundary and an outlet being provided into Hanging Rock Creek.

Concept

The concept application does not propose any physical construction works. The boardwalk is being proposed as part of the concept application. These works will be the subject of a separate development application and a construction certificate application in the future.

In accordance with the Environmental Planning and Assessment Act, 1979 clause 4.22(1) stipulates that *"a concept development application is a development application that sets out concept proposal for the development of a site, and for which detailed proposals for the site or for separate parts of the site are to be the subject of a subsequent development application or applications."* In accordance with 4.22(2) the application may set out detailed proposals for the first stage of development.

The applicant has specifically requested that the application be treated as a concept application. In accordance with 4.22(4) *"consent is granted on the determination of a concept development application, the consent does not authorise the carrying out of development on any part of the site concerned unless:*

- (a) consent is subsequently granted to carry out development on that part of the site following a further development application in respect of that part of the site, or*

(b) the concept development application also provided the requisite details of the development on that part of the site and consent is granted for that first stage of development without the need for further consent."

The concept development application does not provide the required details for the boardwalk and the applicant has advised that the boardwalk will be the subject of a further development application at a later time.

In accordance with 4.22(5) the consent authority, when considering the proposal under section 4.15 the likely impact of the development the subject of a concept development application, need only consider the likely impact of the concept proposals (and any first stage of development included in the application) and does not need to consider the likely impact of the carrying out of development that may be the subject of subsequent development applications.

Note: The proposals for detailed development of the site will require further consideration development of the site will require further consideration under s4.15 when a subsequent development application is lodged."

Council requests that you provide your advice based on a concept proposal. Please confirm if you consider a public access way is suitable in this location. If it is, the details of the construction method can be resolved in a subsequent stage, the subject of a separate detailed development application which we can negotiate to ensure that the appropriate environmental outcomes can be achieved.

This site is unique in that (as depicted in the attached image) the Marine Park extends into private property. Council is concerned that the works in 2016/2017 have involved reclamation works which have altered the mean high water mark from within private land to outside the site on public land. However, the Marine Parks map has not been amended to reflect the changes on the ground. As such, it is requested that the proposed development be treated as if the marine park aligns with the property boundary.

The DA consent 390/16 does not have any relevance to this Development Application. We understand that arrangements were made at that time, which have not been completed, however, this proposal alters that outcome and proposes a different solution for a different land use. The temporary wall is proposed for removal as part of the concept application and will be the subject of further detailed assessment when it is proposed under the separate development application.

In accordance with clause 27 of the Coastal Management Act, 2016, Council must ensure that the proposed development must not unreasonably limit public access to or the use of a beach or headland. The current site does not provide any public pedestrian access to the waterfront land and Corrigans Beach. As such, we need to ensure that any redevelopment of this site must comply and ensure that public access is provided. Whether this is via the boardwalk or some other means which meets the requirements of your agency that can be the subject of further discussions.

Stage 1B

The works required in Stage 1B require concurrence for the new stormwater outlet into Hanging Rock Creek as the works are located below mean high water mark. The development application involves the detailed construction for Stage 1B which will not require further consent as outlined above. The stormwater outlet into Hanging Rock Creek is below mean high water mark as nominated in the Statement of Environmental Effects. It is requested that you provide concurrence in accordance with clause 55 of the Marine Estate Management Act 2014.

If you require any further clarification, please do not hesitate to contact me.

Kind Regards,

Katrena Browne

Acting Development Assessment Coordinator

t 02 4474 1211 | f 02 4474 1234

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From: Justin Gilligan [<mailto:justin.gilligan@dpi.nsw.gov.au>]
Sent: Wednesday, 3 July 2019 12:21 PM
To: Council <council@esc.nsw.gov.au>
Cc: Katrena Browne <Katrena.Browne@esc.nsw.gov.au>
Subject: Response to concept DA - Beach Road - Seniors Living Units

Hi there,

Thanks for referring this concept DA for our comment.

We recently provided advice to BHI Architects in relation to this proposal on 13 June 2019, the advice provided by **DPI Fisheries** remains current as previously provided.

