

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSTH-11
DA Number	DA0189/20
LGA	Eurobodalla Shire Council
Proposed Development	Regional Aquatic, Arts and Leisure Centre and demolition of existing.
Street Address	10-12 Vesper Street BATEMANS BAY NSW 2536
Applicant/Owner	Eurobodalla Shire Council
Date of DA lodgement	02/10/2019
Number of Submissions	15 public submissions
Recommendation	It is recommended that the proposal is approved with conditions.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Council related development with a capital investment of more than \$5 million in which Council is the applicant and the Council is to carry out the development (Clause 3 Schedule 7). The estimated overall cost of the development is \$49,500,000.00.
List of all relevant s4.15(1)(a) matters	<p><u>Acts</u> Environmental Planning and Assessment Act 1979 Biodiversity Conservation Act 2016 Rural Fires Act 1997 Marine Estate Management Act 2014 Fisheries Management Act 1994 Coastal Management Act 2016</p> <p><u>State Environmental Planning Policies</u> State Environmental Planning Policy (State & Regional Development) 2011 State Environmental Planning Policy (Primary Production and Rural Development) 2019 State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP) State Environmental Planning Policy (Vegetation in non-rural areas) 2017.</p> <p><u>Local Environmental Planning Policies</u> Eurobodalla Local Environmental Plan 2012</p> <p><u>Other policies</u> Eurobodalla Shire Council Development Contribution Plan</p>
List all documents submitted with this report for the Panel's consideration	Draft Conditions of Consent Plans for the proposed development Reports in support of the proposal -Acid Sulphate Management Plan -Acoustic Report
Clause 4.6 requests	N/A

Summary of key submissions	<ul style="list-style-type: none"> • traffic and parking concerns • environmental concerns
Report prepared by	Rebecca Ireland, Senior Development Assessment Planner
Report date	17/03/2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the ELEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Contents

Application overview/Summary	7
A. PROPOSED DEVELOPMENT:	8
B. BACKGROUND:.....	9
C. DESCRIPTION OF THE SITE:.....	10
C.1 DEPOSITED PLAN:.....	13
C.2 INTERNAL AND EXTERNAL REFERRALS & POST LODGEMENT HISTORY	13
D. EVALUATION.....	15
COMPLIANCE WITH RELEVANT FEDERAL LEGISLATION	16
Environment Protection and Biodiversity Conservation Act 1999	16
Disability Discrimination Act 1992	16
Native Title Act 1993	16
COMPLIANCE WITH RELEVANT STATE LEGISLATION	17
Rural Fires Act 1997	17
Water Management Act 2000	17
Biodiversity Conservation Act 2016	17
Marine Estate Management Act 2014	21
Fisheries Management Act 1994 (FM Act)	21
Coastal Management Act 2016 (CM Act)	21
Heritage Act 1977	22
National Parks and Wildlife Act 1974.....	22
Environmental Planning and Assessment Act 1979.....	23
State Environmental Planning Policy (State and Regional Development) 2011	24
State Environmental Planning Policy (Primary Production and Rural Development) 2019	25
State Environmental Planning Policy No.33 – Hazardous and Offensive Development.....	26
State Environmental Planning Policy No.55 – Remediation of Land	26
State Environmental Planning Policy (Infrastructure) 2007.....	27
State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP)	27
State Environmental Planning Policy (Vegetation in non-rural areas) 2017.....	28
State Environmental Planning Policy No 64—Advertising and Signage	28
Other State Environmental Planning Policies	28
Marine Estate Management (Management Rules) Regulation 1999	28
NSW Department of Planning, Industry and Environment - South East and Tablelands Regional Plan 2036 ..	29
EUROBODALLA LOCAL ENVIRONMENTAL PLAN 2012	29
Recommendation	39

<i>Table 1 – Agency referrals</i>	40
<i>Table 2 – Public referrals</i>	60
<i>Attachment One – Draft Conditions of Consent</i>	89
<i>Attachment Two – Development Plan Set</i>	105

**EUROBODALLA SHIRE COUNCIL
DEVELOPMENT APPLICATION ASSESSMENT REPORT
Pursuant to Section 4.15 of the Environmental Planning and Assessment Act**

APPLICATION DETAILS

PLANNING CONTROLS/STATUTORY CLASSIFICATION

Reason for consideration by Southern Regional Planning Panel

The development is identified as 'regionally significant development' pursuant to the State Environmental Planning Policy (State and Regional Development) 2011 Clause 20(1) as it is a Council related development with a capital investment of more than \$5 million in which Council is the applicant and the Council is to carry out the development (Clause 3 Schedule 7). The estimated overall cost of the development is \$49,500,000.00.

Proposal

Construction of a new community facility comprising of an aquatic, arts and leisure facility, parking for 202 spaces, demolition of existing building and associated structures, removal of trees and consolidation of the development site into one lot.

Permissibility

The site is zoned RE1 Public Recreation and RE2 Private Recreation pursuant to the Eurobodalla Local Environmental Plan 2012 (LEP 2012). The proposed development is defined as a 'Community Facility' which is permitted in the zone pursuant to the provisions of the LEP 2012.

There is no proposed development in the E2 zone.

Consultation

The proposal was notified in accordance with Council's Advertising and Notification Code of Practice. Fifteen submissions from the public were received (twelve in objection and three in part support and part objection) which are discussed in the report.

Main issues

The main issues relate to the following:

- Status of Lot 282 and 283 DP785902 (Bowling Club site)
- Business plan/ongoing costs not available to the community
- Sale of community assets/loss of mini golf
- 50m pool/lack of community consultation for a 50m pool
- Internal GFA of theatre/art space and gym.

The items raised are not primary planning considerations for this application or related to this application. The business plan for the proposal is on the Council website and has been available for an extended period. Significant consultation has occurred prior to lodgement of the application, including nine kiosks showing three exhibited concept designs at the local Batemans Bay shopping centre, Narooma library and Moruya library, and on Council's website, posters distributed throughout Batemans Bay, online surveys conducted for design options and stakeholder discussions held with swimming groups, theatrical groups, schools, medical practitioners and local businesses.

Recommendation

It is recommended that the proposal is approved with conditions.

Application overview/Summary

Application No.	DA0189/20
Southern Regional Planning Panel Ref:	PPSSTH-11
Date of Lodgement:	02/10/2019
Applicant:	Stephen Phipps on behalf of the Eurobodalla Shire Council 89 Vulcan Street Moruya PO Box 99 Moruya NSW 2537
Development Proposal:	Regional Aquatic, Arts and Leisure Centre and demolition of existing
Development Cost:	\$49,500.000.00
Assessment Officer:	Rebecca Ireland, Senior Development Assessment Planner
Type of Application:	Development Application (Regionally Significant Development)
Other Approvals:	Not Applicable
Concurrence Required:	NSW Roads and Maritime Services NSW Planning, Industry and Environment NSW Rural Fire Service
Referrals:	NSW Police NSW Environmental Protection Authority Department of Planning, Industry and Environment (Biodiversity and Conservation) Department of Planning, Industry and Environment (Fisheries) Department of Planning, Industry and Environment (Marine Parks) Essential Energy NSW Roads and Maritime Services NSW Crown Lands NSW Rural Fire Service NSW Office of Water
Referrals Internal:	Infrastructure Services Division Traffic Committee Building Surveyor Building Surveyor (Swimming Pools) Environmental Health Division Environmental Health Officer (food) Environmental Health Officer (Liquid Trade Waste) Strategic Planning (Environment) Strategic Planning (Urban Design)
Advertising:	9 October 2019 – 06 November 2019
Determining Body:	Southern Regional Planning Panel
Reason:	Regionally Significant Development pursuant to clause 3 in Schedule 7 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i>
Meeting Date:	31 March 2020
Owners Consent Provided:	NSW Planning, Industry & Environment on the 27 September 2019 Eurobodalla Shire Council
Location:	10-12 Vesper Street BATEMANS BAY NSW 2536 Part Lot 30 DP 755902, Part Lot 31 DP 755902, Lot 1 DP 1049123, Lot 259 DP 755902 and Lot 2 DP 1049123

<p>Eurobodalla Local Environmental Plan 2012 RE1 Public Recreation RE2 Private Recreation E2 Environmental Conservation Eurobodalla Local Environmental Plan 2012 (ELEP) Clause 2.2</p>
<p>'Community Facility' ELEP 2012 Clause 2.3 permits Community facilities are permitted with consent in RE1 and RE2 zones. There is no proposed development in the E2 zone. Permissible with Consent</p>
<p>No DCP Identified.</p>
<p>A Plan of Management (POM) under the <i>Crown Land Management Act 2016</i> adopted by Council.</p>

A. PROPOSED DEVELOPMENT:

Council is in receipt of the above application for an Aquatic, Arts and Leisure Centre and demolition of existing.

The proposal consists of:

1. The construction of a regional aquatic, arts and leisure centre and associated infrastructure including car parking, landscaping, stormwater infrastructure and a new electricity substation.
2. The demolition of existing buildings and facilities on the site.
3. Landforming activities, being predominantly the introduction of clean fill to the site and excavation to accommodate foundations, pool shells, stormwater controls, a rainwater tank and grease arrester trap. The proposal includes decommissioning of an existing sewer main, new sewer pumping station and provision of a new sewer main connection along the southern boundary of the site.
3. Amalgamation of Lot 1 DP 1049123, Lot 2 DP 1049123 and Lot 31 DP 755902 into one lot.

The aquatic components consist of:

- Eight lane, 25m lap pool, with stair and ramp access and spectator seating
- Learn to swim pool, connected with a leisure pool with beach entry and splash pad
- Warm water program pool, with ramp access
- Water slide tower, with four slides, two landing indoors and two landing in the external aquatic recreation area. The two water slides which land in the external aquatic recreation area will be constructed in stage two.
- Stage two will consist of an outdoor aquatic recreation area, with splash pad, café seating and passive recreation space with landscaping;
- Café and seating;
- Change facilities consisting of six female toilets, basins, six showers and change area. Male facilities consisting of three toilets, seven urinals, basins, six showers and change area. Five family change rooms, two accessible toilets and an accessible adult change facility;
- Pool plant room, chemical store and other storerooms.

The Arts component consist of:

- 357 seat performance space, with 350 retractable seats plus seven accessible spaces and a black box theatre
- Green room, three dressing rooms, with amenities and two accessible showers
- Stage waiting room
- Production office and technical office located within the centre management area
- Internal foyer and gallery space
- Wet and dry art/meeting rooms, plus a third meeting room
- Dance rehearsal space
- Box office and bar
- Kitchenette
- Store room
- Loading room and store/workshop
- Wardrobe and laundry room

Leisure and other components consist of:

- Gymnasium, with two programme rooms and spin room, two assessment rooms and a store room
- Gymnasium reception desk
- Gymnasium female amenities including two toilets, three showers and lockers. Male amenities including two toilets, two urinals, three showers and lockers
- Reception desk, for general enquiries and tourism information
- Small retail space between reception area and café
- Café and kitchen, with indoor and outdoor seating
- Centre management office space
- Amenities including an accessible toilet and ambulant facilities
- Loading dock for deliveries and waste management
- Roof-mounted solar panels
- Below ground rainwater tank
- Parking for 202 vehicles, including twelve accessible parking spaces, three long-vehicle spaces, plus three electric car charging bays, two bus bays, ten staff parking spaces and an area dedicated to bike parking not included in the parking calculations.

The following concurrent approvals are sought under the *Local Government Act 1993*:

- Works within the road reserve
- Sewer, water and stormwater works
- Section 68 – Liquid Trade Waste

Note: It is intended that a liquor license will be obtained for the facility. This is a separate process under the Liquor Act 2007.

B. BACKGROUND:

Lot 31, 259 and 30 DP7559002 and Lot 2 DP 1049123 is known as Mackay Park. Mackay Park was granted to settlers as freehold land and remained in freehold private ownership until it was returned to the Crown and dedicated as public reserve. The development site was dedicated as Crown Reserve in 1966 and is Crown Land under the control and management of Eurobodalla Shire Council. The *NSW Crown Land Management Act 2016 (CLM Act)* came into force on 1 July 2018 and Council is the appointed land manager.

In 2016 the Eurobodalla Shire Council purchased the site of the former Batemans Bay Bowling Club which adjoins Mackay Park to the north and east. The former Batemans Bay Bowling Club consists of Lot 282 and 283 DP 755902. This land will form part of the overall precinct for Mackay Park but is not the subject of this application. When the land was purchased by Council, community consultation was held to determine the community's preference on the future use of the Mackay Park precinct. The main theme expressed by the community was the desire for an indoor aquatic centre and an arts and cultural facility. Council established the Mackay Park Sunset Committee to provide community representatives an opportunity to be involved in planning for the future of Mackay Park and to oversee community engagement.

In November 2016, Council resolved to commence the preparation of a concept plan and business case for the development of an aquatic facility and an arts and cultural facility at Mackay Park. The business case and concept plan determined that a combined facility was more cost effective to construct and operate and it left the former Bowling Club site available for other development that would stimulate further economic growth in Batemans Bay (such as conference and event facilities).

In September 2018 Council endorsed a Plan of Management (POM) for Mackay Park. The POM included the development of a Regional Aquatic, Arts and Leisure Centre as a key action. On 27 August 2019, Council resolved to endorse a preferred concept design as the basis for the detailed design and for seeking development consent. Council also resolved to consent to a development application being lodged for the development. The architectural drawings as submitted, are consistent with the concept design endorsed by Council.

A pre-lodgement meeting was held on 30 April 2019 and 27 September 2019 between the Applicant (Eurobodalla Shire Council) and Council staff from multiple divisions (Planning, Engineering and Building) prior to formal lodgement of the application.

The Development Application (DA) was submitted to Council on 2 October 2019. The application was placed on public exhibition in accordance with the requirements of the Council's Advertisement and Notification Code.

C. DESCRIPTION OF THE SITE:

The site to be developed as part of this application is legally identified as Lot 1 DP 1049123, part of Lot 2 DP 1049123, part of Lot 31 DP 755902, part of Lot 259 DP 755902 and part of Lot 30 DP 755902. The development site is the south-east corner of what is known as Mackay Park or 10-12 Vesper Street (Princes Highway), Batemans Bay. Mackay Park is Crown Land, for which Council is the Crown Land Manager. The development is consistent with an adopted Plan of Management for the land.

Lot 282 and Lot 283 DP 785902 (the former Batemans Bay Bowling Club) is Council owned freehold land which is currently leased to the NSW Roads and Maritime Services (RMS) for the duration of the construction of the replacement Batemans Bay Bridge project to the north. Future use of this land will be subject to a separate development application and approval process. Council's identified preference is for uses that will complement the development and the Batemans Bay Town Centre, such as conference and event spaces, restaurants and cafes, tourist accommodation, etc.

The site is located within the western edge of the Batemans Bay town centre which is surrounded by the Clyde River to the east and McLeods Creek and wetlands to the west. The development site is flat and low lying, with surface levels of between 2m AHD and 3m AHD. Due to the natural waterways surrounding the town centre, the site is subject to flooding and coastal inundation.

The frontage of the development site to the Princes Highway is approximately 242m to the east and the remaining boundaries adjoin the wetlands to the south and south west. The adjoining wetlands are mapped as a habitat protection zone within the Batemans Bay Marine Park, Coastal Wetland under the State Environmental Planning Policy (Coastal Management) 2018 and a Priority Oyster Aquaculture Area within McLeods Creeks as mapped under the NSW Sustainable Oyster Aquaculture Strategy 2016. The area to the north does not form part of this application.

Due to the highway frontage, the site is considered a prominent location in Batemans Bay. Access to the site is from the existing signalised intersection of Vesper Street and Beach Road. The surrounding area is characterised by a mix of residential and commercial uses. The predominant built form consists of the Village Centre shopping centre, Visitors Information Centre, gymnasium, offices, fast food outlet and bulky good premises. Two detached residential dwellings are located on the east of the highway in between the commercial uses and a four-storey residential flat building providing seniors living operated by IRT located on the corner of Beach Road and Perry Street adjoining the Village Centre shopping centre.



Location of Mackay Park taken from Statement of Environmental Effects, Navigate Planning

In accordance with the Eurobodalla Local Environmental Plan (LEP) 2012, the site is identified as being within the RE1 Public Recreation known as Mackay Park. A small portion of the site contains RE2 Private

Recreation zone and a small portion of the southern boundary of the site contains Environmental Conservation. No part of the development is within this zone.

Mackay Park currently contains sporting ovals in the western part of the site and a clubhouse building, which are proposed to remain. The existing outdoor pool located in the south-eastern part of the park is to be removed and redeveloped as part of this proposal. The RE2 Private Recreation zone currently comprises of a mini-golf facility, which is located on Lot 1 DP1049123 at the intersection of the Princes Highway and the entrance road. This facility is required to be removed to allow the proposal to occur.



Location of the development site within Mackay Park taken from Statement of Environmental Effects, Navigate Planning

The development site is currently serviced by reticulated water, sewer, power and some stormwater infrastructure. The proposal will require upgrading of all these services.

C.1 DEPOSITED PLAN:

The Deposited Plan (DP) held by Council for this site is dated 22 January 1981. There are no restrictions or limitations on title.