The determining authority should consider that once the temporary block wall is removed and remediation works commence it will be very difficult to determine where the mean high water mark will settle as natural coastal process define the new foreshore. Therefore, we do not support the boardwalk & waterfront deck structures in their current locations on the foreshore. The Department supports the inclusion of a public access walking track adjacent to the foreshore that complements and protects the foreshore area and riparian buffer zone. Additional foreshore works may also be required, the determining authority should ensure access to the foreshore for maintenance work is considered to help facilitate future foreshore remediation works. For example, adequate space should be available above the mean high water mark to allow machinery to work from the top of the bank, rather than from the waterway. This will not be achievable with the boardwalk and waterfront deck in their current location.

According to the DPI-Fisheries "Policy and guidelines for fish habitat conservation and management", foreshore structures are not be supported in Type 1 habitat (Marine Park) unless certain circumstances exist, which are not applicable to this location. Furthermore, we note that vegetation will not establish under a boardwalk or deck as presented in the plans (Section B & C). Please note a purpose of the vegetation is to help stabilise the foreshore, which will benefit the proponent in the long term.

DA390/16 for previous works at this location included a condition that the construction of a retaining wall at this location was to be undertaken in accordance with designs approved by DPI Fisheries. The final agreed staging plans for the foreshore are available in the Statement of Environmental Effects (SEE) as provided for in Condition 1 of the final development consent for DA390/16. The retaining wall on site at the moment has not been constructed in accordance with the approved plans therefore requires modification to be compliant. We

have been informed that a final construction certificate has not been issued for the temporary wall that is currently in place.

The 1:10 beach slope should commence closer to the high tide mark. The slope needs to commence at an adequate height to prevent tidal scouring and allow the survival of salt tolerant vegetation. Where the plans show the slope commencing at the moment will not allow the establishment and survival of salt tolerant vegetation, the slope therefore needs to commence closer to the high tide mark.

A battered and vegetated 1:3 slope should occur along section B and C - a vegetation plan will need to be submitted as part of the DA documents.

We are also concerned about the practicalities of the foreshore in relation to section B where the buildings are located within 10m of the waterway.

Further detail in relation to the staging of works will be required, including mitigation measure to manage environmental risks (similar to the proposed in the approved SEE plans - DA390/16).

We support that the temporary blocks (and associated geotech fabric) be removed once the vegetated shoreline is stabilised - any future development consent will need to stipulate timing for staging and final removal of the temporary wall as provided in the previous SEE plans, proposed timing will need to be included in the supporting DA documents.

The blocks with additional rock toe embankment can remain in place on the western edge of area's A1 and A2 adjacent to the creek, this will help prevent future scouring and erosion during heavy rainfall events.

Please note that any works below mean high water require concurrence from marine parks, along with a marine park permit which will be assessed on its merits following the granting of development consent.

Please find our previous response to this proposal attached, the considerations raised remain current.

Please find input from the **Office of Environment & Heritage and the National Parks & Wildlife Service** below.

NSW National Parks and Wildlife Service (part of the Department of Planning, Industry and Environment) supports DPI Fisheries position. We recommend keeping for people and pets at least 50 metres away from the mouth of Hanging Rock Creek to conserve known pied oystercatcher breeding and foraging site by;

- Removing temporary block wall and stairs as required by previous approved development (as supported above)
- Moving the boardwalk in sections A1, A2 & western length of B as far back from the banks of Hanging Rock Creek and shoreline as possible.
- Avoiding crossings of Hanging Rock Creek within 50m of Oystercatcher nesting site
- Installing permanent visual and noise screens in sections A1 & A2 to reduce disturbance for the birds using local indigenous plantings
- Removing Geotech fabric to prevent Oystercatcher chicks becoming entangled in the fabric. Last year this killed some chicks (as supported above)
- Not providing seats or tables in section A2 & western length of section B to reduce disturbance to nest sites

- Restricting site works adjacent to the nesting site to between April and July would reduce noise and visual impacts. This time-frame is outside the Pied Oystercatcher breeding season which typically occurs between August and March each year
- Installing educational signage to be installed at a viewing point close to the proposed restaurant. This should provide information on threatened shorebirds, specifically the Pied Oystercatcher.
- Restricting dog and cat movements using conditions on strata or lease agreements for residents at the Coach House. These agreements to clearly explain the value of sandflat to threatened birds and required dogs and cats to be kept on lead when outside.

Our Shorebird Recovery Program has been monitoring the Pied Oystercatcher, *Haematopus longirostris*, nest and foraging site at the mouth of Hanging Rock Creek for the past 20 years. They are identified as an endangered species under the NSW Biodiversity Conservation Act 2015. Significant threats to these birds are dogs running off leash, people approaching the nesting site, noise disturbance, feral cats and entanglement.

If you need more information in relation to DPI Fisheries requirements, please contact myself on the number below.

If you need further information in relation to DPI National Parks and Wildlife requirements, please contact Max Beukers on 0427 486 783.

Thanks,
Justin

Justin Gilligan
A/Manager, Batemans Marine Park

Marine Operations | Department of Primary Industries
T 02 4476 0801 | E justin.gilligan@dpi.nsw.gov.au
Cnr Burrawang & Graham Streets, Narooma NSW 2546
www.dpi.nsw.gov.au

The Department of Primary Industries acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

From: Kendall McEvoy [mailto:Kendall.McEvoy@esc.nsw.gov.au]
Sent: Wednesday, 19 June 2019 12:27 PM
To: justin.gilligan@dpi.nsw.gov.au
Cc: Katrena Browne
Subject: FW: Referral to Justin Gilligan - Marine Parks

Good afternoon

The Southern Region Planning Panel met with Council and as a result additional information has been sought from the applicant. Part of this discussion involved advice being received that Council must resolve the issues associated with the foreshore as part of the concept DA. As such, the applicant has reinstated the boardwalk as per the plans accessible through the link below.

Council is under a tight timeline to ensure that the proposed development can be placed on the agenda for the Planning Panel Meeting on 29 and 30 July 2019. The final report is due with the Secretariat no later than 15 July 2019. It is requested that if possible your final advice be submitted to Council no later than Monday 8 July 2019.

I also want to confirm that the application is for a concept development application for the entire development and the application for Stage 1B. The entire concept includes 338 Residential Apartments (210 of those being Serviced Self Care Seniors Living), a Residential Care Facility, a separate wellness centre for the residents only and a community facility containing swimming pool, and gym, etc. and restaurant and café. This development will be constructed over 4 partially submerged basements.

All stages will be the subject of a separate more detailed development application prior to construction. This application includes the works associated with Stage 1B only. Stage 1B is the first Senior's apartment building accessed off the end of Marlin Avenue.

Please refer to the below link which includes the revised documentation for this DA, including:

- a cover letter in response to Council's RFI;
- amended SEE and CI 4.6 Request; and
- additional subconsultant input.

<https://www.dropbox.com/sh/1ge7cxf5g1n9fdu/AAAlli9WL1lHyRVboz3GbIcxa?dl=0>

Please find the architectural and landscape plans at the following link:

<https://www.dropbox.com/sh/41f610dvbaau3tq/AABKVhyt9k1tGJ2R48EszB-Ja?dl=0>

If you have any questions or any trouble accessing the documents, please do not hesitate to contact Katrena Browne on 4474 1211.

Regards

Kendall McEvoy

Development Assessment Support Officer

t 02 4474 7354 | f 02 4474 1234

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26 March 2019

Katrena Browne
Senior Development Assessment Officer
Eurobodalla Shire Council
PO Box 99
MORUYA NSW 2537

Dear Ms Browne

Concept Proposal – 18 Seniors Living Units, Associated Infrastructure and Partial Demolition of Existing.

Lot 104 DP 850637 – 49 Beach Road & Tuna Streets, Batemans Bay.

Thank you for your referral of 27 November 2018 seeking comment on the concept proposal for the redevelopment of the Coach House Resort.

In relation to this referral, the responsibilities of DPI Fisheries include ensuring that;

- fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)*.
- within marine parks, marine biological diversity and marine habitats are conserved and ecological processes are maintained. With regard to land use planning and approvals the Department ensures that development activities comply with or are consistent with the requirements of the *Marine Estate Management Act 2014* (MEM Act), *Marine Estate Management Regulation 2017* and *Marine Estate Management (Management Rules) Regulation 1999*.

The proposed development site is situated adjacent to Hanging Rock Creek. Hanging Rock Creek is part of the Batemans Marine Park and is classified as a Type 1 (highly sensitive), Class 1 (major) Key Fish Habitat (KFH).

The proposal has 2 separate components, a “concept proposal” for the entire development and a formal Development Application (DA) for the construction of Stage 1B.

We note that the proposal does not include any plans for coastal protection works or treatment of the riparian buffer zone. It is understood that the proponent plans to have these works assessed at a later time. However, the final configuration and location of the coastal protection works and the associated riparian zone treatment should be

considered concurrently with this current proposal to ensure that the opportunity to improve the environmental values of the riparian buffer zone are improved as part of the redevelopment of this site and that cumulative impacts to the foreshore environment can be considered.