C.2 INTERNAL AND EXTERNAL REFERRALS & POST LODGEMENT HISTORY

This application was referred as follows:

Referral	Date Referred	Dated Received	Comments
Police	03/10/2019	29/10/2019 and 06/11/2019	Recommended conditions of consent and amended plans demonstrating one additional pedestrian pathway in car park
NSW Department Primary Industries, Fisheries/Maritime/Marine Parks	03/10/2019	6/11/2019 and 10/02/2020	Recommended conditions of consent
Department of Planning, Industry and Environment, Biodiversity and Conservation Division	03/12/2019	10/02/2020	Comments noted Additional information received by applicant. Draft conditions applied.
Electricity (Essential Energy)	03/10/2019	19/11/2019	Recommended conditions of consent
Roads and Maritime Service	03/10/2019	12/03/2020	Recommended conditions of consent
Crown Lands	04/10/2019	16/10/2019	Land owners consent granted
Refer – Rural Fire Service 100B	03/10/2019	22/11/2019	Recommended conditions of consent
NRAR (Water)	03/10/2019	22/10/19	No further action or recommended conditions of consent required
Environmental Protection Authority (POEO Act)	03/10/2019	31/10/19 and 27/02/2020	Recommended conditions of consent
Eurobodalla Shire Council (ESC) Building Surveyor (Swimming Pool)	02/10/2019	02/10/2019	Advised by Officer no comment required
ESC Building Surveyor	02/10/2019	02/10/2019	General advice provided to the Applicant. No recommended conditions of consent.
ESC Development Engineer	02/10/2019	12/11/2019	Requesting further information
ESC Local Traffic Committee	02/10/2019	11/11/2019 & 06/03/2020	Comments noted and Recommended conditions of consent

ESC Strategic Department (Environment)	02/10/2019	06/12/19	Recommended conditions of consent
ESC Environmental Health Officer (Food)	02/10/2019	14/11/2019	Recommended conditions of consent
ESC Environmental Health Officer	02/10/2019	13/11/2019	Recommended conditions of consent
ESC Environmental Health Officer (Liquid Trade Waste)	02/10/2019	14/11/2019	Recommended conditions of consent
ESC Strategic Department (Urban Design)	02/10/2019	14/10/20019	Comments noted
ESC Infrastructure Services Division	22/10/2019	11/11/2019 and 02/03/2020	Comments noted and recommended conditions of consent

POST LODGEMENT

On 2 October 2019, the applicant lodged the Development Application with Council.

On 17 October 2019, the NSW RMS requested additional information regarding the additional access on Vesper Street (Princes Highway). The application proposed ‘exit only’ for service vehicles and entry for emergency vehicles. The NSW RMS raised concern with the potential queuing back on to the Highway and required clarification on the proposed use of the additional access.

On 31 October 2019, the NSW Environmental Protection Authority (EPA) requested further information on the proposed sediment basins to ensure that stormwater discharge into McLeods Creek (wetland) is consistent with the NSW Water Quality Objectives.

On 6 November 2019, the NSW Department of Primary Industries (DPI), Fisheries and Marine Parks requested additional information regarding the stormwater design, protection of the Marine Park and wetland during and post construction, and information regarding groundwater impacts.

On 13 November 2019, Council requested additional information providing the copies of the external and internal responses. A copy of the fifteen submissions received during the notification period were provided to the applicant for a response.

On 18 November 2019, the applicant provided a response to the NSW RMS request for additional information, such that signage was to be placed on the proposed access from Vesper Street (Princes Highway) stating ‘No Entry – Emergency Vehicles Excepted’. Council forwarded this to the NSW RMS for comment on 18 November 2019.

On 19 November 2019, the NSW RMS advised that they did not support the proposed arrangement and would only consider left in-left out, if the arrangement was supported by a left turn deceleration lane. This response was provided to the applicant on 19 November 2019.

On 19 December 2019, the applicant submitted a response to external and internal referrals and submissions. The response included an addendum to the Statement of Environment Effect (SEE) which addressed a revised car parking design to satisfy the Police referral response, increased building floor level to rectify the flood level as raised by the Council’s Development Engineer, a revised stormwater design to satisfy numerous environmental concerns by multiple internal and external referrals and to respond to questions raised by the NSW Department Planning, Industry and Environment (DPIE), Biodiversity and Conservation Division, the applicant provided clarification on vegetation removal and biodiversity impacts, a revised Aboriginal impact assessment and a revised Acid Sulphate Soils Management Plan (ASSMP). The

addendum was accompanied by a revised car parking layout, details stormwater civil design and stormwater civil engineering report and a revised ASSMP. All documentation was re-referred internally and to the NSW RMS and multiple divisions (Fisheries, Marine Park and Biodiversity and Conservation Division) within the DPIE.

On 6 February 2020, the NSW RMS responded requesting further information regarding the design for the vehicle access on Vesper Street (Princes Highway).

On 10 February 2020, the DPIE, Biodiversity and Conservation Division requested further clarification on the number of native vegetation trees to be removed and raised a new concern with possible compaction impacts to the archaeological deposit due to the introduction of fill on the site. The DPIE, Fisheries and Marine Parks responded with support subject to recommended conditions of consent.

On 3 March 2020, the applicant provided a design response for the Vesper Street (Princes Highway) entrance. This was forwarded to the NSW RMS for comment.

On 5 March 2020, Council's Local Traffic Committee reviewed the amended information and provided support subject to recommended conditions of consent.

On 9 March 2020, Council's Strategic Planning Officer (Environment) and Development Engineer provided support with recommended conditions of consent.

On 11 March 2020, Council requested confirmation on the total area and number of trees to be removed and confirmation on conflicting car park numbers. Council's Infrastructure Services Division and Development Engineer provided support to the car parking and aisle widths subject to conditions of consent.

On 11 March 2020, the applicant provided a response from Ecologist Ryan Smithers at Eco Logical Australia Pty Ltd which demonstrated the square meterage and number of native trees to be removed. The applicant confirmed car parking amounts.

On 12 March 2020, the NSW RMS requested further design changes to the left turn lane on Vesper Street (Princes Highway). A phone conference was held with RMS and Council staff. A revised design was provided to the RMS and concurrence was granted.

D. EVALUATION

MATTERS FOR CONSIDERATION - GENERAL

The following are the relevant planning controls that have been considered in the assessment of the application:

- Environment Protection and Biodiversity Conservation Act 1999
- Disability Discrimination Act 1992
- Native Title Act 1993
- Environmental Planning and Assessment Act 1979
- Local Government Act 1993
- Rural Fires Act 1997
- Water Management Act 2000
- Coastal Management Act 2016
- Marine Estate Management Act 2014
- Biodiversity Conservation Act 2016
- State Environmental Planning Policy No 55 – Remediation of Land

- State Environmental Planning Policy No 64 – Advertising and Signage
- State Environmental Planning Policy (Coastal Management) 2018
- State Environmental Planning Policy (State and Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017
- Eurobodalla Local Environmental Plan 2012 (ELEP 2012)
- Greater Batemans Bay Structure Plan
- Batemans Bay Regional Development Control Plan
- Interim Coastal Hazard Adaptation Code
- Parking and Access Code
- Eurobodalla Section 94 Plan
- Eurobodalla Water supply and Sewerage Headworks Charges Policy
- Landscaping Code

COMPLIANCE WITH RELEVANT FEDERAL LEGISLATION

Environment Protection and Biodiversity Conservation Act 1999

Under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, a person must not take an action that has, will have or is likely to have a significant impact on any of the matters of national environmental significance without the approval of the Australian Environment Minister. This includes an impact on threatened species or endangered ecological communities (EEC) listed under the *EPBC Act*. It is the responsibility of the applicant to determine if a referral to the Australian Environment Minister under the *EPBC Act* is required. This is not the obligation of the consent authority. The Applicant has advised that a referral is not required.

A desktop search of the Department of Environment and Energy's Protected Matters Database (PMST) did not identify any other matters of National Environmental Significance listed under the Australian *EPBC Act* within 10 kilometers of the project area. However, the subject site is located 500m from the 'Clyde River Estuary' which is mapped as Nationally Important Wetland by the Australian Government's Department of the Environment and Energy under the *EPBC Act* and will be considered further in the assessment against the State Environmental Planning Policy (Coastal Management) 2018.

Disability Discrimination Act 1992

Relevant to this proposal, the *Disability Discrimination Act (DDA Act)* prevents discrimination against persons on the ground of disability in the areas of access to premises, sports and the provision of facilities and services. The proposed development has been designed to ensure access for everyone throughout all the public spaces in the facility. The only room within the facility that does not provide disability access is the theatre control room located at first floor level. This room is not a public access room. Compliance with the *DDA Act* will be dealt with through the Construction Certificate.

Native Title Act 1993

The *Native Title Act 1993 (NT Act)* outlines a process for the recognition of native title where it has not been lawfully extinguished. There is a blanket Native Title claim covering the Eurobodalla Shire. Under the NSW *Crown Land Management Act 2016*, a process for seeking advice in relation to Native Title on Crown Land has been established. This process applies to the development of Plans of Management and to other dealings involving the land, such as the granting of leases, licences or permits over the land, or imposing covenants, conditions or other restrictions on use of the land. In the development of the Plan of

Management (POM) for Mackay Park, advice from the Native Title Manager was sought and received. The POM was approved.

The proposed development is consistent with the adopted POM for the land.

COMPLIANCE WITH RELEVANT STATE LEGISLATION

Rural Fires Act 1997

A bush fire safety authority is required to be issued for certain development listed in Section 100B(6) of the *Rural Fires Act 1997*. While the proposed land use does not fall directly within one of the listed land uses prescribed as a Special Fire Protection Purpose development in the *Act* or within the list of additional land uses prescribed in the Rural Fires Regulation 2013 Clause 46, Council received pre-lodgement advice from the Batemans Bay NSW RFS that assessment of the proposal should be considered as a 'public place of assembly' consistent with the draft PBP 2019. PBP 2019 was gazetted on the 1 March 2019 requiring public assembly buildings to be referred to the NSW RFS s4.14 of the EP & A Act. The NSW RFS have reviewed the proposal and issued general terms of approval in accordance with clause 70 of the Environmental Planning and Assessment Regulation 2000. Conditions are proposed to be included on the draft consent.

Water Management Act 2000

The Natural Resources Access Regulator (NRAR) has reviewed the proposal and advised for the purposes of the *Water Management Act 2000 (WM Act)*, that General Terms of Approval and/or Controlled Activity Approval is not required.

Biodiversity Conservation Act 2016

The site was inspected by Council's Senior Development Assessment Planner and Council's Strategic Planning Officer (Environment) following a review of the provided plans and the Flora and Fauna Assessment by Eco Logical Australia Pty Ltd.

The inspection and referral from Council's Strategic Planning Officer (Environment) identified some concerns surrounding the protection of the remnant vegetation and endangered ecological communities (EEC) adjoining the development site and indirect impact through stormwater discharge from the site. The proposal was referred to NSW Planning, Industry and Environment, Biodiversity and Conservation Division who also raised concern with protection of the adjoining EEC and native vegetation, soil disturbance, use of heavy machinery and hard surfaces potentially indirectly impacting the EEC.

An amended stormwater design was provided through the assessment process. The Applicant has provided an addendum to the SEE and evidence in the technical report Civil Engineering Report by Taylor Thomson Whitting Pty Ltd which states the following:

- The amended stormwater design has introduced water quality treatment measures to treat all water discharged from the site.
- No stormwater from the development will be directly discharged to the wetland.
- All stormwater will be captured on the site in various treatment devices prior to discharge to the wetland.
- The development will result in a reduction in the flow of stormwater discharged to the wetland.
- Improved erosion and scour control at the wetland edge through the implementation of a kerb along the car park edge.
- The degraded wetland edge area will be rehabilitated as part of the development.

The amended design and supporting reports were forward to the EPA and DPIE, Fisheries and Marine Parks, who provided support subject to conditions that have been recommended as conditions of consent.

Council's Strategic Planning Officer (Environment) has requested a Construction Environmental Management Plan to ensure protection of the adjoining wetland and vegetation to be approved by Council prior to release of the Construction Certificate which has been recommended as a condition of consent.

Council has recommended a condition of consent prior to release of the Construction Certificate for an Erosion and Sediment Control Plan and that the stormwater design plans are certified by a suitably qualified engineer that demonstrate any stormwater leaving the site complies with the water quality benchmarks for the Batemans Marine Park as expressed in the NSW Water Quality Objectives that accord with the ANZECC 2000 Guidelines for Water Quality.

Subject to compliance with the recommended conditions of consent, Council is satisfied that there will be no direct or indirect impacts from the proposal.

NSW DPIE, Biodiversity and Conservation Division raised concern that the amount of native vegetation to be removed as part of the proposal would trigger entry into the Biodiversity Offset Scheme. Although the development site is highly modified and contains several native species in the form of garden plantings to be removed to accommodate the proposal, Council requested further clarification on the amount of the native vegetation to be removed.

The Applicant has confirmed in correspondence to Council dated 13 February 2020 that 89 trees are to be removed to accommodate the proposal. The amended SEE and clarification received from ecologist Ryan Smithers on behalf of Eco Logical Australia defines the mapped and calculated area of native trees to be removed as follows:

1. Clearing of vegetation native to NSW = 0.299 ha.
2. Clearing of She-oaks = 0.034 ha.



Figure – Impacted Vegetation native to NSW by Eco Logical Australia Pty Ltd



Figure – Impacted She-Oaks by Eco Logical Australia Pty Ltd

The She-Oak to be removed is associated with the Swamp Oak Floodplain Forest EEC however none of the trees to be removed are located within the mapped EEC. No threatened species, ecological communities or their habitat will be significantly impacted by the proposal.

Evaluation of the proposal against triggers into the Biodiversity Offset Scheme are as follows:

1. The Biodiversity Values Map does not affect any land on the proposed site.
2. The area threshold (0.5ha) for clearing of native vegetation will not be exceeded.
3. No threatened species or endangered ecological communities will be significantly impacted by the proposal.
4. No indirect impact.

Entry into the Biodiversity Offset Scheme has therefore not been triggered. A Biodiversity Development Assessment Report by an accredited assessor is not required.

Marine Estate Management Act 2014

Section 55 of the *Marine Estate Management Act 2014* (MEM Act) outlines the objectives required to be considered prior to determination of a development application within a marine park. The development associated with this application is not located within a marine park and as such, Section 55 does not apply.

Section 56 of the *MEM Act* requires consideration of the objects of this Act when determining a development application on land that is in the locality of a marine park or an aquatic reserve.

The proposal is in the locality of a marine park and has the potential to affect the marine park, as such Section 56 must be considered.

Detailed discussion regarding the marine park is outlined under the State Environmental Planning Policy (Coastal Management) 2018 & Clauses 6.7, 6.8 & 6.9 of the Eurobodalla Local Environmental Plan 2012 further in this assessment.

The proposal was referred to the NSW Department of Primary Industries (DPI), Fisheries and Marine Parks. The State agencies recommended conditions of consent are attached in Appendix 1. Subject to compliance with the conditions of consent, the proposal is deemed to have appropriately considered the relevant Sections of the Act.

Fisheries Management Act 1994 (FM Act)

The objectives of the *FM Act* is to conserve fish stocks and key fish habitats. The development associated with this application does not trigger Integrated Development under the *FM Act* and does not require General Terms of Approval from the DPI, Fisheries and Marine Parks.

Section 220V requires the public authority to have regard to the existence of critical habitat. The proposal does not adjoin a mapped critical habitat.

The proposal was referred to the DPI, Fisheries and Marine Parks. The State agencies recommended conditions of consent which have been applied to the draft conditions. Subject to compliance with the conditions of consent, the proposal is deemed as satisfactory regarding the relevant Sections in the Act.

Coastal Management Act 2016 (CM Act)

The *CM Act* objective is to manage the coast environment in a manner consistent with the principles of ecologically sustainable development. The subject site adjoins a mapped coastal wetland and contains a

portion of mapped wetland within the subject site along the south and south western boundary. The site is identified as being within the coastal environment area and the coastal use area. Protection of the coastal wetland is discussed in detail in Section D of this assessment.

There is no Coastal Management Program for the wetland. Council has begun preliminary works towards preparing a Coastal Management Program for Mackay Park however currently there is no draft document to consider in this assessment.

There are no works proposed within the wetland boundary.

Heritage Act 1977

There are no State or local heritage listed items on or within the near vicinity of the subject site.

National Parks and Wildlife Act 1974

Part 6 of the *National Parks and Wildlife Act 1974 (NPW Act)* states that it is an offence to harm or desecrate an Aboriginal object unless authorised by an Aboriginal heritage impact permit (AHIP).

An Aboriginal Heritage Due Diligence Assessment was undertaken by NGH Environmental and submitted at the time of lodgment. There are no known sites on the Aboriginal Heritage Information Management System (AHIMS). With consideration for the Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW, the site adjoins McLeods Creek and as such, there is a higher potential for Aboriginal objects to occur.

A field assessment was undertaken, and one single object located (AHIMS #58-4-1379/Mackay Park IF 1) within the development area. The Applicant has amended plans through the assessment process to include a 5m buffer around the object in accordance with the recommendations of the report. An AHIP therefore is not required.

The due diligence assessment determined that:

- A portion of the Mackay Park playing fields, specifically the natural subsurface sand layer under the fill deposit, was identified to have low to moderate archaeological potential.
- The natural banks of the estuarine swamp flats and marshlands landscape bordering the site have been noted to have some potential for shell midden material to occur.
- The remaining area within the project area was deemed to be highly disturbed and to have negligible potential to contain Aboriginal objects.

The application was also referred to the NSW Department of Planning, Industry and Environment, Biodiversity and Conservation Division who sought clarification with regards to the potential impacts from the development on Aboriginal Cultural Heritage. See the addendum to the Statement of Environmental Effects attached to this report for the detailed response by the Applicant.

The NSW Department of Planning, Industry and Environment, Biodiversity and Conservation Division recommended conditions of consent which have been applied in the draft consent.

The proposal and supporting report by NGH Environmental are deemed as satisfactory with regard to assessment against the Act.

Environmental Planning and Assessment Act 1979

The following matters pursuant to the provision of the *Environmental Planning and Assessment Act 1979* (*EPA Act*), have been taken into consideration.

Section 1.3 Objects of Act

The proposal is considered satisfactory regarding the objectives of the *EPA Act* as outlined in the following assessment of the application under the provisions of Section 4.15 of the *EPA Act*.

Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

The additional assessment requirements as outlined in Section 1.7 of the *EPA Act* are addressed in the assessment of the relevant Acts below.

Section 4.5 Designation of consent authority

Pursuant to clause 4.5 (b) of the *EPA Act*, as the development is declared by the State Environmental Planning Policy (State and Regional Development) 2011 to be regionally significant development, the Southern Regional Planning Panel is the consent authority.

Section 4.10 Designated development

Clause 4.10 defines designated development as development that is declared by an environmental planning instrument or the regulations as designated development. The development is not declared by any environmental planning instrument as designated development.

Section 4.12 Application

Section 4.12 (6A) states that the reference to a council in sub-section (3) includes a reference to a regional planning panel. This provision allows for certain *Local Government Act* approvals to be addressed within the development consent. A Section 68 approval is required for Liquid Trade Waste. Council's Liquid Trade Officer has provided recommended conditions of consent.

This development application jointly seeks approval for the disposal of liquid trade waste.

Further approval is required through a separate application for the following:

- Works within the road reserve
- Sewer, water and stormwater works

Section 4.13 Consultation and Concurrence

Section 4.13 provides for an environmental planning instrument to identify where consultation or concurrence is required before determining a development application.

The State Environmental Planning Policy (Infrastructure) 2007 Clause 101 and Clause 104 requires consultation with the Roads and Maritime Services (RMS) and consideration of any submission that RMS provides in response. The RMS provided support on 12 March 2020 subject to conditions.

Section 4.14 – Consultation and development consent – certain bush fire prone land

The southern portion subject site is mapped as bushfire prone land by the NSW Rural Fire Service (RFS) due to the southern section of the site being located within 100m of the Estuarine Fringe Forest.

The Applicant met with the local RFS Assessing Officer onsite prior to lodgment of the application. The RFS provided pre-lodgment advice that the proposal would be assessed as a 'place of assembly' as if it was a Special Fire Protection Purpose Development (SFPP) consistent with the draft PBP 2019. Planning for Bushfire Protection (PBP) 2006 and the Rural Fires Regulation 2013 do not list the proposed land use as

requiring a SFPP at the time of lodgment. The new PBP 2019 was introduced on the 1 March 2020 which reinforced the referral obligation the NSW RFS for a place of assembly.

The RFS have provided recommended conditions of consent which have been included in the development consent conditions.

The building will be conditioned to comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section 7.5.1.1 of Planning for Bush Fire Protection 2006. The required Asset Protection Zones are located within the proposed carpark areas. No additional clearing is required.

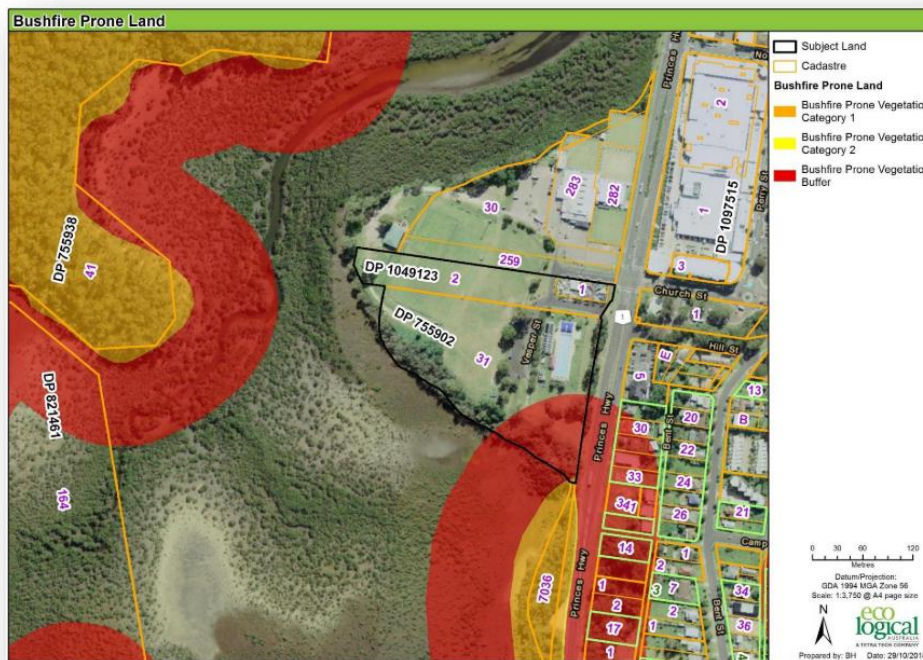


Figure – Bushfire Prone Land Mapping by Ecological Australia, Bushfire Protection Assessment

4.15 Evaluation

4.15(a)(i) The provisions of any environmental planning instrument (EPI)

State Environmental Planning Policy (State and Regional Development) 2011

The development is identified as 'regionally significant development' pursuant to Clause 20(1) as it is a Council related development with a capital investment of more than \$5 million in which Council is the applicant and the Council is to carry out the development. The estimated overall cost of the development is \$49,500,000.00.

In accordance with Section 4.5(b) of the *EPA Act*, the Southern Regional Planning Panel is the consent authority.

State Environmental Planning Policy (Primary Production and Rural Development) 2019

The subject site is located 500m from a Priority Oyster Aquaculture Areas (POAA) as mapped under the NSW Sustainable Oyster Aquaculture Strategy (2016) (OISAS). Division 4 of the SEPP requires the protection of water quality in oyster growing and harvest areas from incompatible development.

The OISAS provides water quality protection guidelines to ensure that development in oyster catchment areas maintains or improves water quality. The proposal includes decommissioning of the existing sewer main and installation of a sewer pumping station. The new sewer main will improve the system. Water quality and stormwater discharge is discussed in detail under the Biodiversity Conservation Act 2016 and Clause 6.9 of the Eurobodalla Local Environmental Plan 2012 in this assessment.

The proposal was referred to the DPI, Fisheries and the Batemans Marine Park. Recommended conditions of consent have been applied to the draft conditions including a stormwater design that is compliant with water quality standards. The proposal is satisfactory regarding the provisions of the SEPP.

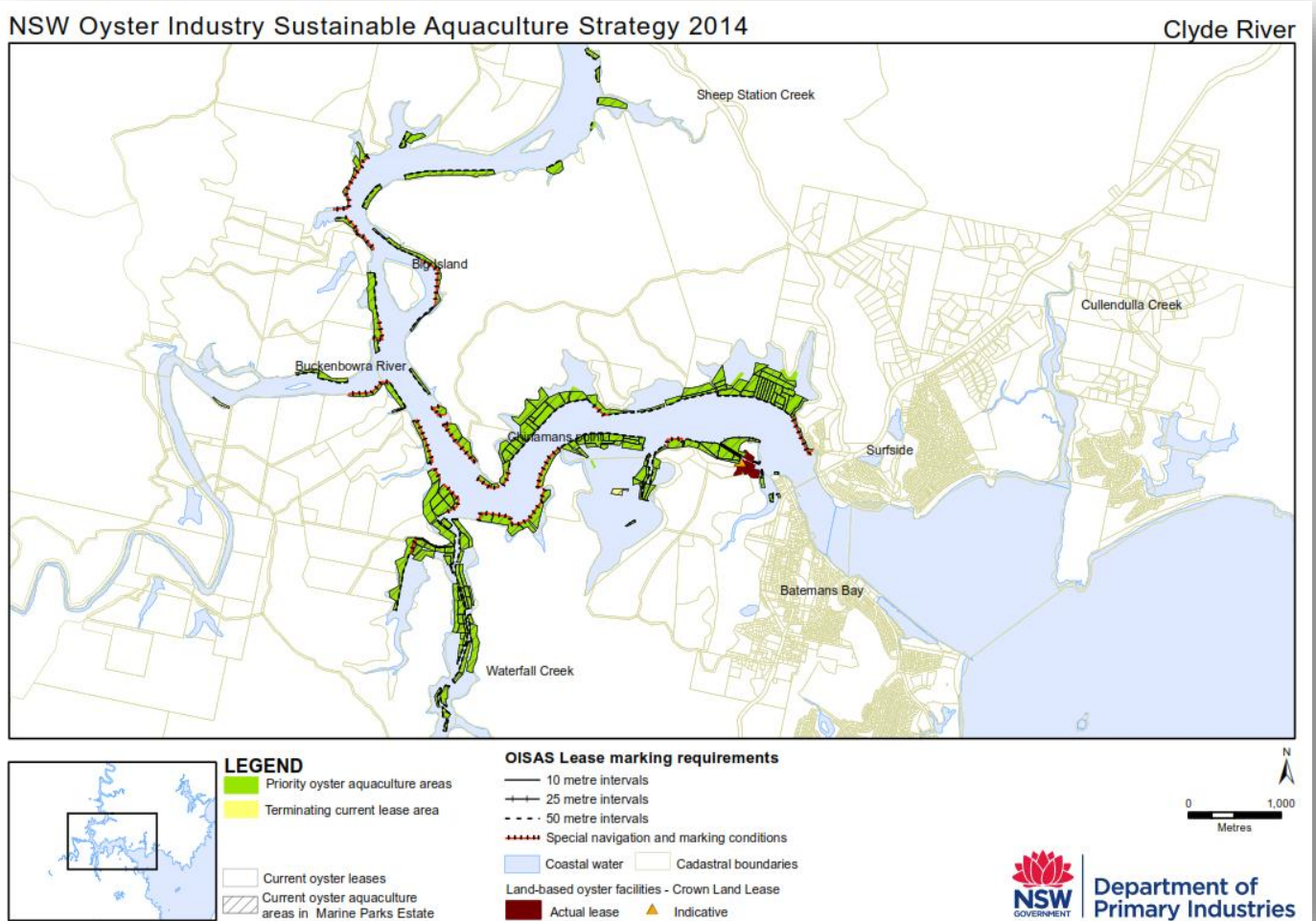


Figure – NSW Oyster Industry Sustainable Aquaculture Strategy Third Edition 2016 – Clyde River

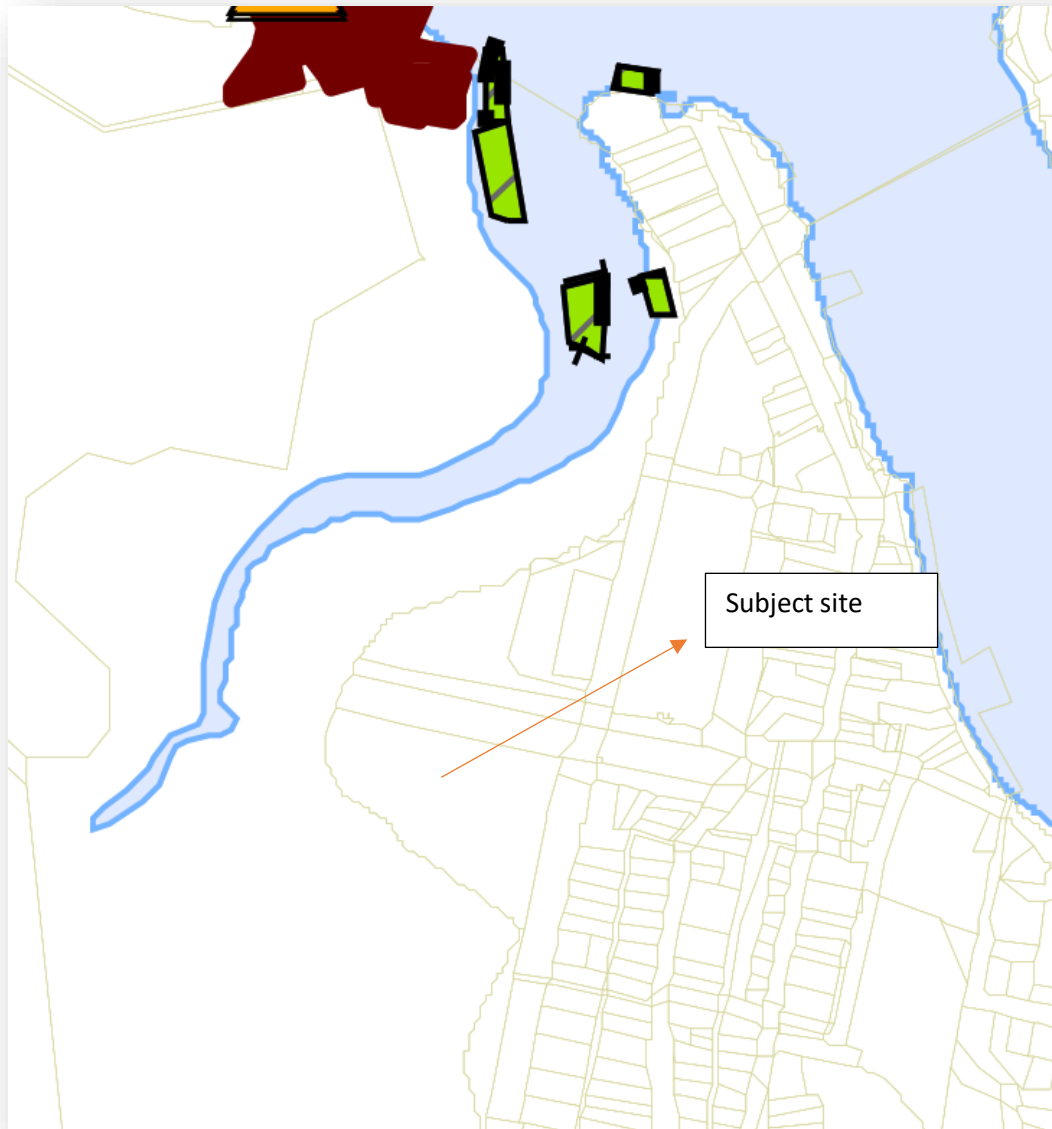


Figure – NSW Oyster Industry Sustainable Aquaculture Strategy Third Edition 2016 – Clyde River – zoomed in McLeods Creek

State Environmental Planning Policy No.33 – Hazardous and Offensive Development

The NSW Planning 'Applying SEPP 33' Guidelines, Appendix 3 lists industries that may fall within SEPP 33. The proposed aquatic centre and arts theatre are not listed as a hazardous industry. The SEPP does not apply to this application.

State Environmental Planning Policy No.55 – Remediation of Land

This State policy stipulates that the consent authority must not consent to the carrying out of any development unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied that the land is suitable in its contaminated state or will be remediated, so that is suitable, before the land is used for that purpose.

The land is not identified as an investigation area, nor does it contain any historic evidence to suggest that the development site has been used for any of the purposes listed in Table 1 of the Contaminated Land Planning Guidelines. The site contains a history of residential and recreational use. The residential use of the site is likely to have included a dwelling and outbuildings. The demolition of these previous buildings on site could result in asbestos material being deposited and fragments may remain in the ground.

The application included a Geotechnical Investigation report prepared by the NSW Government, Public Works Advisory, that identified the following:

- The presence of groundwater table at shallow depths recommending if excavation more than 1.5m (approximately) are proposed, then lowering the water table will be required
- Acid Sulphate Soil Management Plan (ASSMP) be prepared for the site
- Subsurface conditions vary over a short distance; consequently, the engineering logs describe subsurface conditions only at the investigated locations
- The subsurface conditions within the swimming pool and mini golf complex are unknown
- A site contamination assessment was not part of the scope of work for the report.

The subject site is to be used for recreational use. SEPP 55 Section 7(3) allows the consent authority to require the applicant to further carry out, and provide a report on, a detailed investigation (as referred to in the Contaminated Land Planning Guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation. The report submitted, recommended a detailed preliminary geotechnical investigation, in line with the Stage 1 of the Contaminated Land Planning Guidelines, be completed once demolition of the existing structures has occurred. This has been included as a draft condition. An ASSMP has been recommended as a draft condition of consent. As the proposal as submitted in the Geotechnical Report, identifies lowering of the water table, Council has recommended a draft condition that a dewatering management plan be submitted to Council for approval prior to Construction Certificate.

State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Infrastructure) 2007 (I SEPP) provides for certain infrastructure developments to be exempt development, complying development or development that is permitted with consent. Division 12 of the I SEPP applies to parks and other public reserves. While the development is identified in the adopted Mackay Park POM, given it is defined as regionally significant development under the SRD SEPP, it is not development that can be undertaken without consent and as such, the Development Application has been lodged.

Clause 101 Development with frontage to classified road and Clause 104 Traffic-generating development requires consultation with the Roads and Maritime Services (RMS) and consideration of any submission that RMS provides in response. The RMS provided support on 12 March 2020 subject to conditions.

State Environmental Planning Policy (Coastal Management) 2018 (CM SEPP)

The subject site contains coastal wetland along the south and south west boundary as mapped under the CM SEPP. A large portion of the site is mapped as being located within close proximity of the wetlands. The entire development site is mapped as coastal environmental area under the CM SEPP.

The CM SEPP states that where a parcel of land is identified as being within more than one coastal management area, the development controls for all of the relevant coastal management areas will apply and be dealt with in the following priority order (highest to lowest) to avoid any conflict: coastal wetlands area, coastal environment area and coastal use area.

In the coastal environment area, development consent must not be granted unless the consent authority is satisfied that sufficient measures have been, or will be, taken to protect, and where possible enhance, the biophysical, hydrological and ecological integrity of the coastal wetland.

In the proximity area for coastal wetlands, development consent must not be granted to any development unless the consent authority is satisfied that the proposed development will not significantly impact on the biophysical, hydrological or ecological integrity of the adjacent coastal wetland or the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

There are no proposed works within the mapped coastal wetland area and as such, the proposal is not designated development. A large part of the development is located within the proximity area to coastal wetlands and the whole of the development is located within the coastal environment and coastal use areas.