DPI Fisheries recommends that Council defers issuing consent on the concept proposal until the associated Development Application for the coastal protection works has been lodged and can be assessed.

All comments provided to Council previously in relation to the coastal protection works at this site (Our ref: C18/658; dated 7 January 2019) remain valid.

DPI Fisheries has reviewed the Statement of Environmental Effects and associated documents for the concept plan and construction of Stage 1B referred to the Department and makes the following comments under s.56 of the *Marine Estate Management Act 2014* and considering NSW DPI *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)*. General Terms of Approval in accordance with s.91A(3) of the *Environmental Planning and Assessment Act 1979* will be provided on subsequent Development Applications for this site that may trigger integrated development referral.

Clearing of All Vegetation and Earthworks

Large areas of bare earth exposed during the construction period pose a considerable risk to adjacent waterways. Particularly when staged construction could conceivably extend over 5 – 10 years.

The Department supports a staged approach to clearing and earthworks.

DPI Fisheries recommends that best practice erosion and sediment control measures are used during construction.

Any construction water discharging to the adjacent waters of Batemans Marine Park will be required to be treated to match the ambient water quality of the adjacent waters. A water quality monitoring and reporting program will be required for the construction of Stage 1B and any future developments at this site, and this plan will need to be reviewed by DPI Fisheries for potential impacts to the marine park prior to implementation.

Buffer Zone

We reiterate that riparian vegetation is critical to the health and viability of adjacent waterways. In urban environments, the riparian zone plays a crucial role as a buffer and filter zone.

DPI Fisheries generally requires riparian buffer zones to be established and maintained for developments of activities in or adjacent to Type 1 or class 1 waterways. As a guide a riparian buffer zone of 100m is required adjacent to this type of aquatic habitat. We note that a riparian buffer zone of this width is not feasible in relation to this proposal. The Department is willing to accept **some** flexibility in the width of the riparian buffer, provided that adequate justification or offsetting is proposed.

We note that this proposal has not included any details relating to the proposed width or rehabilitation works for the required riparian buffer. As stated above, DPI Fisheries recommends that such matters are considered concurrently with this development application.

Sub-basement car parking

We note that the proponent has selected a flood planning level based on the minimum 50 year sea level rise projection. We disagree with the proponents interpretation of section 10.3 of the Interim Coastal Hazard Adaptation Code that actual sea level rise may be lower than allowed for, as section 10.3 also states that actual sea level rise may be lower **or higher**. DPI Fisheries recommends a conservative approach to planning within flood prone areas to avert ongoing “legacy issues” and impacts to water quality within the marine park into the future.

Dewatering of the proposed sub-basement carpark following any inundation event into the adjacent waters of Batemans Marine Park is not supported by this Department.

Ongoing Water Quality

It is a stated objective of Eurobodalla Shire Councils Infrastructure Design Standards that stormwater be treated in order to **“protect and enhance natural water systems within urban environments”**. The water quality guidelines proposed for this development permit the discharge of 15% of suspended solids, 55% of Nitrogen, 35% of Phosphorus and 10% of gross pollutants generated at the site to discharge directly into Batemans Marine Park for the lifetime of the development.

The Department does not believe that these targets will meet the stated objective at this location, more stringent water quality targets should be adopted.

Permit requirements

Any works below mean high water will require a permit under the MEMA Act for works within a Marine Park. Any dredging or reclamation in a waterway (below the high bank or Highest Astronomical Tide) or harm to marine vegetation, including shading impacts will require approval from DPI Fisheries. To consolidate the permitting process the proponent is only required to lodge a single marine park permit application. The Department will require a signed and stamped copy of the final development consent before a permit can be granted to cover these works.

If Council or the proponent requires any further information, please contact Jillian Reynolds on (02) 4428 3406 or Justin Gilligan on (02) 4476 0801.

Yours sincerely.



Carla Ganassin
Senior Fisheries Manager
Coastal Systems - South



Justin Gilligan
A/ Manager
Batemans Marine Park



Office of Environment & Heritage

Your reference: DA 272/19
Our reference: DOC18/943868-18

Katrena Browne
Senior Development Assessment Planner
PO Box 99
Moruya, NSW, 2537

Dear Ms Browne,

RE: Integrated Development Application 272/19 - Lot 101 DP 850637 and Lot 12 DP 124295, 49 Beach Road and Tuna Street Batemans Bay

Thank you for referring the above Integrated Development to the Office of Environment and Heritage (OEH) for our review and comment. We have provided comments regarding Biodiversity, Aboriginal cultural heritage and flooding only. More detailed comments regarding Flooding are within **Attachment A**.

Biodiversity:

OEH understands that the proposal is for a concept approval, as such we recommend that all biodiversity values should be identified upfront through fauna and flora assessments with anything significant identified to be protected under the conditions of consent. OEH is happy to liaise with council if conditions of consent are required.

The Statement of Environmental Effects (SEE) states that all the vegetation will be cleared for this development. OEH requires more information on how much impact will be made to the native vegetation present and if the impact will trigger the Biodiversity offsets scheme. The Biodiversity offsets scheme applies to local developments that are likely to significantly affect threatened species based on the test of significance outlined in section 7.3 of the *Biodiversity Conservation Act 2016* or when the clearing of native vegetation exceeds thresholds that are set out within the *Biodiversity Conservation Regulation 2017*.

OEH notes that the only assessment of significance completed is for the Pied oystercatcher. Please note any disturbance to the Pied Oystercatcher breeding habitat would be considered significant. Other shore birds should also be considered. Other threatened species known within the area that require consideration include;

- Sooty oystercatcher
- Glossy Black cockatoo
- Gang-gang cockatoo
- Masked Owl
- White-bellied sea eagle
- Grey Headed flying fox

OEH considers that the information regarding the present biodiversity within the whole site is not adequately represented and requires further assessments to show why a Biodiversity Development Assessment Report is not needed (BDAR).

Aboriginal Cultural Heritage:

We have reviewed the Aboriginal cultural heritage assessment and note an Aboriginal Heritage Impact Permit is not required at concept stage as no Aboriginal objects were located. Due to the proximity of the proposed development to the Hanging Rock Aboriginal heritage conservation area - we endorse the recommendation for representatives of the Aboriginal community to monitor works and advise all works must be kept to a minimum and be sympathetic to the heritage significance of the area.

Council and the proponent are reminded that under the *National Parks and Wildlife Act 1974* all Aboriginal objects and places are protected. We recommend that a construction environmental management plan is prepared for the development that would outline measures to be undertaken if Aboriginal objects, including human remains, are uncovered during construction activities.

Flooding:

As the site is affected by coastal and flood hazards, council will need to consider this development application consistent with relevant NSW Government policies including the Flood Prone Land policy as set out in the Floodplain Development Manual and the Coastal SEPP (2018). As the relevant Floodplain Risk Management Plan and Coastal Management Program are not yet complete, council should still carefully consider the implication of intensification of low lying coastal lands including the implications of climate change on inundation hazards and the risk to life and public safety. These risks may be exacerbated by the vulnerable nature of the occupants of an aged care development and any associated reliance on emergency services for access and or evacuation in the event of a large coastal event.

Detailed comments on flood and coastal hazards are within **Attachment 1**.

If you have any further questions in relation to this matter, please contact Nicola Hargraves (02) 6229 7195 or email via rog.southeast@environment.nsw.gov.au.

Yours sincerely,



ALLISON TREWEEK 21/12/18
Senior Team Leader Planning – South East
Conservation and Regional Delivery

Attachment A – Detailed comments on Floodplain Risk Management

The Office of Environment and Heritage (OEH) has reviewed the documentation supplied in support of the Development Application (DA) which raises floodplain risk management related matters warranting comment.

As the site lies at the confluence of Hanging Rock Creek and the Clyde River it will contain flood prone land. Council has commenced a flood study which will define the extent of flood prone land as well as the nature of flood function and hazard across the catchment including the site.