Potential impacts of the development on the adjoining coastal wetland are from construction activity, stormwater discharge and water quality and public use of the facility. A number of conditions in the draft consent addresses protection of the wetland during construction and on-going management of the facility. The NSW Department of Primary Industries, Fisheries and Marine Parks have recommended conditions of consent which have been applied to the draft conditions. The proposal is considered as satisfactory with regard to the SEPP subject to compliance with the conditions of consent.

State Environmental Planning Policy (Vegetation in non-rural areas) 2017

The Vegetation SEPP has been taken into consideration in the assessment of the application. The Vegetation SEPP provides approval pathways for the removal of vegetation in non-rural areas and matters for consideration in the assessment of applications to remove vegetation. None of the trees to be removed are located within the mapped EEC area as outlined in the Flora and Fauna Report.

The development proposal is accompanied by a comprehensive Flora and Fauna Report by Eco Logical Australia and a landscape design and planting schedule prepared by NBRS Architecture Landscape.

The proposed tree removal and landscaping schedule is consistent with the objectives of the SEPP. The DPI, Fisheries and Marine Parks have requested that revegetation proposed adjoining the car park to be planted with River Red Gums and native species endemic to this site and the locality. This has been recommended as a draft condition of development consent.

Given the above, the proposal is considered to satisfy the provisions of the Vegetation SEPP.

State Environmental Planning Policy No 64—Advertising and Signage

The application does not include any signage. An assessment against SEPP 64 is not required.

Should approval be granted, Council will endorse a branding strategy for the centre in 2020 with associated signage subject to a separate approval process.

Other State Environmental Planning Policies

The proposal is not contrary to the provisions of any other relevant State Environmental Planning Policy.

Marine Estate Management (Management Rules) Regulation 1999

The subject site adjoins a mapped habitat protection zone within the Batemans Marine Park as defined under Clause 1.8 of the Marine Estate Management (Management Rules) Regulation 1999 (MEM Regs). The objectives of the MEM Regs is to provide a high level of protection for biological diversity, habitat, ecological processes, natural features and cultural features (both Aboriginal and non-Aboriginal) in the zone.

No part of the development, including car parking or stormwater infrastructure is located within the Batemans Marine Park Habitat Protection zone.

NSW Department of Planning, Industry and Environment - South East and Tablelands Regional Plan 2036 Batemans Bay is identified in the South East and Tablelands Regional Plan as a strategic centre on the South Coast of NSW, one of six strategic centres in the region, and one of only two in the south-east. The site is therefore considered suitable for regional significant facilities.

EUROBODALLA LOCAL ENVIRONMENTAL PLAN 2012

Clause 1.2 and 2.2 Land Use and Zoning

The Land Zoning Map of the LEP 2012 identifies the land being within the RE1 Public Recreation zone. The area containing the existing mini golf to be demolished zoned RE2 Private Recreation. There is a small portion along the south and south west boundary being E2 Environmental Conservation.



Clause 2.3 Zone objectives and Land Use Table

This provision provides the Land Use Table of the ELEP 2012 which specifies for each zone the following:

- a) the objective of the development, and
- b) development that may be carried out without development consent, and
- c) development that may be carried out only with development consent, and
- d) development that is prohibited.

The proposed development is defined as “community facility” under ELEP 2012. The definition of community facility is as follows:

community facility means a building or place:

- (a) owned or controlled by a public authority or non-profit community organisation, and

- (b) used for the physical, social, cultural or intellectual development or welfare of the community, but does not include an educational establishment, hospital, retail premises, place of public worship or residential accommodation.

While components of the Regional Aquatic, Arts and Leisure Centre may fit one or a number of other definitions in ELEP 2012, the centre as a whole meets the definition of community facility outlined above and specific elements, such as the café, offices for health and fitness professionals and car parking are ancillary to the primary use of the premises as a community facility.

Community facilities are permitted with consent in the RE1 and RE2 zones.

Zone RE1 Public Recreation

Objectives of zone

- To enable land to be used for public open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To conserve the scenic and environmental resources of the land including the protection of environmental assets such as remnant vegetation, waterways and wetlands, and habitats for threatened species, populations and communities.

Zone RE2 Private Recreation

Objectives of zone

- To enable land to be used for private open space or recreational purposes.
- To provide a range of recreational settings and activities and compatible land uses.
- To protect and enhance the natural environment for recreational purposes.
- To conserve the scenic and environmental resources of the land including the protection of environmental assets such as remnant vegetation, waterways and wetlands, and habitats for threatened species, populations and communities.

The development is predominantly consistent with the objectives of the RE1 and RE2 zones. The development ensures that the land continues to be used for recreation purposes and compatible land uses. The development avoids detrimental impacts on the adjoining wetlands and retains native vegetation on the development site where possible. Landscaping of the development site will be undertaken to enhance the natural environment for recreation purposes. A narrow strip of land along the southern boundary of the site is zoned E2 Environmental Conservation. No part of the development, including car parking, is proposed on land zoned E2, as shown on the map below.

Clause 2.5 Additional permitted uses for particular land

Schedule one of the ELEP 2012 outlines particular land that contains additional permitted land uses. Schedule one does not apply to the subject site.

Clause 2.7 Demolition requires development consent

Recommended standard demolition conditions of consent have been applied.

Clause 4.1 and 4.2 Subdivision

No subdivision of the site is proposed.

Clause 4.3 Height of building

There is no maximum building height in ELEP 2012 for the subject land.

Clause 5.1A Development on land intended to be acquired for public purposes

The subject site is not mapped on the Land Reservation Acquisition Map.

Clause 5.2 Classification and reclassification of public land

The proposal does not require the reclassification of land.

Clause 5.7 Development below mean high water mark

The proposal as submitted does not include any development below the mean high water mark. Clause 5.7 does not apply to the development.

Clause 5.10 Heritage conservation

The subject site does not contain a heritage item and is not located in close proximity to a listed heritage item or heritage conservation area.

An Aboriginal Heritage Due Diligence Assessment was undertaken by NGH Environmental in September 2018 to inform the planning and design of the proposal. The assessment was submitted with lodgement of the application. A site inspection on 4 September 2018 discovered one isolated item within the project area. The Applicant conducted an extensive search of the Aboriginal Heritage Information Management System. Two sites were recorded in or within 200m of the subject site. The first site was a modified tree with a status of "destroyed". The second site is the find referred to in the due diligence report above. The location of the item in close proximity to the existing light pole on site at the edge of the development site will allow for the area to be fenced as an exclusion area around the artefact during construction activities. This has been provided as a draft condition of consent. The assessment determined that the area of new development is highly disturbed. The NSW Department of Planning, Industry and Environment sought clarification with regard to the potential impact from the development on the area of low to moderate archaeological potential. The applicant provided a response that there will be no cut into the existing ground levels in this area, with some minor filling proposed. On 5 December 2019, the NSW Department of Planning, Industry and Environment advised Council that the due diligence assessment is adequate. Council supports recommendations contained in the due diligence report and has recommended them as conditions of consent.

The NSW Department of Planning, Industry and Environment, Biodiversity and Conservation Division recommended conditions of consent have been recommended in the draft conditions of consent.

Clause 6.3 Acid sulfate soils

The subject land is predominantly mapped as having class 3 acid sulfate soils. A narrow strip of land is mapped as having class 2 acid sulfate soils. The proposed development, including car parking areas are within the land identified as having class 3 acid sulfate soils.

In the development area, excavations more than 1m below the natural ground surface, will be required for the building foundations, the pool shells, rainwater tank and the grease arrestor trap. The deepest part of the 25m pool is 1.8m below natural ground level and the water table in this location, from bore hole 1, is also 1.8m below natural ground level. In relation to the grease arrestor trap, to accommodate the falls required for pipes from the café to the trap, the excavation required is at -0.420m AHD (2.6m below natural ground level). In this location, from bore hole 5, the water table is at 0.7m AHD (1.5m below natural ground level). The grease arrestor trap is therefore approximately 1.1m below the water table. For all structures near or below the water table, localised dewatering will be required to facilitate construction. This has been recommended as a condition of consent. Given there will be some excavations more than 1m below natural ground level, the ELEM 2012 requires an Acid Sulfate Soils Management Plan (ASSMP) to be prepared for the development.

The DPI, Fisheries raised concerns regarding the potential impacts from acid sulfate soils on the adjoining wetland. The applicant provided a revised ASSMP on 22 January 2020. The DPI, Fisheries have given support to the revised ASSMP on 10 February 2020 with three additional recommendations that have been incorporated as recommended conditions of consent.

Clause 6.4 Earthworks

The proposal will involve earthworks to accommodate the development. The original submission indicated fill depths ranging across the site from 0.2m to 1.2m. The applicant has amended the stormwater design and flood level during the assessment process. This has required the finish floor level of the building to be increased by 100mm. The proposal will have a maximum fill depth between 0.2m and 1.3m. The site will contain a finished level at 3.13m AHD.

Excavation is required to accommodate the building foundations, swimming pools, below ground rainwater tank and the grease trap. The applicant has advised in the SEE that excavation will range from 7.5m to 18.5m below natural ground level. As the proposal involves excavation, there is a potential to uncover heritage items during works. Recommended condition of consents have been applied to ensure that work shall cease and the NSW Planning, Industry and Environment are notified.

Council's Development Engineer and NSW Planning, Industry and Environment recommended conditions of consent for a detailed erosion and sediment control plan, and soil and water management plan to be prepared which has been recommended as a condition of consent.

Subject to compliance with the recommended conditions of consent, the proposed earthworks are considered satisfactory regarding the objectives of Clause 6.4.

Clause 6.5 Flood Planning

The subject site is affected by coastal inundation and flood from the Clyde River and overland flow flooding. The submitted Civil Engineering Report by Taylor Thomson Whitting Pty Ltd addresses flooding and coastal inundation. The report advises that the site contains a level of 3.54m AHD in the centre of the site and then reduces with the lowest point being in the south west corner with a level of 1.26m AHD. The original set of drawings proposed a flood level for the finished ground level at 2.7m AHD and the building finished floor level at 3.03m AHD to comply with the Eurobodalla Shire Council Interim Coastal Hazards Adaption Code. In response to items raised by Council staff during the assessment period, amended plans have been received that raised the finished level of the building to 3.13m AHD to comply with the 1% AEP with 2100 Planning Period Coastal Inundation Level. This is an increase of 100mm. The building is required to comply with the 1 in 50-year flood planning level however the proposed finished floor level has been set to the 1 in 100 year flood planning level. Details on the flood modelling can be found in the attached report.

Council's Development Engineer (Flooding) recommended consent conditions regarding flood compatible materials, structural ability and a flood action plan which has been included in the draft conditions of consent.

Clause 6.7 Riparian lands and watercourses

The subject land is bordered by McLeods Creek, which is identified as a category 1 Riparian Corridor on the Wetlands, Riparian Lands and Watercourses Map in accordance with the ELEP 2012. Clause 6.7(2)(a) requires consideration of any development within 40m of the top of bank. The southern extent of the car park is proposed within the 40m buffer. The encroachment does not extend into the mapped endangered ecological community. The Applicant has advised that through the amended stormwater control methods there will be no discharge of untreated stormwater directly into McLeods Creek. Council will continue to implement environmental protection works in the vegetated riparian zone in accordance with the Batemans

Bay and Clyde River Estuary Management Plan. Subject to compliance with conditions of consent, the proposal is satisfactory regarding the objectives of Clause 6.8.

Clause 6.8 Wetlands

The subject land is surrounded by a mapped wetland along the south western boundary. There is no development proposed within the mapped wetland area. The amended information includes revegetation of the inside of the riparian buffer zone. The DPI, Fisheries and Batemans Marine Park have requested that revegetation post-development, incorporate River Red Gums and other native species endemic to the locality. This has been included in the draft conditions of consent.

Construction impacts will be avoided using erosion and sediment control devices and the monitoring of these control devices will be managed through conditions of consent. DPI, Fisheries and Batemans Marine Park have requested that the bund to control sediment and erosion impacts during construction, be located entirely outside of the adjoining coastal wetland and be treated. This has been recommended as a condition of consent.

Potential impacts from the use of the facility will be managed by Council through facility management and the ongoing implementation of the Batemans Bay and Clyde River Estuary Management Plan. The DPI, Coastal Systems and Batemans Marine Park have provided recommended conditions of consent to assist with prevention of any potential impacts on the wetland which have been recommended as conditions of consent.

Subject to compliance with conditions of consent, the proposal is satisfactory regarding the objectives of Clause 6.8.

Clause 6.9 Stormwater

The existing site drains into the adjoining wetland via overland flow or piped system. There is currently no water quality treatment of any stormwater discharged from the site. Submissions from the EPA; DPI, Fisheries and Marine Parks; the DPIE, Biodiversity and Conservation Division and Council staff raised concern regarding the proposed stormwater management design and the potential impact on the adjoining wetland.

An amended stormwater design and accompanying civil engineering report was submitted by Taylor Thomson Whitting Pty Ltd in response to the concerns raised. The report confirms that the post-development flows are less than the existing flows in total, exiting the site. All stormwater from the site will be collected and treated prior to discharge either through a piped stormwater system with a water quality treatment tank or through a rainwater garden, absorption trench or swale system to comply with water quality standards.

Council's Development Engineers have reviewed the design and have determined that there will be minor amendments required which have managed through recommended conditions of consent.

Section 4.15(1)(a)(ii) – ANY PROPOSED INSTRUMENT

At the time of recommended approval there are no proposed instruments related to the subject land.

During assessment of the proposal, the Eurobodalla Shire Council's Planning Proposal for rural lands and other matters was gazetted on 11 October 2019. The planning proposal removed the current 1000ha minimum lot size from land zoned E2. This proposal does not propose subdivision therefore is not relevant to this application.

Section 4.15 (1)(a)(iii) – ANY DEVELOPMENT CONTROL PLANS

There are no relevant Development Control Plans that apply to the site.

Section 4.15 (1)(a)(iia) – ANY PLANNING AGREEMENT

There are no planning agreements under Section 7.4 or draft agreements relative to the site.

Section 4.15 (1)(a)(iv) – THE REGULATIONS Section 4.15 (1)(a)

The prescribed matters outlined in Clauses 92 (demolition) and 93 (fire safety) of the regulations have been considered and conditioned through the recommended conditions of consent.

Section 4.15(1)(b) – THE LIKELY IMPACTS OF THE DEVELOPMENT, INCLUDING ENVIRONMENTAL IMPACTS ON BOTH THE NATURAL AND BUILT

Traffic and Access

The main entrance to the proposal is via Beach Road. Council's Local Traffic Committee and Infrastructure Services Division raised concerns during the assessment with the modelling for the proposed roundabout into the development. Specifically, the roundabout's ability to accommodate articulated vehicles up to 19m in length. The Applicant has provided justification that as a result of the development, articulated vehicles of this size entering the site will be infrequent (once every few months) and can achieve the turn due to the trafficable roundabout. Although the future development of the northern precinct is not part of this application, through the assessment of this application it has been demonstrated that the roundabout can accommodate 19m articulated vehicles travelling south or north within the proposed arrangement. Service vehicles and trucks accessing the loading dock can exit the site via the traffic lights on Beach Road.

A second vehicle exit point is available on Vesper Street (Princes Highway) from the southern end of the car park. This vehicle point has been amended through the assessment to include entry and exit with support received from the NSW RMS. Service vehicles, trucks and buses will also be able to exit the site via the proposed southern access point as supported by the NSW RMS.

The proposed car parking design includes a 2.5m wide car park with a 6m aisle width. Council's Infrastructure Services Division and Council's Development Engineer raised concern that the car parking was designed utilising a combination of the required dimensions in both the Eurobodalla Shire Council Parking and Access Code of Practice (CoP) for the car parking widths of 2.5m and the Australian Standard AS/NZS 2890.1 of 6m for aisle widths. AS/NZS 2890.1 Table 1.1 is designed to allow for flexibility for multiple land uses to be considered on merit. The proposal is consistent with user class 2 for sports facilities and entertainment centres which requires a car parking width of 2.5m and an aisle width of 6m. Council's Infrastructure Services Division and Council's Development Engineer have advised that although this is not in accordance with Council's CoP, it is in line with the Australian Standard.

Pedestrian and bicycle access are provided entering from the north of the proposal on a shared pathway. The width of this pathway will be increased at detailed design stage prior to release of the Construction Certificate.

The proposal was supported by a Traffic and Parking Assessment Report by The Transport Planning Partnership. The report calculates the parking demand by analysing each individual component of the proposal (gym, pool and theatre) and the estimated peak demand times.

The amended car parking design displays 200 car parking spaces. 178 standard spaces for visitors, ten (10) dedicated staff parking spaces, nine (9) accessible parking spaces and three (3) long vehicle parking spaces have been provided. In addition, three electric car charging stations are proposed. For bus and coach services, a vehicle drop-off and pick up area is provided at the main facility entrance and two bus/coach parking spaces are provided in the southern car parking area. Nine bicycle racks will be provided with

accommodation for 18 bicycles. Dedicated space for parking of mobility scooters will also be provided in the main outdoor forecourt.

To calculate the amount of generated traffic, the report utilised the NSW RMS traffic count station that is permanently fixed on the Princes Highway due to the Batemans Bay replacement bridge project and also took traffic counts at the intersection of Vesper Street and Beach Road over the Easter weekend in April 2019. The report identifies the site’s location on the regional bus corridor with four separate routes accessing the site and the location of pedestrian and bicycle pathways. The consultant analyses the various land uses and peak demand for parking. The report utilises the NSW RMS Guide to Traffic Generating Developments and the objectives and parking rates in Council’s Parking and Access Code of Practice. When various land uses are experiencing peak parking demand, a total of 261 parking spaces are required. However, it is unlikely this scenario may occur due to operating hours of the various land uses and differing peak periods allowing for the sharing of on-site parking. Figure 5.1 of the traffic report (below) demonstrates that based on the peak demand for each land use, the provision of 202 on-site car parking spaces would adequately accommodate the estimated typical week day and weekend day parking demands of the proposed development.