Due to the flood prone nature of the site, consideration of the proposal must be in line with the principles of the Floodplain Development Manual (FDM). This would involve council considering and being satisfied that the following matters have been adequately addressed with relation to floodplain risk management and associated liabilities:

- the impact of flooding on the proposed development; and
- the impact of the proposed development on flood behaviour on and off site (particularly those associated with topography changes through land fill); and
- the impact of flooding on the safety of people/users of both the subject and surrounding development for the full range of possible floods up to and including the probable maximum flood; and
- issues linked with the significant increase in population, the suitability of basement parking, the vulnerability of the residents, flood function, flood hazard, isolation, emergency response and accessibility for emergency services; and
- the implications of climate change (including sea level rise and increased rainfall intensity) and cumulative development impacts on flooding and flood planning levels;

In the absence of a completed flood study and floodplain risk management study and plan (FRMS&P), council will still need to discharge its obligations to appropriately consider the proposal in line with the principles of the FDM. Strategic analysis of potential flood hazard and risk under post development conditions within the broader catchment will assist in establishing suitable flood planning levels for the development in addition to consideration of public safety matters including an assessment of access for emergency services and evacuation requirements.

Should Council require any further advice or clarification on the above, please don't hesitate to contact the OEH.

Coastal Management comments

The land identified for redevelopment is all subject to present day (no allowance for sea level rise) coastal inundation for a storm with a 20 year annual recurrence interval (ARI). The depth of inundation is increased for storms with a greater magnitude (eg 100 year ARI) and will increase over time with sea level rise. Coastal inundation levels for coastal storms up to the 100 year ARI for planning periods up to 2100 are included in the 'Eurobodalla Coastal Hazard Assessment' (completed by WRL on behalf of Council in 2017) for locations including Batemans Bay CBD and surrounds, and should be referred to.

To ensure that the development would not be impacted by coastal inundation, the land would all need to be raised through fill to a height that is above the anticipated water levels under a coastal storm with a 100 year ARI that incorporates a SLR factor for beyond 2100, consistent with the 'South Coast Regional Sea Level Rise Policy and Planning Framework'

and reflected in Council's 'Interim Coastal Hazard Adaptation Code'. The documentation supporting the development should outline how this has been addressed and how the adopted flood planning level of 3.24m has been developed to accommodate this.

As noted above under flood comments, council will need to assess the risk of the full range of potential coastal events, including an assessment of the need for evacuation.

We note that Council has classified development along parts of the Batemans Bay foreshore, including the subject lands in full, as 'Areas of Critical Utility' due to existing rock protection works, which effectively means that development in this area does not account for coastal erosion. The risk of failure and overtopping of the of the rock protection works should however be assessed.

It is recommended that council consider the Coastal SEPP (2018) in assessing this development application. Whilst Coastal Vulnerability Areas are not yet formally mapped consistent with the Coastal SEPP, the SEPP provides suitable matters that need to be considered and addressed with regard to coastal hazards and coastal processes. Further advice regarding the application of the Coastal SEPP to this development should be sought from DPE.



Office of Environment & Heritage

DOC19/185532-25
DA 272/19

Katrena Brown
Senior Development Assessment Planner
PO Box 99
Moruya NSW 2537
council@esc.nsw.gov.au

Dear Katrena,

RE: Amended concept proposal and Development Proposal – Lot 101 DP 850637 and LOT 12 DP 124295, 49 Beach Road and Tuna Street Batemans Bay

I refer to the application and accompanying information provided for the above development received by the Office of Environment and Heritage (OEH) on 4 March 2019. We have provided comments regarding Biodiversity and Flooding only.

Biodiversity:

OEH acknowledges the amended documents and updated Ecological Assessment that demonstrates that a Biodiversity Development Assessment Report (BDAR) is not required due to the development not clearing past the threshold of native vegetation, the area not being within the Biodiversity Values Map and not proposing any significant impact to threatened species or ecological communities.

OEH considers the mitigation measures proposed for the Pied Oystercatcher should be conditions of consent. These measure should be integrated into the design, construction and operational phases (Page 27, Ecological Assessment). We also support the mitigation measures for the Swamp Oak Floodplain forest, proposing to use perimeter fencing and restrictions, maintaining the surface runoff and using erosion control measures such as sediment barriers.

Flooding:

OEH has reviewed the additional information provided and notes that it does not adequately address the issues raised in the December 2018 advice. OEH therefore offers more detailed advice to support council in its consideration of the proposal consistent with relevant NSW Government policies including the Flood Prone Land Policy as set out in the Floodplain Development Manual 2005 (FDM). Council should also seek further advice from the DPE regarding the consistency of this proposal including additional information against the Coastal SEPP, 2018.

More detailed comments on flooding and coastal hazards are in **Attachment 1**.

If you have any questions regarding the contents of this letter, please contact Nicola Hargraves (02) 62297195 for Biodiversity matters and John Murtagh (02) 4224 4154 for Flooding matters.

Kind regards

A handwritten signature in black ink, appearing to read 'Allison Treweek'.

ALLISON TREWEEK
Senior Team Leader – South East
Conservation and Regional Delivery

Contact officer: NICOLA HARGRAVES
6229-7195

Enclosure – Attachment 1 – More detailed comments on Flood Risk Management Comments

Cc: Gary Bruce (gary.bruce@esc.nsw.gov.au) and Katrena Browne (Katrena.Browne@esc.nsw.gov.au)

Attachment 1 - Floodplain Risk Management comments

As the site contains flood prone land, council will need to consider this development application consistent with relevant NSW Government policies including the Flood Prone Land policy as set out in the Floodplain Development Manual (FDM) which can be accessed at: Floodplain Development Manual.

Council should carefully consider the implication of intensification of development on low lying coastal lands including the implications of climate change on inundation hazards and the risk to life and public safety. These risks may be exacerbated by the vulnerable nature of the occupants of an aged care development and any associated reliance on emergency services for access and or evacuation in the event of a large flood event.

Due to the location of the site it could be subject to flooding from:

- Runoff through the site from the Hanging Rock Creek catchment;
- Runoff generated on the site;
- Storm surge from the Clyde River / Batemans Bay; or
- A combination of any two or all three flood mechanisms simultaneously.

In order to facilitate analyses consistent with the Policy and FDM, OEH provides a range of technical guidelines, in addition to that set out in the FDM, to inform appropriate analysis of flood behaviour, hazard and risk. These guidelines can be accessed at

<https://www.environment.nsw.gov.au/topics/water/floodplains/floodplain-guidelines>.

Consideration of the proposal in line with the FDM principles will require council to be satisfied that the following matters have been adequately addressed along with their associated liabilities:

- the impact of flooding from all relevant flood mechanisms up to and including the probable maximum flood on the proposed development; and
- the impact of the proposed development on flood behaviour on and off site (particularly those associated with topography changes through land fill) from any and all relevant flood mechanisms up to and including the probable maximum flood; and
- the impact of flooding on the safety of people/users of both the subject and surrounding development for the full range of possible floods up to and including the probable maximum flood; and
- issues linked with the significant increase in population, the suitability of basement parking, the exposure and vulnerability of the residents, particularly linked to planned isolation, emergency response and accessibility for emergency services; and
- identification of an appropriate flood planning level and flood planning area, responsive to all potential flood mechanisms across the range; and
- identification of flood hazard and flood function across the site, responsive to all potential flood mechanisms across the range; and
- the implications of climate change (including sea level rise and increased rainfall intensity) and how this relates to the anticipated design life of the proposal; and
- cumulative development impacts on flood behaviour, flood hazard, flood function in establishing a flood planning level and flood planning area.;

A flood study and floodplain risk management study and plan (FRMS&P) has not been completed. Council will need to release its obligations to appropriately consider the proposal in line with the principles of the FDM.

Strategic analysis of the potential interaction of flood and coastal inundation hazards will assist in establishing suitable flood planning levels for the development. Consideration of public safety matters

including an assessment of access for emergency services, evacuation requirements and basement carparking is necessary.

Council is encouraged to progress the completion of its Floodplain Risk Management Plan and utilise the hazard information made available through its Eurobodalla Coastal Management in considering the current proposal.

For matters relating to development considerations under the Coastal SEPP council should contact DPE. Given the potential risks to life, council would benefit from also seeking advice from the SES on the issue of isolation and flood access for emergency services for this proposal.

For the analysis of the subject site, the following guidelines are particularly relevant:

- * Modelling the Interaction of Catchment Flooding and Oceanic Inundation in Coastal Waterways
- * Examples Using the Floodplain Risk Management Guide
- * Template for documenting methods and assumptions when using the modelling
- * Hourly water level data to support the use of the modelling guide
- * Floodway Definition
- * Practical consideration of climate change
- * Incorporating Australian Rainfall and Runoff 2016 into studies

Links to above mentioned sites:

1. <https://www.environment.nsw.gov.au/topics/water/floodplains/floodplain-manual>
2. <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Floodplains/modelling-catchment-flooding-oceanic-inundation-150769.pdf?la=en&hash=41092E03528FEF91161826E5FE5D9E5CD2D13598>
3. <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Floodplains/examples-using-the-floodplain-risk-management-guide-150770.pdf?la=en&hash=5C6FF55A8559853B4B990FD579CA50A9F95A2043>
4. <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Floodplains/floodplain-risk-management-guideline-floodway-definition-160734.pdf?la=en&hash=4A655EA8590CBAF17E6FCC0627075A34DA2DC26E>
5. <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Water/Floodplains/practical-consideration-of-climate-change-160740.pdf?la=en&hash=BCA746C56CC6A221ECB07ABA5662508CEE397618>
6. <https://www.environment.nsw.gov.au/research-and-publications/publications-search/floodplain-risk-management-guide>



Our ref: STH18/00220
Contact: Melissa Steep 4221 2771
Your ref: DA272/19

17 December 2018

Kara Nelson
Eurobodalla Shire Council
council@esc.nsw.gov.au

DEVELOPMENT APPLICATION DA272/19 – LOT 12 DP124295 & LOT 101 DP850637, 49 BEACH ROAD AND TUNA STREETS, BATEMANS BAY, SENIORS LIVING DEVELOPMENT

Dear Kara,

Roads and Maritime Services (RMS) refers to your correspondence dated 28 November 2018 regarding the subject development application.

Beach Road is a regional classified road, managed by Eurobodalla Shire Council.

In 2015, RMS reviewed its level of involvement on classified regional roads and determined it more appropriate for councils to consider and determine if proposed arrangements for the development are acceptable from a network perspective (i.e. no practical local road alternatives and acceptable in terms of safety and efficiency).

Given the above, RMS entrusts Council to assess and manage the traffic implications of this development application.

RMS advises that if Council deem changes to the traffic signals at the intersection of Beach Road, Country Club Drive and Caitlin Avenue are required, RMS in principle acceptance will need to be obtained prior to determination of the DA.

Upon determination of this matter, it would be appreciated if Council could email a copy of the Notice of Determination to RMS via development.southern@rms.nsw.gov.au.

If you have any questions please contact Melissa Steep on 4221 2771.

Please ensure that any further email correspondence is sent to development.southern@rms.nsw.gov.au.

Yours faithfully,

Chris Millet
Manager Land Use
Southern Region



Our ref: STH18/00220/02
Contact: Melissa Steep 4221 2771
Your ref: DA 272/19 (81.2002.D)

11 March 2019

Katrena Browne
Eurobodalla Shire Council
council@esc.nsw.gov.au

DEVELOPMENT APPLICATION DA272/19 – LOT 101 DP 850637 & LOT 12 DP 124295, 49 BEACH ROAD AND TUNA STREET, BATEMANS BAY, AMENDED CONCEPT PROPOSAL (RESIDENTIAL AND SENIORS LIVING) AND STAGE 1B (18 SENIORS LIVING UNITS & ASSOCIATED WORKS)

Dear Katrena,

Roads and Maritime Services (RMS) refers to your correspondence dated 4 March 2019 regarding the subject development application (DA).

RMS has completed an assessment of the DA, based on the information provided and focussing on the impact to the state road network. RMS notes for this DA:

- The key state road is the Princes Highway;
- Beach Road is a regional classified road, managed by Eurobodalla Shire Council;
- Council is seeking advice from RMS to assist in its assessment under Clause 104 of State Environmental Planning Policy (Infrastructure) 2007; and

RMS does not believe the development will have a significant impact on the Princes Highway. RMS has recently reviewed its level of involvement on classified regional roads determined it more appropriate for Councils to consider and determine if proposed arrangements for the development are acceptable from a network perspective (i.e. no practical local road alternatives and acceptable in terms of safety and efficiency).

Given the above, RMS entrusts Council to assess and manage the traffic implications of this development application.

RMS notes that Council's engineers are investigating the impact of the proposed development upon the traffic signals at the intersection of Beach Road, Country Club Drive and Caitlin Avenue. Should Council deem changes to the signals are required, RMS understands the proposed changes will be referred to RMS for review and in principle acceptance, prior to determination of the DA.

Upon determination of this matter, it would be appreciated if Council could email a copy of the Notice of Determination to RMS via development.southern@rms.nsw.gov.au.

Please ensure that any further email correspondence is sent to development.southern@rms.nsw.gov.au and quote RMS reference STH18/00220

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Chris Millet', with a stylized flourish at the end.

Chris Millet
Manager Land Use
Southern Region