Figure 5.1 taken from the Traffic and Parking Assessment Report by The Transport Planning Partnership

The proposed car parking amounts are deemed adequate to support the proposal.

The proposed car parking layout avoids direct access from Vesper Street (Princes Highway) offering an alternative intersection, provides drop-off parking on the west of the building, two bus parking bays on the south and suitable bicycle parking facilities. Subject to compliance with recommended draft conditions of

consent, the proposal is supported by the NSW RMS, Council's Local Traffic Committee, Infrastructure Services Division and Council's Development Engineer.

Noise

A comprehensive noise report was prepared by Norman, Disney & Young (NDY). NDY undertook a Noise and Vibration Impact Assessment of the proposal. The report contains assessment on the sensitive receivers within the area which includes an aged care facility 125m from the site located within the CBD, residential dwelling houses on the fringe of the CBD 65m-210m from the site and commercial businesses 100m from the site. The report concludes that the proposal meets the required criteria and concludes that event management plans can be used as an effective means of controlling noise emissions from the site during departure of patrons into the evening period. All recommendations in the report have been recommended as conditions of consent.

Utilities

The development site is currently serviced by reticulated water, sewer, power and some stormwater infrastructure.

The existing sewer main is proposed to be decommissioned and a new package sewer pumping station installed near the existing grandstand building to the west of Mackay Park. A new sewer main will be provided along the southern boundary of the site. A water refill station located on site is proposed to be removed and reinstated at a different location. These works are to be undertaken by Council, as the water authority, under Part 5 of the *EPA Act 1979*.

Existing stormwater infrastructure in Vesper Street (Princes Highway) will be required to be upgraded to facilitate the additional stormwater flows generated by the development.

A new electricity substation is required to be constructed for the development.

Ecological sustainable development

The development incorporates an advanced stormwater disposal system, adequate soil management and will comply with the Building Codes of Australia as a requirement of the Construction Certificate process. Operational efficiency has been designed into the proposal with the incorporation of sustainable design principles which reduce the reliance on power and water through passive design and efficient plant equipment selection. Reliance on non-renewable resources is minimised in the design through implementation of passive daylighting, glazed façade, ventilation principles and placement of the building elements and specific fenestration elements. Sensitive photovoltaic cells and heat exchange systems will be utilised within the building design along with Water Urban Design principles. The proposal offers shared car spaces, bicycle parking, electric car charging bays and access to public transport.

A Sustainability Management Plan was provided by the Applicant. The building has been voluntarily benchmarked against the Green Star Design Tool by Green Building Council of Australia. The building received a Four Star certification (Best Practice).

Building form/orientation/appearance

The proposal has been accompanied by a detailed Architectural Design Statement by NBR Architecture. The proposed building:

- Activates the façade on both Vesper Street and Beach Road and elevates the profile of the precinct.
- Provides footpaths to facilitate improved visual and pedestrian connections to the town centre.
- Addresses the theme of water consistent with the Aboriginal word for 'Eurobodalla' which can be translated to 'land of many waters' through the façade containing multiple lines, shapes and sizes.
- Materials palette and expression of façade massing, differentiates this facility as an iconic destination for locals and tourists.
- Design offers translucency, opacity, reflection and reference to the foreshore, particularly boardwalks, jetties and break walls. The articulated façade visually breaks down the scale of the building and walls when viewed from the public domain and uses a variety of materials and finishes including timber battens, glass, cladding and granite rock.
- Design provides an appropriate gradual transition in height between the timber batten façade to the north and the theatre roof and slide tower to the south. The design is visually interesting creating a landmark building in the CBD.
- Vehicle entry point to the west and car park along the southern and western boundary is positioned so it is not a dominate feature of the building façade when viewed from the public domain from both Vesper Street (Princes Highway) and Beach Road.

Economy

The facility will offer local employment and training opportunities as well as generate revenue through visitation and hire. The arts and theatre component will create revenue and opportunities for local businesses and artists to create revenue.

Accessibility

The building provides accessible pathways, carparks, entries and internal facilities. A condition regarding the proponent's requirement to meet the objectives of the *Disability Discrimination Act* has been recommended as a draft condition.

Landscaping

Submitted landscape plans are satisfactory subject to conditions of consent. The plans demonstrate a landscape form to reflect the Eurobodalla region and the 'land of many waters'.

Waste

The application is supported by an Operational Waste Management Plan prepared by Elephants Foot Recycling Solutions that addresses the operational phase of the development. The report identifies compliance with the objectives and criteria outlined in the Eurobodalla Shire Council's Site Waste Minimisation and Management Code 2011 and the Australian Standards.

The construction and demolition phases of the development will be managed through recommended conditions of development consent and approval of a Construction Management Plan and dewatering plan prior to release of the Construction Certificate.

Section 4.15 (1)(d) – ANY SUBMISSIONS RECEIVED

The proposal was notified in accordance with Council's Advertising and Notification Code. Fifteen submissions from the public were received, twelve objections and three part support and part objection.

One submitter provided two submissions, one on behalf of themselves and the other containing a copy a letter of a submission unrelated to this application.

A summary of the submissions and Council’s comment is as follows:

Submission	Comment
Status of Lot 282 and Lot 283 DP785902 (Bowling Club site)	Not a part of the application and not relevant to the current application.
Business plan/ongoing costs not available to the community;	Not relevant to the assessment of the application. The business plan was available on the Council website.
Sale of community assets/loss of mini golf	Sale of community assets relate to other sites and the closure or relocation of the mini golf is a commercial decision. No decisions have been made on the sale of community assets.
50m pool/lack of community consultation for a 50m pool	Not relevant but there has been significant consultation which included nine kiosks showing three concept designs at the local Batemans Bay shopping centre, Narooma library and Moruya library. Concept designs were also on Council’s website and posters distributed throughout Batemans Bay. Online survey was conducted for design options. Stakeholder discussions were held with swimming groups, theatrical groups, schools, medical practitioners and local businesses.
Internal GFA of theatre/art space and gym.	The size of the gym and/or the theatre is not a relevant consideration however there has been significant research into the floor area requirements including visits and discussions with other facilities/facility managers.

Detailed submissions have been provided in Table 3 of the assessment report.

Section 4.15 (1)(e) – THE PUBLIC INTEREST

The development has been assessed against NSW and local environmental planning instruments and related code of practices, and guidelines for the Eurobodalla Shire Council. The assessment identified that the development complies with development standards and objectives while providing modern aquatic, arts and leisure facilities in an attractive building on a strategically important site.

The combined uses in one location, provides services to the community that will improve health and wellbeing while offering entertainment and social interaction. A Cost Benefit Assessment and Economic Impact Analysis was undertaken by SGS Economics and Planning to support applications for grant funding for the project. The report concluded that the proposal would enable the under provision and/or poor quality of aquatic, cultural, community and visitors’ facilities in Batemans Bay to be remedied. Economic benefits have

been measured as being significant in terms of a positive benefit cost ratio, based on increased direct and indirect employment generation and increased visitation.

Accordingly, the proposal is in the public interest.

Recommendation

This application has been assessed having regard for Section 4.15 (Matters for Consideration) under the *Environmental Planning and Assessment Act*. As such, it is recommended that Development Application DA0189/20 be approved subject to conditions of consent.

Table 1 – Agency referrals

EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref:PPSSTH-11 DEVELOPMENT APPLICATION ASSESSMENT REPORT Pursuant to Section 4.15 of the Environmental Planning and Assessment Act Schedule of Submissions		
Nature of Submission Submitter Details: NSW Environmental Protection Authority	Applicant Comment	Assessing Officer Comment
<p>Sediment basin discharge criteria and sizing</p> <p>Attachment 6 - Civil Engineering drawings provides minimum design criteria for two temporary sediment basins, however the proposal does not provide information on whether Council proposes a discharge point and the proposed discharge criteria for the sediment basins. Due to the environmentally sensitive location of the project and the high conservation value of the receiving waters, the EPA considers that the proposal should clearly demonstrate how a discharge to McLeods Creek will be avoided through high level stormwater management practices including reuse of dirty water. The EPA's corporate policy is that water pollution be avoided in the first instance. When this is not possible, the NSW Water Quality Objectives (the "NSW WQOs") and the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (ANZECC and ARMCANZ, 2000) ("the ANZECC Guidelines") are used to assess potential pollution impacts of a discharge. It is the responsibility of the proponent undertaking the works or activity to undertake an assessment to consider the potential impact on receiving waters if a discharge to waters is proposed.</p> <p>Discharges to the environment must meet the NSW Water Quality Objectives</p> <p>If a discharge point is proposed the sediment basin size and discharge criteria for water pollutants that will be discharged must be developed in consideration of the NSW WQOs and ANZECC Guidelines. The EPA can provide Council with more detailed information on</p>	<p>Sediment collected in the temporary sediment basin will be disposed of off-site. Pollutants, in accordance with the ANZECC Guidelines, are filtered and will be separated from clean water for disposal off-site. Clean water shall be reused for dust suppression and in the earthworks and pavement building process to achieve ample compaction. Excess clean water shall be further filtered by being discharged into the groundwater via an absorption trench. The treated water will not be discharged directly into McLeod's Creek via the stormwater system or by overland flow.</p>	<p>A detailed amended stormwater design was provided during the assessment.</p> <p>The EPA has provided support subject to conditions.</p>

<p>the framework that it uses to assess water pollution.</p> <p>Council should also demonstrate whether the discharge criteria for pollutants will maintain or restore the environmental values of the receiving waters. Where it is demonstrated that the environmental values will not be maintained or restored, Council must also consider any practical measures that can be taken to restore or maintain the environmental values of the receiving waters. Examples of the practical measures that can be taken include (but are not limited to) reusing as much stormwater as possible, varying the sediment basin size and design and discharging pollutants at a concentration, volume, frequency or timing that protects the environmental values or enhanced sediment and erosion control measures.</p> <p>The EPA also recommends the following:</p> <ul style="list-style-type: none"> • Council develop a water quality monitoring and management plan. • Derive a correlation between nephelometric turbidity units and total suspended solids using either onsite calibration or laboratory based calibration using sediment collected from the proposed work areas and outline how turbidity measurements in the field will be used to track performance on the construction project against the identified trigger levels and implement management actions and procedures. <p>The EPA makes use of a range of guidance material on urban and rural soil erosion and sediment control, stormwater management, unsealed road maintenance, and other guidance, including Managing Urban Stormwater Soils and construction Volumes 1 (the Blue Book) and 2. The practices and principles in these guidelines can be used to help manage the identified impacts of land disturbance activities on the water quality of receiving waters. The nature and extent of the management measures adopted will be determined by the required water quality outcomes using the EPA's framework for assessing and managing water pollution.</p>	<p>The Erosion and Sediment Control Plan for the development includes the following note:</p> <p><i>“Prior to discharge of site stormwater, groundwater and seepage water into council's stormwater system, contractors must undertake water quality tests in conjunction with a suitably qualified environment consultant outlining the following:</i></p> <p><i>Compliance with the criteria of the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000)</i></p> <p><i>If required subject to the environmental consultant's advice, provide remedial measures to improve the quality of water that is to be discharged into Councils storm water drainage system. This should include comments from a suitably qualified environmental consultant confirming the suitability of these remedial measures to manage the water discharged from</i></p> <p><i>the site into Councils storm water drainage system. Outlining the proposed, ongoing monitoring, contingency plans and validation program that will be in place to continually monitor the quality of water discharged from this site. This should outline the frequency of water quality testing that will be undertaken by a suitably qualified environmental consultant.”</i></p> <p>A Water Quality Monitoring and Management Plan for the development will be developed by the appointed contractor prior to works commencing. The plan will include water turbidity tracking and proposed measures to reduce turbidity to acceptable levels.</p> <p>The Erosion and Sediment Control Plan for the</p>	
--	--	--

	<p>development includes the following note:</p> <p><i>“All work shall be generally carried out in accordance with</i></p> <p><i>(A) Local authority requirements</i></p> <p><i>(B) EPA – Pollution control manual for urban stormwater</i></p> <p><i>(C) LANDCOM NSW – Managing Urban Stormwater: Soils and Construction (“Blue Book”).”</i></p>	
--	--	--

**EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref:PPSSTH-11
DEVELOPMENT APPLICATION ASSESSMENT REPORT
Pursuant to Section 4.15 of the Environmental Planning and Assessment Act
Schedule of Submissions**

<p style="text-align: center;">Nature of Submission Submitter Details: NSW Police</p>	<p style="text-align: center;">Applicant Comment</p>	<p style="text-align: center;">Assessing Officer Comment</p>
<p>SURVEILLANCE</p> <p><i>Closed circuit television system</i> – It is recommended that a closed circuit television (CCTV) system be installed internally and externally which complies with the Australian Standard – Closed Circuit Television System AS:4806:2006.</p> <p>The system should be strategically positioned to cover all parts of the public space, pool areas both internally and externally, entry and exit points, service desks, office cash handling areas, bar and consumption areas. External forecourt entrance, carparking and loading dock areas should also be covered.</p> <p>The gym is intended to be operated 24 hours per day and unsupervised. This area should be fully covered by the system with functions to monitor live ‘off’ site.</p> <p>The system should be digitally recorded with computer hard drive back up with a 28-day retention period and capable of being downloaded for the purpose of any investigations by management or police. Monitors should be positioned within the respective offices and counter areas that are usually staffed. This provides added security by live surveillance.</p>	<p>Council has engaged an expert security consultant to undertake a threat and risk assessment of the development. It is envisaged that the assessment will recommend a closed circuit television system be installed to comply with the Australian Standard. Details of the proposed system will be finalised prior to the commencement of the use.</p> <p>Council has engaged an expert security consultant to undertake a threat and risk assessment of the development.</p> <p>It is envisaged that the installation of an alarm system will be recommended. Details of the proposed system will be finalised prior to the commencement of the use.</p> <p>Council has engaged an expert security consultant to undertake a threat and risk assessment of the development. Recommendation have been made with respect to maintaining strong sightlines and</p>	<p>Car parking layout was amended to include additional pedestrian walkways as required.</p> <p>All recommended conditions have been applied to the draft consent.</p>

<p>ACCESS CONTROL</p> <p>Access – Afterhours access to the gym may be unsupervised. Suitable access card system is recommended. Appropriate internal security barriers should be installed to prevent access to the pool areas.</p> <p>Pathways/footpath – The site plan for carparking to the western side of the complex indicates a clear designated footpath and pedestrian crossing. We recommend the extension of this pathway adjacent trailer carparking to encourage safe pedestrian access to and from the southern side of this area. There will be high usage by families with young children and pedestrian safety is a priority. It is noted that the centre will have pedestrian footpath access from the Vesper Street intersection. Consideration should be made to the incorporation of a combined footpath/cycleway to promote safe access to the facility.</p> <p>Signage – Install warning signage to indicate active CCTV and alarm systems are operating. This will assist as a crime prevention measure.</p> <p>Cash handling – As a robbery prevention procedure, the following recommendations are made. Ensure that there are strict cash handling procedures in place for staff. Ensure that cash is counted out of the view of the public in a secure room. Limit the amount of cash in a drawer at any time. Safes shall be designed and installed to Australian Standards.</p> <p>Safes should be secured to prevent removal. Consider time delay locks that can only be opened at particular times. The safe should be located in a restricted access area. All transit cash handling should be done by specialist security companies, rather than staff.</p>	<p>An access card system for after hours use of the gymnasium by members is proposed. The pool area will not be accessible to gymnasium users after hours.</p> <p>The plans have been amended to provide an additional pedestrian pathway in the western part of the car parking area.</p> <p>Council has engaged an expert security consultant to undertake a threat and risk assessment of the development.</p> <p>It is envisaged that a CCTV system will be recommended along with warning signage. Details will be finalised prior to the commencement of the use.</p> <p>Council has engaged an expert security consultant to undertake a threat and risk assessment of the development. Recommendations regarding cash handling procedures will be implemented. Details will be finalised prior to the commencement of the use.</p>	
--	--	--

<p>TERRITORIAL REINFORCEMENT It is noted that the development will include bar facilities in the arts/cultural centre. Police will seek conditions in relation to liquor licensing when application has been made to Liquor & Gaming NSW. As stated earlier, CCTV coverage of bar service and consumption areas is requested.</p>	<p>Noted.</p>	
--	---------------	--

<p align="center">EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref:PPSSTH-11 DEVELOPMENT APPLICATION ASSESSMENT REPORT Pursuant to Section 4.15 of the Environmental Planning and Assessment Act Schedule of Submissions</p>		
<p align="center">Nature of Submission Submitter Details: Roads and Maritime Services</p>	<p align="center">Applicant Comment</p>	<p align="center">Assessing Officer Comment</p>
<p>RMS did not support the 'exit only' for general and servicing vehicles and as an entry and exit for emergency vehicles due to the possibility of traffic queuing back onto the Highway</p>	<p>The plans have been amended to include a deceleration lane for vehicles entering the site at the proposed southern access point.</p>	<p>Concurrence granted by the NSW RMS.</p> <p>All recommended conditions have been applied to the draft consent.</p>

**EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref:PPSSTH-11
DEVELOPMENT APPLICATION ASSESSMENT REPORT
Pursuant to Section 4.15 of the Environmental Planning and Assessment Act
Schedule of Submissions**

<p style="text-align: center;">Nature of Submission</p> <p>Submitter Details: Department of Primary Industries Fisheries and Batemans Marine Park</p>	<p style="text-align: center;">Applicant Comment</p>	<p style="text-align: center;">Assessing Officer Comment</p>
<p>Saltmarsh risks</p> <p>We are concerned about future impacts on the saltmarsh and wetland of McLeods Creek which lies within a habitat protection zone of the Batemans Marine Park. Saltmarsh is also listed as an Endangered Ecological Community under the Biodiversity Conservation Act. The saltmarsh is approx. 30 m to the proposed car park site. The saltmarsh community in McLeods creek is the main saltmarsh community in the lower section of the estuary and is unique as it lies adjacent to extensive urban development. Increased urban development and changes to tidal regimes are identified as key threats to saltmarsh in NSW. Saltmarsh in McLeods creek has increased by 7% between 2012 and 2017 when estuarine macrophytes were last mapped as part of the Eurobodalla Estuarine Macrophyte Mapping Project prepared for Eurobodalla Shire Council dated January 2018. However, throughout the entire Clyde River system saltmarsh extent has decreased by 39% over the same period. For this reason the saltmarsh within McLeods creek should not be subject to further pressure from development. The proposed car park will lead to increased volumes of fresh water entering the wetland during rainfall events. This can increase the area and time that saltmarsh is exposed to freshwater inundation, and at times may influence tidal inundation of saltmarsh. Freshwater inundation can negatively impact upon the growth of this saltwater dependent species.</p>	<p>Existing stormwater from the site is discharged via a piped system or by overland flow through a swale directly to the wetlands of McLeods Creek, without any treatment. The current flow rate of stormwater directly flowing to McLeods Creek in a 20 year storm event is 761L/s (330L/s via piped system and 431L/s via swale).</p> <p>Post development, there will be no discharge of untreated stormwater directly to McLeods Creek. All stormwater from the site will be collected and treated prior to discharge either through a piped stormwater system to McLeods Creek or through a rainwater garden, absorption trench and swale system. The flow rate of stormwater from the site post development will be 748L/s (478L/s via piped system and 270L/s via rainwater gardens, absorption trench and swale).</p> <p>In summary, the total flow rate of water discharged directly to McLeods Creek will be reduced from 761L/s to 748L/s as a result of the development and all stormwater will be treated prior to discharge. The reduction in total flow rate is a result of the introduction of storage areas on site including the water quality treatment tank. The result is an improvement to the quality and quantity of water being discharged from the site.</p> <p>The proposed car park is situated contiguous with the development to provide optimal access to the</p>	<p>A detailed amended stormwater design was provided during the assessment.</p> <p>A number of conditions in draft consent address protection of the wetland, EEC and Marine Park.</p> <p>Department of Primary Industries – Fisheries and Batemans Marine Park support granted subject to conditions of consent.</p>

<p>Riparian buffer zone</p> <p>DPI Fisheries does not support the proposed construction of the carpark within the riparian buffer zone adjoining McLeods creek. The maintenance and enhancement of riparian buffer zones between saltmarsh area and adjacent development has been identified as a key tool in protecting saltmarsh. Riparian zones protect the health of aquatic environments by filtering nutrient inputs into waterways. The proposed carpark will reduce benefits the riparian buffer zone can provide to the adjacent wetland by replacing what is currently a pervious zone with an impervious surface. DPI Fisheries generally recommends a riparian buffer zone width of 100m adjacent to TYPE 1 key fish habitat, such as coastal wetlands and marine parks. However, in urban environments such as this, a buffer width of 40m can be considered a suitable alternative. Currently the proposal will fall within this zone and we would like other options for the car park site to be explored in line with our previous comments above. A 40m buffer will also assist in achieving the vegetated transition to the adjoining coastal wetland recommended in the Flora and Fauna Report to this proposal. Further we do not support the removal of the large mature trees in the riparian buffer zone outlined in the proposal.</p> <p>Stormwater, sediment and erosion risks – Impacts during construction:</p> <p>The construction of this facility poses a significant risk of sedimentation impacts to the adjoining marine park and wetland from rainfall events during construction when large areas of disturbed earth are exposed. Water quality within the receiving waters of McLeods Creek must be maintained during high rainfall events as required under the POEO Act. The system must be designed to prevent excessive sedimentation or sediment build-up during these events. Two temporary sediment basins are proposed for the construction period to treat stormwater. However, to adequately assess</p>	<p>community facilities. As demonstrated above, the environmental impacts of the development are positive compared to uncontrolled and untreated stormwater runoff from the site into McLeods Creek currently. Additionally, the former Bowling Club site is not available as part of the current development.</p> <p>Sediment collected in the temporary sediment basin will be disposed of off-site. Pollutants, in accordance with the ANZECC Guidelines, are filtered and will be separated from clean water for disposal off-site. Clean water shall be reused for dust suppression and in the earthworks and pavement building process to achieve ample compaction. Excess clean water shall be further filtered by being discharged into the groundwater via an absorption trench. The treated water will not be discharged directly into McLeod’s Creek via the stormwater system or by overland flow. The sizing of the sediment basins have been completed in accordance with the “Managing Urban Stormwater Soils and Construction Volume 1” (the blue book). A bund will be provided along the southern boundary to increase the volume retention so that it is prevented from flowing into the wetland in heavy storms. The mounding of the boundary in addition to silt fencing and catch drains will also prevent any migration of the soil into the wetland. The Environmental Consultant engaged by the contractor shall develop measures to be in compliance with ANZECC guidelines and meet the NSW Water Quality Objectives by providing an Environmental Water Quality Monitoring & Management Plan which will provide evidence that the discharge</p>	
---	---	--

<p>potential effectiveness of these basins further information is required about the location of a discharge point and discharge criteria for the basins. The temporary sediment basins must be designed to have sufficient capacity during high rain fall events in line with best practise given the sensitivity of the receiving waters. Direct discharge into McLeods creek wetland must be avoided by the implementation of best practise. The proposed development will require significant amounts of fill to be used during the construction phase. We note that the proposal does not include any measures to treat the bank of this fill which is at risk of eroding into the adjoining sensitive environments. Any authorisation of this proposal will need to include measures to fully prevent sedimentation impacts on the adjacent habitats. DPI Fisheries strongly recommends that best practice erosion and sediment control measures be employed in accordance with the 'Managing Urban Stormwater; Soils and Construction Volumes 1 and 2' (NSW Landcom 2004). Given the proximity of the works to the marine park, Batemans Marine Park requests the opportunity to review the final Construction and Environmental Management Plan (including Stormwater, Erosion and Sediment Control Plan) prior to works at the site commencing. To ensure minimal impact to the adjoining Marine Park and Coastal Wetland, the Stormwater, Erosion and Sediment Control Plan could be improved by including:</p> <ul style="list-style-type: none"> • Standard practices such as: minimising bare soil exposure by staging construction so that vegetated areas of land are left in place until construction of that stage commences; separating 'clean' and dirty water areas; diverting clean stormwater around the construction site; and revegetating the site as soon as possible. • The construction of a temporary bund adjoining the wetland and treatment of its outer edge to direct stormwater flows into to a temporary sediment basin; • Developing a water quality management plan; and • Determining a suitable site specific correlation between nephelometric turbidity 	<p>criteria for pollutants will maintain the environmental values of the receiving waters. The plan will address the staging of development to minimise bare soils exposure and will include water turbidity tracking and proposed measures to reduce turbidity to acceptable levels.</p> <p>The proposed development will improve water quality through treatment and reduce the quantity being discharged resulting in a net improvement in terms of both quantity and quality.</p>	
---	---	--

<p>units (NTU) and total suspended solids (TSS) and outline how turbidity measurements in the field will be used to monitor water quality performance on the construction works against identified trigger levels for the ambient water quality of McLeods Creek in line with the NSW WQO's and ANZECC Guidelines.</p> <p>Impacts from operational stormwater</p> <p>Section 9.4 of the Statement of Environmental Effects for this proposal states that the Flora and Fauna Assessment has addressed potential impacts of the development on the adjoining coastal wetland, and that it is considered unlikely that the proposed development will adversely impact on the biophysical, hydrological and ecological integrity of the wetland or the marine estate, or the quantity and quality of surface and groundwater flows. However, the determining authority will need to consider this in light of the following disclaimer made within section 1.2 of the Flora and Fauna Assessment which states that 'This assessment has been undertaken under the assumption that the proposal will be designed so that the surface and subsurface drainage beyond the study area will not be adversely altered'. Therefore, there does not appear to be clear consideration of these potential impacts in light of what is actually being proposed. The proposal represents a significant change in this site from a pervious landscape to an impervious one. This will result in a significant increase to the volume of stormwater currently coming from this site. DPI Fisheries acknowledges and supports measures that have been proposed to minimise potential scour impacts at stormwater outlets from increased flows and to collect and re-use stormwater from the pool roof. However, we recommend that design changes be considered to increase the area of permeable surfaces in the outside areas including the carpark. This will effectively reduce the volume of stormwater from this site and provide increased capacity to filter stormwater, especially during smaller rainfall events.</p>	<p>The Acid Sulfate Soils Management Plan accompanying the development application has been amended to address the matters raised.</p> <p>Given the extent of fill across the site, there will be minimal deep excavations for the development. Some small areas of excavation, for pile foundations, pool shells and the grease arrestor trap, excavation near or below the existing water table will require localised dewatering. The structures will be designed to comply with Australian Standard 3735-2001 Concrete Structures for Retaining Liquids. As a result of these actions, the water table will not need to be lowered.</p> <p>+All water extracted from excavations will be stored in the temporary sediment basin. Pollutants, in accordance with the ANZECC Guidelines, are filtered and will be separated from clean water for disposal off-site. Clean water shall be reused for dust suppression and in the earthworks and pavement building process to achieve ample compaction.</p> <p>As demonstrated above, the environmental impacts of the development are positive compared to uncontrolled and untreated stormwater runoff from the site into McLeods Creek currently.</p> <p>It is proposed that only clean fill will be imported to the site. An operational plan addressing waste management will be developed to comply with the recommendations of the Operational Waste Management Plan (OWMP) accompanying the development application</p>	
---	---	--

<p>We request that a copy of the final designs for the stormwater outlets is submitted for further review prior to the works occurring. We don't support further stormwater infrastructure works within the park and below the mean high water level. DPI Fisheries acknowledges the proposal to capture and treat stormwater flows prior to discharge from this site. However, the Department has concerns as to the on-ground effectiveness of such measures over the lifetime of this development. The MUSIC modelling conducted for this site relates only to the discharges from the final landform for the proposed site. There is no comparison of the discharged stormwater quality in relation to the current stormwater that is currently discharged off the existing largely pervious site. Therefore we have no way of establishing whether stormwater targets are reached in relation to existing discharges from this site. Further, the MUSIC modelling has considered the installation of a rain garden within the south-western carpark extension. However, as this is not clearly evident on the civil engineering plans it is uncertain whether the MUSIC modelling will achieve the stated water quality targets. It is unclear how the water from the carpark will be directed to the depicted drainage outlets, especially considering that some of these are situated on the edge of the carpark directly next to the coastal wetland. DPI Fisheries questions whether there will be any overflow of untreated stormwater from the carpark directly into the adjacent wetland? Further, from the civil engineering plans it appears that stormwater from part of the carpark will be discharged directly into the coastal wetland. It is not clear whether stormwater captured within the 20m long dispersion trench will also be treated by the trench design prior to discharge.</p> <p>Together with the recommended 40m riparian buffer zone previously stated, a further measure to mitigate potential stormwater impacts is the construction of a bio-retention swale along the boundary of the carpark. Any bio-retention areas should be designed in line with the Landcom publication 'Water sensitive</p>		
--	--	--

<p>urban design Book 2 planning and management.’ We note that due to the current design this is not possible in some sections of the proposed carpark as it abuts directly onto the coastal wetland. This design aspect is not supported for reasons previously outlined. The determining authority should ensure that any future approval of a stormwater treatment system at this site must include actions to maintain the stormwater treatment facility in accordance with manufacturer’s specifications over the life of this proposal. Failure to do so will eventually result in untreated stormwater discharges being released into the waters of McLeods creek causing detrimental impact upon the water quality and saltmarsh habitats of the adjacent wetland and marine park over the longer term. Given the proximity of the proposal to an adjacent coastal wetland and marine park, DPI Fisheries recommends a more conservative approach to water quality treatment that seeks a neutral or beneficial effect on water quality in comparison to existing stormwater discharges from the site. As stated above, we have strong concerns about the achievement of the stated water quality treatments.</p> <p>Exposure of Potential Acid Sulphate Soils (PASS)</p> <p>The environmental risk of PASS being exposed may occur during excavation works and construction of the footings. All measures must be taken to ensure that should PASS be detected at the site the soils are treated in accordance with ASSMAC 1998 guidelines and disposed of at an appropriate waste facility. At no time should soils be stockpiled within 60 metres of the creek and should stockpiling occur adequate sediment control measures must also be utilised.</p> <p>Groundwater management</p> <p>It is not clear whether groundwater impacts will be a consideration. Could the proponent please clarify if groundwater will be disturbed? We recommend that if groundwater is disturbed it must be dewatered in line with EPA Queanbeyan advice (Ph: 02 6229 7002) and not released into the receiving waters of McLeods creek.</p>		
--	--	--

<p>Further the determining authority must also thoroughly consider the future environmental impacts of potentially lowering the water table as a result any disturbance.</p> <p>Oyster Aquaculture NSW DPI can confirm that Priority Oyster Aquaculture Areas (POAA) are present in the estuarine waters in proximity to the proposed development. These POAA areas are mapped and described in the NSW Oyster Industry Sustainable Aquaculture Strategy (OISAS). This strategy details the required water quality growing and harvest standards for the NSW oyster industry in chapters 3 &4. OISAS can be accessed at: https://www.dpi.nsw.gov.au/fishing/aquaculture/publications/oysters/industry-strategy The Healthy Estuary for Healthy Oysters Guidelines provides advice on how to ensure development in close proximity to estuaries is compatible with the requirements of oyster aquaculture. This document details mitigation measures for new developments, including diffuse source guidelines and can be accessed at: http://www.dpi.nsw.gov.au/data/assets/pdf_file/0009/7389/72/Healthy-Estuaries-for-Healthy-Oysters-Guidelines.pdf It is recognised that protecting water quality in oyster growing and harvest areas is crucial to the long term future of the oyster industry, and protecting water quality in oyster growing and harvest areas from incompatible development is the primary purpose of Division 4 of SEPP Primary Production and Rural Development.</p> <p>Other comments As proposed, it is important that only clean fill is used on this site. DPI Fisheries is concerned with the potential for litter to originate from this site and recommends that litter</p>		
---	--	--

<p>management, including bin installation and maintenance, be included in any operational plan for this site.</p>		
---	--	--

**EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref:PPSSTH-11
DEVELOPMENT APPLICATION ASSESSMENT REPORT
Pursuant to Section 4.15 of the Environmental Planning and Assessment Act
Schedule of Submissions**

<p style="text-align: center;">Nature of Submission</p> <p>Submitter Details: Department of Planning, Industry and Environment – Biodiversity and Conservation Division</p>	<p style="text-align: center;">Applicant Comment</p>	<p style="text-align: center;">Assessing Officer Comment</p>
<p>Biodiversity The development directly adjoins land mapped as having high biodiversity value on the biodiversity values map (BV map) and is a known endangered ecological community. The development will also impact native and planted native vegetation. These impacts require consideration against S7.2 of the Biodiversity Conservation Act to determine whether entry into the Biodiversity Offset Scheme is required. From our review of the information in the SEE it does not appear to have adequately considered Biodiversity Offset Scheme thresholds. The Flora and Fauna Assessment by Ecological Australia describes impacts associated with the development as removal of native vegetation, the disturbance of soils, the compaction of soil within areas to be accessed by heavy machinery/vehicles and the covering of the majority of the development footprint with hard surfaces. As there is no buffer to minimise these impacts between the development and the EEC, BCD consider that soil disturbance, the use of heavy machinery, and the introduction of hard surfaces would have a high potential to indirectly impact the EEC via altered hydrology, post development surface water flows and increased nutrient and/or sediment loading.</p>	<p>As outlined in the Flora and Fauna Report, the proposed development does not exceed the Biodiversity Offset Scheme thresholds. The area threshold for clearing native vegetation for the site is 0.5ha or more. With only three remnant native trees to be removed, the proposal falls well under the area threshold. The development is not carried out on land identified on the Biodiversity Values Map and therefore does not meet the Biodiversity Values Map threshold. The proposed development will improve water quality through treatment and reduce the quantity being discharged resulting in a net improvement in terms of both quantity and quality. Proposed erosion and sediment control measures during construction will also ensure that there are no negative impacts on the adjoining wetland. For more information, see responses to NSW DPI- Fisheries and Batemans Marine Park submissions.</p>	<p>A detailed amended stormwater design was provided during the assessment. A number of conditions in draft consent address protection of the wetland, EEC and Marine Park. The Biodiversity Values Map does not affect any land on the proposed site, the area threshold (0.5ha) for clearing of native vegetation will not be exceeded, No threatened species or endangered ecological communities will be significantly impacted by the proposal and no indirect impact.</p>

<p>Such impacts are considered to comprise 'impacts' prescribed by 6.1 of the BC regulations that, subject to clause 7.1 of the BC Regulations, would require entry to the Biodiversity Offset Scheme and the preparation of a Biodiversity Development Assessment Report. (https://www.legislation.nsw.gov.au/#/view/regulation/2017/432/part7/sec7.1 (an action prescribed by 6.1 on the BV Map) https://www.legislation.nsw.gov.au/#/view/act/2016/63/part7/div1/sec7.4)</p> <p>Aboriginal Cultural Heritage</p> <p>The Department has reviewed the Aboriginal Heritage Due Diligence Assessment, VESPER STREET, BATEMANS BAY completed by NGH in October 2018. While the Department does not certify due diligence assessment we advise Council that assessment appears to adequately follow the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010). The Department supports the recommendations included in the assessment. The Statement of Environmental Effects does not recognise that the current proposed works do not avoid the area of low</p>	<p>The proposed development will include access ways and car parking areas within the southern and eastern extents of the area of low to moderate archaeological potential. There will be no cut into existing ground levels in this area, with some minor filling of up to 1m. The Aboriginal Heritage Due Diligence Assessment identifies the potential for sub-surface Aboriginal archaeology below imported fill. Given there will be no excavation in these areas, there will be no disturbance to sub-surface Aboriginal archaeology.</p>	
--	---	--

<p>to moderate archaeological potential. Council should clarify their proposed impacts and proceed according to the recommendations included in the assessment.</p>		
---	--	--

**EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref:PPSSTH-11
DEVELOPMENT APPLICATION ASSESSMENT REPORT
Pursuant to Section 4.15 of the Environmental Planning and Assessment Act
Schedule of Submissions**

<p>Nature of Submission Submitter Details: NSW Rural Fire Service NSW Office of Water Essential Energy</p>	<p>Applicant Comment N/A</p>	<p>Assessing Officer Comment Conditions of consent applied as required.</p>

**EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref:PPSSTH-11
DEVELOPMENT APPLICATION ASSESSMENT REPORT
Pursuant to Section 4.15 of the Environmental Planning and Assessment Act
Schedule of Submissions**

Submitter Details: Local Area Traffic Committee

<p>Nature of Submission</p>	<p>Comment</p>	<p>Recommendation</p>
<p>Access for a 19.0m articulated vehicle has only been modelled in the traffic report from Vesper Street in the southbound direction. No provision for northbound 19.0m articulated vehicles into the site from the northbound direction has been shown in the Traffic Report. Our swept path models show that some reconfiguration of the southern Beach Road/Vesper Street kerb return would be required to enable a northbound articulated vehicle to enter the site. Access for a 19.0m articulated vehicle from the northbound direction is to be allowed for in the development.</p> <p>Coach and bus parking is proposed to be provided on the southern side of the aquatic centre (Traffic Report Page No.25) However, no lead in is provided for these bus parking spaces or swept path shown within the</p>	<p>Additional swept path diagrams have been prepared to demonstrate that a 19.0m articulated vehicle can enter the site at the Beach Road traffic signals from the northbound direction. Currently, vehicles of this size are required to turn into the site. As a result of the development, articulated vehicles entering the site will be infrequent (no more than once every few months). The turning movements at the intersection are therefore considered satisfactory.</p> <p>The plans have been amended to provide lead in for buses at the bus parking spaces on the southern side of the building. This has resulted in the loss of three parking spaces in this location.</p>	<p>All comments noted.</p> <p>Amended designs and support received subject to conditions of consent.</p>

<p>Traffic report. This would require 1 of the buses to reverse in order to park in the western parking space. This is not considered appropriate from as Safety in Design point of view and a lead in should be provided for the two bus parking spaces. Revised parking layout required.</p> <p>Although the area in front of the main foyer drop off /pick up bay will allow for 1 bus to stop and drop off passengers, because of the curved approach it is difficult for a second bus/coach to stop at the same time. It should be reviewed if this approach can be improved.</p> <p>The proposed roundabout on Beach Road does not adequately cater for northern site entry and does not allow for current and future development to the north of the facility. No turnpaths for the northern approach are shown within the traffic report. This roundabout must be redesign to cater for both north and south entry and exit arrangements</p> <p>The Traffic report does not consider the known change to Clyde Street being closed post the construction of Batemans Bay Bridge.</p> <p>Consultation with local bus companies, transport operators or emergency services have not been mentioned within the Traffic Report. This needs to be considered before finalising bus access and parking arrangements.</p> <p>The Traffic Report '4.7 Vehicle Access Arrangements' indicates that the new southern access onto Vesper Street is to be exit only for all vehicles and that the entry from Vesper Street is to be for emergency vehicles only. Technical Services proposes that consideration be given to allow all vehicles to enter from Vesper Street along with a suitable length of designated left lane. It is likely a modified analysis of the SIDRA intersection model will reveal that this will result in a better performance of the signalised intersection.</p> <p>Service vehicles and trucks must be able to exit the site via the traffic lights on Beach Road.</p>	<p>The drop off zone can accommodate two buses.</p> <p>Additional swept path diagrams have been provided to ensure the design caters for access to existing and future development in the northern and western parts of the precinct.</p> <p>The traffic report acknowledges on page 6 that <i>"access to Clyde Street would be via North Street"</i>. The traffic assessment has taken this into consideration.</p> <p>The proposed development has been designed to accommodate buses and emergency service vehicles. The development application was publicly notified, providing the opportunity for local bus companies, transport operators and emergency services to provide comment. No comments from such organisations have been received.</p> <p>The plans have been amended to allow all vehicles to enter the site at the proposed southern access, including the provision of a deceleration lane.</p> <p>The swept path diagrams provided with the application demonstrate that service vehicles and trucks accessing the loading dock can exit the site via the traffic lights on Beach Road. Service vehicles and trucks will also be able to exit the site via the proposed southern access point.</p> <p>Alternative locations for trailer parking spaces were considered in the detailed design process. The proposed location provides the most efficient location in terms of the design of the parking area, taking into account the swept</p>	
--	---	--

<p>LTC Comment desirable</p> <p>Three trailer parking spaces are provided to the western end of the site. While we support providing spaces for trailer parking, having vehicles with trailers travel through the development to access these spaces in this location is difficult. It would be preferred if these could be situated in a location that provides better and more direct access and egress from the site.</p> <p>The Traffic Report states that on street parking in Beach Road can accommodate in the order of 30 car parking spaces (Traffic Report Page No.5). It is not clear where these are located and it is noted that the parking on Beach Road to the West of Vesper Street from the existing traffic signals to the proposed roundabout will likely be removed or significantly reduced in the future for safety reasons and should not be counted in the assessment.</p> <p>The Traffic Report (Page No. 21, Table 5.2) considers that peak demand from the 357 seat theatre plus staff would result in 89 parking spaces. This appears very low for the capacity of the facility given the current public transport arrangements in this regional area and needs to be reviewed to determine if this is reasonable. LTC Comment agree public transport service level much lower than Sydney area however this ratio is determined by planners</p> <p>Accessible parking is provided in the development, however it is situated on the opposite side of the road and slightly south of the main entry to the facility. This is undesirable as it requires people using these accessible car parks to travel along and across the trafficable lanes and traverse some distance to ramps. Consideration needs to be given to locating accessible parking on the same side as the facility so that it is safer and more convenient for people with disabilities. Refer AS1428.2.7 Continuous Accessible Path of Travel “(e) the accessible elements of buildings and facilities shall be arranged so as to minimise distances to be travelled between them.”</p>	<p>path requirements for vehicles with trailers. Other locations closer to access and egress points were not considered appropriate on the basis that this might encourage long-term parking of such vehicles on the site. The primary purpose of these spaces is for short-term parking for travellers seeking visitor information.</p> <p>This statement in the Traffic Report is in a section called “Existing Site Uses”. These spaces currently exist and are not counted in the proposed</p> <p>The parking assessment for the proposed development is based on a range of factors, including an assessment of the peak demand of the major components of the development at various times of the day and week. Importantly, as demonstrated in Figure 5.1, when the theatre component is at peak use (weekend day after 6pm), other components are at or less than 25% capacity. At these times, there is predicted to be a surplus of between 40 and 60 car parking spaces. It is also important to note that the location of the development is immediately adjoining a regional town centre which is a hub for all existing local and regional bus services. The former Bowling Club on the northern part of Mackay Park did not provide any parking on that site, relying on existing parking on Council and Crown Land. Any future development of that site will be required to provide parking, resulting in an overall net increase of parking across Mackay Park.</p> <p>The accessible parking spaces have been relocated to adjoin the pathway that runs east-west along</p>	
---	---	--

<p>It appears that a concrete dish drain is proposed at the road edge in front of the accessible parking spaces. This would need to be reviewed in further detail to ensure it meets AS1428.1-2009 Fig.24(A) – minimum angle between vertical surfaces 166 degrees.</p> <p>The shared path leading into the development on Beach Road needs to accommodate for high volume frequent use and allow sufficient separation from vehicles. It is preferred that this be 4.0m in total width including 3.5m shared path recreational width with 0.5m clearance from the kerb. Refer Austroads Guide to Road Design Part 6a – Paths for Walking and Cycling Section 2.4 Figure 2.3 and Table 5.3.</p> <p>Provision for bicycles and scooters needs to be considered including areas for bicycle storage racks and secure areas for scooters for patrons and staff. This is a requirement of Council's adopted Pathway Strategy 2017 (Refer Section 5.2.3) where provision of secure bicycle storage facilities as part of all new commercial, industrial and medium/high density development is a requirement of all development approvals.</p> <p>Direct level access into the building needs to be provided from the drop off and pick up zone into the main entry of the facility.</p> <p>LTC Additional Comments Pedestrian facilities should be installed at the Beach Road roundabout.</p> <p>Consider additional pedestrian facilities and desire lines throughout the site. Pedestrian crossing(s) may be relevant.</p> <p>Consider traffic calming devices such as road humps throughout the site. Particularly relevant at times when peak flows are encounters through to all facilities within the precinct.</p> <p>A detailed signs and linemarking plan must be submitted to the Local Traffic Committee at</p>	<p>the southern side of the Mackay Park playing fields. This change provides safe, direct and convenient access to the building for people with a disability.</p> <p>The design of the dish drain can be certified to comply the relevant Australian Standard prior to the issue of a Construction Certificate.</p> <p>While the preference for a wider shared path along the southern side of the Beach Road entrance to the facility is acknowledged, accommodating this request would result in conflicts with heavy vehicle manoeuvring and loss of landscaping along the building. The proposed 2.5m wide footpath is considered sufficient for the development.</p> <p>Bicycle and scooter parking is accommodated in the development, noting that Council has no adopted standard for the provision of such parking.</p> <p>Direct level access is provided by way of compliant ramps</p> <p>The detailed location and design of pedestrian crossing facilities at the Beach Road roundabout can be undertaken prior to the issue of a Construction Certificate.</p> <p>The plans have been amended to provide an additional pedestrian pathway in the western part of the car parking area.</p> <p>The detailed location and design of any traffic calming devices can be undertaken prior to the issue of a Construction Certificate.</p> <p>A parking area signage and line-marking plan can be provided prior to the commencement of the use.</p>	
--	--	--

least 3 months prior to opening of the carpark to the general public.		
---	--	--

Table 2 – Public referrals

EUROBODALLA SHIRE COUNCIL DA0189/20 JRPP Ref: PPSSTH-11 DEVELOPMENT APPLICATION ASSESSMENT REPORT Pursuant to Section 4.15 of the Environmental Planning and Assessment Act Schedule of Submissions - PUBLIC SUBMISSIONS		
Nature of Submission 1	Applicant Comment	Assessing Officer Comment
<p><u>Old Bowling Club Site</u> The bowling club site is not within the scope of this DA. The DA is deficient in that it fails to include an outline of a future, acceptable to the community, use of the bowling club site. Such a guarantee for a Gateway Development in the precinct should be included in the DA and be conditional on its approval.</p> <p><u>Business Plan/Ongoing Costs</u> Withheld from the community. The community and councilors have not been given sufficient information to decide if: the development is appropriate, to current and future needs of the Shires residents and visitor. If the complex will be affordable in relation to its initial construction and on-going ownership, financial and operational expenses. If revenues from forecast patronage will off-set expenses to make the complex economically viable without having to resort to rate increases.</p> <p><u>Size of inclusions</u> There is no evidence in the DA that indicate that the number and type/size of the proposed inclusions are appropriate to the needs or wishes of the community over the expected life of the complex. Nor is it evident that any</p>	<p><u>Old Bowling Club Site</u> The purpose of the development application is to seek approval for an aquatic, arts and leisure facility on the site of the existing Batemans Bay pool. There is currently no development proposal on the site of the former bowling club. Any future development on that site will be the subject of a separate development application.</p> <p><u>Business Plan/Ongoing Costs</u> At the concept design stage in 2017, a business case for the proposed development addressing the current and future needs of the community, the affordability of the development in relation to construction and on-going operation and the potential revenues to offset costs was made public and is still available on Council’s website. Updated detailed costings for the proposed development is commercial-in-confidence information, so as not to prejudice the tendering process to select a construction company.</p> <p><u>Size of inclusions</u> At the concept design stage, the nature of inclusions in the proposed facility were considered. Alternative options for inclusions were</p>	<p>See summary in assessment report Section D</p>

<p>alternative inclusions, their sizes and their combinations have been considered or costed for value comparisons to be made by councilors or the community despite the project’s general importance to the whole shire and despite its likely potential impact on the shire’s finances now and into the future. It is therefore impossible to properly reach an informed conclusion on the appropriateness or size of inclusions in the design being proposed. There has been no assurance given that should the development be approved, its inclusions would not be reduced in number, nature or size in order to meet a ceiling development price deemed to be the limit of affordability. No other fallback position has been canvassed publicly nor has there been any public information given should such a ceiling value be already known to council.</p> <p>Council has voted to assess the project’s future by going to tender in order to then have firm prices for further consideration. It is unfair to expect tenderers to expend significant time and money preparing fairly involved tenders when council does not have a definite intention to proceed.</p> <p><u>Sale of Community Assets</u> There is no evidence or assurance that, if sales of other community assets are being considered to offset initial development costs, all services currently provided will be satisfactorily transferred elsewhere and if to this proposed development, that they will compliment and be adequately accommodated.</p> <p><u>Loss of Mini Golf</u> The loss of the iconic mini golf facility from an adjacency to the leisure sections of the proposed development will inhibit the attractiveness of the area and thereby the extent of revenue from a limited patronage.</p>	<p>considered at that stage. There was significant community involvement in the concept design stage to inform the nature and size of inclusions. Refinement of the nature and size of inclusions through the detailed design stage was also the subject of significant community consultation. Council is committed to delivering the whole of the proposed development should consent be granted. Should additional funding be required to deliver the project in full, Council will investigate additional funding opportunities.</p> <p>As noted above, Council is committed to delivering the project. Tender processes will follow standard tender practices for a development of this scale.</p> <p><u>Sale of Community Assets</u> The means of funding a development proposal is not a relevant consideration for a development application. Should the sale of existing community assets be considered as part of the funding mix, Council will consult with the community on the future of services currently accommodated within those assets.</p> <p><u>Loss of Mini Golf</u> The existing Mini Golf facility is privately operated. The future of the Mini Golf facility is a matter for the existing or future operator. It is not a relevant matter of</p>	
---	--	--

<p><u>Geo-Tech Report</u> The Geotech Report indicates that no bore holes were drilled in the footprint of the current facilities and therefore the costs of providing proper foundations in this area could be underestimated in the development's declared value. The installation and ongoing costs of providing pumping or other actions to ensure the integrity of the developments foundations in a waterlogged environment have not been separately specified and in the absence of a business case, it is not evident how much expense impact such measures would have.</p> <p><u>Online option to lodge a submission</u> On-line facility to record objections was unable to be used as its comment space is limited to 1,000 or so characters.</p>	<p>consideration for this development application.</p> <p><u>Geo-Tech Report</u> A sufficient number of boreholes were drilled across the site to determine the soil, water and bedrock conditions of the site. While it was not possible, or appropriate, to drill boreholes within the footprint of existing facilities, the soil, water and bedrock conditions are unlikely to be significantly different from surrounding areas where boreholes were able to be drilled. Contingencies for unknown sub-surface conditions are included in the quantity surveyor's advice.</p> <p><u>Online option to lodge a submission</u> Noted.</p>	
--	--	--

<p>Nature of Submission 2</p>	<p>Applicant Comment</p>	<p>Assessing Officer Comment</p>
<p><u>Business Plan/Ongoing Costs</u> As Eurobodalla ratepayers will be responsible for the ongoing maintenance and operating costs of the facility, they should be informed of projected costs:</p> <ul style="list-style-type: none"> • is it affordable considering the shire's large proportion of low to medium income earners and its aging population on fixed or low income? • is it economically viable? Will it necessitate rate rises that impact on those least able to afford it (or even use it)? • is the development appropriate to the current and future needs of the shire's population, considering its age demographic (54 median age), geographic spread, and tourist visitation – will anticipated patronage cover expenses? 	<p><u>Business Plan/Ongoing Costs</u> At the concept design stage in 2017, a business case for the proposed development addressing the current and future needs of the community, the affordability of the development in relation to construction and on-going operation and the potential revenues to offset costs was made public and is still available on Council's website.</p>	<p>See summary in assessment report Section D</p>

<p>The public cannot make an informed submission, if critical information about the proposal is withheld from them – a business case with projected costs should have been included with the other exhibition documents.</p> <p><u>Questionable CIV in DA</u> I question whether the CIV calculation in council’s DA of \$49.5m is a legitimate estimate – is it the Quantity Surveyors (QS) estimate as required by 13B of the MD SEPP? “The calculation of CIV is one of fact; it is not subject to the ‘opinion’ of either council or the Regional Panel.” (Planning Circular PS 10-008)</p> <p>Council has \$51m in grant funding and a \$4m loan – total \$55m. According to the Contract Register, \$4m has been spent on consultants (Otium and NBRs) and a quantity surveyor. Raising numerous concerns with financial statements made at the 27 Aug 2019 Council Meeting around statements made by the ESC Director of Planning & Sustainability * “Whilst significant reductions in cost have been achieved through the design process, further work will be required through the detailed design stage to attempt to further reduce the capital cost. In addition, Councillors have been briefed on, and will need to consider, additional funding sources for the project.” * Councillors will need to formally consider, “additional funding opportunities for the project, especially in regard to providing for any contingency through the construction process.” Such contingencies are more than likely considering the Geotech Report. * “Council will need to consider a range of additional funding sources, including: S94A funds (Contributions Plan Levy Plan – developer contributions); Renewal funding, for renewal of pool assets; Reserves; Reprioritization of the capital program; land sales or lease” “There remains the potential that council will not be able to afford the full scope of the project”. Such revelations are of serious concern, as the cost burden will impact ratepayers either in higher rates, loss of community assets and/or loss of services. Without the QS report it is unknown if</p>	<p><u>Questionable CIV in DA</u> The MD SEPP referred to in the submission was repealed and replaced by the State and Regional Development SEPP. The definition of capital investment value (CIV) is now contained in the Environmental Planning and Assessment Regulation 2000.</p> <p>The CIV included on the development application form is based on updated advice from Quantity Surveyors. As noted above, this advice remains commercial-in-confidence.</p>	
---	--	--

<p>all required costs and contingencies have been factored in to the CIV:</p> <ul style="list-style-type: none"> * cost of paying out Mini Golf operators on project site * design and construction costs for all buildings and other facilities included in the application, as well as any temporary buildings to be used during construction. * supplementary or site preparatory works such as demolition, remediation, stabilization, excavation and filling etc. that are required for the construction of buildings and to make the site suitable for construction and operation of the project. * site specific services and plant such as electrical services, water, gas, sewerage and drainage, including temporary arrangements. Costs of fire protection and communication services required to operate the project. Site works such as landscaping, car parks, roads footpaths. * standard building plant such as lifts and air conditioning as well as all specialist and specific equipment related to the operation of the project. * fit out costs of all buildings and any specific tenancy use. * all labor and personnel costs including long service levies and other associated construction and labor costs. <p><u>Old Bowling Club Site</u> Originally, the proposed development included the old Bowling Club site and was referred to as Batemans Bay Mackay Park Precinct. It included the former Bowling Club site, swimming pool and Mackay Park sporting fields. Council excluded the Bowling Club site from the proposed development. This meant that all the inclusions had to be squashed into the remaining space with the public having no idea as to what is to become of the Club site. As a 'Gateway Development' the Bowling Club site is an essential component of the 'precinct' and should have been included in the DA.</p>	<p><u>Old Bowling Club Site</u> The purpose of the development application is to seek approval for an aquatic, arts and leisure facility on the site of the existing Batemans Bay pool. There is currently no development proposal on the site of the former bowling club. Any future development on that site will be the subject of a separate development application.</p>	
--	---	--

<p><u>Deceitful claim s re Community 'Consultation'/50m Pool</u></p> <p>Council continually asserts that it has conducted “extensive consultation” with the community regarding the Project. This is a deceitful claim. Initially, in May /June 2016 council did seek community input to develop the following development outcomes for the ‘Precinct’:</p> <ul style="list-style-type: none"> * aquatic & recreation centre * arts and cultural facility * conference and event space * tourist accommodation * residential accommodation * restaurant/cafes * visitor center. <p>NB: “For more than 20 years, the Batemans Bay community have been advocating and fund raising for an indoor aquatic center” with a 50m pool, prior to this opportunity arising.</p> <p>NB: The community made no mention of wanting another gymnasium.</p> <p>However, when the Concept Plans were finally revealed to the public there was no 50m pool. The community were not informed that their 50m pool would be demolished.</p> <p>The community was never consulted on the concepts to be included – they were simply ‘informed’.</p> <p>Engagement with the community has been to ‘inform’ or seek opinions on what council has already decided.</p> <p>Council established the Mackay Park Sunset Committee, Oct 2016, to oversee community engagement. This group was Chaired by the Mayor and, I understand, had to sign a ‘confidentiality agreement’.</p> <p>So now we have an architectural design with:</p> <ul style="list-style-type: none"> • numerous concepts squashed into a small footprint, • the inclusion of a gymnasium that no one asked for • no 50m pool that the community wanted/needs • an auditorium too small to attract and cater for big name performances • no kitchen space for meals-on-wheels to prepare and store food 	<p><u>Deceitful claims re Community 'Consultation'/50m Pool</u></p> <p>Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council’s website.</p> <p>In relation to a 50m pool, as stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p>	
--	---	--

<p>• escalating costs that are unaffordable.</p> <p>According to council’s Engagement Framework, for a regional development such as this, the community should have been ‘consulted,’ ‘involved,’ and ‘collaborated’ with, throughout the process, not just ‘informed’ or asked for their opinion after the fact.</p> <p><u>Geo-Tech Report</u> The Geotech report indicates, “the foundation conditions vary over short distances” and “conditions within the footprint of cutting and filling is also not known.” Strata and material below the existing pool and Mini Golf area are also unknown. These ‘unknowns’ are likely to result in additional contingency costs.</p> <p>The report also refers to groundwater being close to the surface and being influenced by tides and heavy rainfall events. This does not bode well with sea level rise predictions or extreme weather/rainfall events in the future. It also poses a myriad of possible problems during the construction stage, let alone the completed facility. It would appear that just preparing the site ready for construction is going to be a very expensive exercise. It makes one wonder if building on such a waterlogged site a wise decision is.</p> <p><u>Public Interest not being served</u> It is not in the public interest:</p> <ul style="list-style-type: none"> • to design a regional facility without effective consultation on inclusions, ensuring community expectations and needs are met. • to move forward on a project where costs are escalating beyond the affordability of the community • to deny the community an indoor heated 50m pool that they have wanted for so long • to remove a community facility (50m pool) without any consultation • to expect users of said facility – school carnivals, competitive swim training, swim club, surf clubs training etc. to travel outside 	<p><u>Geo-Tech Report</u> Contingencies for unknown sub-surface conditions are included in the quantity surveyor’s advice.</p> <p>In relation to groundwater, the majority of the site will be filled above existing ground levels to ensure finished floor levels are above predicted inundation events to 2100. Construction methods will include localised dewatering where required and foundations will be designed to withstand upward pressure from groundwater.</p> <p><u>Public interest not being served</u> Council is of the view, based on extensive consultation over many years and the identified needs of the community that the proposed development is in the public interest.</p>	
---	---	--

<p>the shire to Ulladulla’s 50m pool, with those in the south having to travel to Narooma.</p> <ul style="list-style-type: none"> • to neglect future needs by failing to allow for possible expansion • for council to go into competition with the 4 existing gyms in Batemans Bay • to sell off community assets to pay for the development when there is no provision to accommodate users of these assets elsewhere. <p><u>Contact Council Officer</u> I find it highly unusual for the DA to be submitted by Stephen Phipps, ‘Project Coordinator Mackay Park’, who only joined the project team in late 2018. As it is ESC requesting a DA approval for a major Regional Project, I would have thought it more appropriate for a senior management officer, such as Lindsay Usher, Director of Planning and Sustainability Services, to lodge the DA. After all, Director Usher has been the responsible officer for all reports to council/councilors since 2016. He has also been the go-to person for any information regarding the proposed development. To quote council’s website, “For more information, please contact Lindsay Usher, Director Planning and Sustainability Services: T: 02 4474 1304”.</p>	<p><u>Contact Council Officer</u> Noted.</p>	
--	--	--

<p>Nature of Submission 3</p>	<p>Applicant Comment</p>	<p>Assessing Officer Comment</p>
<p><u>Lack of Community Consultation/50m Pool</u> No proper community consultation and that council's survey results showed overwhelming support for 50m pool to be included in project.</p>	<p><u>Lack of Community Consultation/50m Pool</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council’s website .</p>	<p>See summary in assessment report Section D</p>

<p>Nature of Submission 4</p>	<p>Applicant Comment</p>	<p>Assessing Officer Comment</p>
<p>The plans look impressive, and I like the overall design</p>	<p>Noted.</p>	<p>See summary in assessment report Section D</p>

<p><u>Theatre/Lack of exhibition space</u> This new plan is a very far cry from the original idea of an arts hub where there would be space for workshops and for artists to be developing their work; there is no exhibition space for art works. Is there a way to make the auditorium a more dual-purpose space?</p> <p>The performing arts space needed to be bigger in order to attract shows that would attract a wide audience and make the venue viable. There is also a question of the acoustics.</p> <p>Is there a guarantee that the chlorine smells from an indoor aquatic center will not impact on the arts centre and attendees to performances?</p> <p><u>Gym</u> I feel the gym is unnecessary given the number of gyms already in town struggling to survive. A huge space is devoted to the gym area, which could be better utilised.</p> <p><u>Sea Level Rise/flooding</u> Over the life of the building we can assume that water levels will rise to a point where the building will be undermined or compromised. Being in a marshy area, it seems unwise to be constructing a flagship building.</p> <p><u>Business Plan</u> Without a business plan it's impossible to comment on the viability of the centre. The cost to patrons in a low social-economic, primary retiree population may mean the centre isn't used, and therefore unable to pay for itself. Future Councils will have to deal with the fallout. That means future ratepayers will also deal with the fallout.</p>	<p><u>Theatre/Lack of exhibition space</u> The development includes wet and dry art workshop spaces. The long foyer provides art exhibition space. The dance/rehearsal room could also be used as a gallery. The theatre includes retractable seating allowing for other activities to use the space. The size of the performing arts space is considered appropriate having regard to the size of the local population. The facility has been designed to ensure adequate separation of aquatic and arts facilities to address both acoustic and odour concerns.</p> <p><u>Gym</u> A gymnasium is an essential component of the development bringing significant income to the facility to offset operational costs.</p> <p><u>Sea Level Rise/flooding</u> The facility has been designed to ensure finished floor levels are above predicted inundation events to 2100.</p> <p><u>Business Plan/Ongoing Costs</u> At the concept design stage in 2017, a business case for the proposed development was made public and is still available on Council's website .</p>	
--	---	--

<p><u>Sale of Community Assets</u> I do not agree with any sale of the Community Centre. It is a community asset that services the needs of many groups and individuals. Without the growth in population, both centres are required, not one or the other.</p> <p><u>50m Pool</u> For a town this size not to have an Olympic size pool is mystifying. I've lived in many remote towns and most have a 50metre pool.</p>	<p><u>Sale of Community Assets</u> The means of funding a development proposal is not a relevant consideration for a development application. Should the sale of existing community assets be considered as part of the funding mix, Council will consult with the community on the future of services currently accommodated within those assets.</p> <p><u>50m Pool</u> Noted</p>	
---	---	--

<p>Nature of Submission 5</p>	<p>Applicant Comment</p>	<p>Assessing Officer Comment</p>
<p><u>Website difficult to use</u> Council's website in relation to matters like this is difficult to navigate and certainly not user friendly. It appears to me that this could be a deliberate attempt by council (and staff) to deter the public from actually lodging submissions on any controversial development.</p> <p><u>Lack of Community Consultation/50m Pool</u> The claim in the SEE of 'community consultation' is incorrect. The Sunset Committee members, personally selected by council, were bound by a confidentiality agreement and therefore gagged from speaking openly with the public. This is also reflected in most other sunset/advisory committees formed by Council. It is a fact that during consultation with the public concerning three further concept plans that of the 273 survey forms returned 266 stated that the inclusion of an Olympic sized swimming pool would best suit the community and visitors.</p> <p><u>Funding</u> The letters of support that accompanied the grant application by Council appears to have been procured under false pretenses given that the concept plan showing the demolition of the</p>	<p><u>Website difficult to use</u> Noted.</p> <p><u>Lack of Community Consultation/50m Pool</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council's website .</p> <p><u>Funding</u> The issues raised are not relevant matters of consideration for a development application</p>	<p>See summary in assessment report Section D</p>

<p>existing swimming complex and the Olympic sized pool was NOT provided to the organisations that originally demonstrated support. Once the plans were revealed that it was in fact Council's intention to proceed with a redevelopment of the existing swimming complex for a combined Aquatic/Arts facility and NOT two separate facilities (ie :one on the existing complex site and the other on the old bowling club site), many original supporters immediately withdrew their support in writing. Council did not inform the relevant government offices of these withdrawals.</p> <p>Concerned members of the community sought a copy of the original grant application lodged by Council but this request was fobbed off by Council falsely claiming it was up to the Office of Sport which was of course incorrect and in fact it was up to the applicant (Council) to provide a copy. This is still the subject of a GIPA request. Council did eventually provide copies of the original letters of support which were heavily redacted.</p> <p>At the Council meeting on 27th August 2017 It would appear that Councilors were misled into believing that there was an urgency to submit the grant applications when indeed this was not the case.</p> <p><u>Business Plan</u> No current business plan has been provided by Council and the community are fearful that the costs of building this complex will blowout. Council have already identified that there was 'a gap' between the monies granted and the actual cost, but ,of course, when questioned about 'the gap' it was deemed 'commercial in confidence ' There appears to be a rush by Council to sell off community assets to fill this 'gap'. Will the ratepayers be bought to bear the costs? This complex has every indication that it will become an unviable white elephant.</p> <p><u>Geo-tech Report</u> No bore holes were drilled in the footprint of the current facilities and therefore the costs of providing proper foundations in this area could</p>	<p><u>Business Plan/Ongoing Costs</u> At the concept design stage in 2017, a business case for the proposed development was made public and is still available on Council's website . Updated detailed costings for the proposed development is commercial-in-confidence information, so as not to prejudice the tendering process to select a construction company.</p> <p><u>Geo-tech Report</u> A sufficient number of boreholes were drilled across the site to determine the soil, water and bedrock conditions</p>	
---	--	--

<p>be underestimated in the development's declared value.</p>	<p>of the site. While it was not possible, or appropriate, to drill boreholes within the footprint of existing facilities, the soil, water and bedrock conditions are unlikely to be significantly different from surrounding areas where boreholes were able to be drilled.</p>	
---	--	--

<p>Nature of Submission 6</p>	<p>Applicant Comment</p>	<p>Assessing Officer Comment</p>
<p><u>Batemans Bay Masterplan</u> The DA appears in isolation i.e. there is no big picture? How is it connected to the BB Master Plan? Is there a Batemans Bay Master Plan?</p> <p><u>Traffic Infrastructure</u> Traffic infrastructures: for both vehicular & pedestrian are not clearly indicated. Are there plans for a footbridge from say the old Dick Smith shop across Princes Highway to a multi high rise car Park? Crossing that main road is inviting deaths. Include More Safety structures for children overpass walkway? Is there a fist aid room? Can ambulance drive into pool complex?</p> <p><u>Sea Level Rise/flooding/location</u> The site is in a flood zone. Is it wise to spend so much money on buildings that will be flooded? Why not research a more stable site one that will be enduring, less expensive to build on & in a sports health precinct e.g. adjacent to the proposed new One Hospital & Mogo mountain bike tracks & horse bridle trails making the large area “a go to activity fitness well- being estate” for locals & tourists alike?</p> <p>No thought is evident in this DA in combining the large ticket</p>	<p><u>Batemans Bay Masterplan</u> The proposed development is consistent with various strategic plans, including Council’s Recreation and Open Space Strategy and the South East and Tablelands Regional Plan.</p> <p><u>Traffic Infrastructure</u> The proposed development will be accessed from the existing signalised intersection of the Princes Highway and Beach Road, which has pedestrian lights on all four approaches. A first aid room is proposed in the facility. Emergency service vehicle access to the facility has been accommodated in the design.</p> <p><u>Sea Level Rise/flooding/location</u> The facility has been designed to ensure finished floor levels are above predicted inundation events to 2100. The other issues raised are not relevant matters of consideration for a development application.</p>	<p>See summary in assessment report Section D</p>

<p>infrastructure items to build a beyond amazing “Nature Park” even encompassing the Botanical Gardens. Close to the Zoo & Mogo Gold Village. No vision of what the future generations will need, use & appreciate. The site is subject to continual shallow subterranean tidal flooding necessitating the installation & ongoing maintenance of expensive perpetual pump out systems to mitigate to some extent flooding & saltwater damage to the infrastructure. Subsidence is a threat too.</p> <p><u>Geo-Tech Report</u> The site is reclaimed swamp land. Geo tech Records from test bores have given us the facts re. high water table less than one meter in one bore & there are no test bores on the actual site so there is insufficient data to safely predict that the foundations will be within reasonable depth to solid rock (maybe beyond 20 meters!) This indicates a cost blow out for construction of foundations. 20 to 30 meter Screw type galv. / stainless steel pylons will be needed to support the buildings plus expensive gauged reo mesh up in the 72 psa 40% more expensive than constructing on a stable site without saltwater. All these site-specific construction materials have not been costed in this DA. The fund of \$51 million is finite!</p> <p><u>Funding/Business Plan</u> The cost has to be scrutinised. \$49.5 million is hard to believe given the recent Director’s Report to Council when in the ensuring debate it was inferred that the gap would be in excess of \$10million! These erratic unsubstantiated price announcements are a big concern. Council has failed to produce a revised updated Business Case as promised many times at meetings (even after being directed by MP Andrew Constance to do so). A Senior Director has made statements that a staged construction of the DA could be necessary; that inclusions of 6 water bodies & other structures will be prioritised to meet the tender quotes! What are the comparative annual running costs of each water body included in this DA?</p>	<p><u>Geo-Tech Report</u> A sufficient number of boreholes were drilled across the site to determine the soil, water and bedrock conditions of the site. While it was not possible, or appropriate, to drill boreholes within the footprint of existing facilities, the soil, water and bedrock conditions are unlikely to be significantly different from surrounding areas where boreholes were able to be drilled. Contingencies for unknown sub-surface conditions are included in the quantity surveyor’s advice.</p> <p><u>Funding/Business Plan</u> At the concept design stage in 2017, a business case for the proposed development was made public and is still available on Council’s website . Updated detailed costings for the proposed development is commercial-in-confidence information, so as not to prejudice the tendering process to select a construction company.</p>	
--	---	--

<p>There are too many uncertainties related to the fact that there is no apparent Business Case for this DA! The community even with this DA have not been given the full picture so it's difficult to make an informed submission.</p> <p>Rubbery figures of Otium Report this claim. e.g. \$6.5 million more to build an Olympic pool compared to the council's inadequate 25 m pool; that is \$13 million for a 50 m pool, Absurd as evidenced in our advisory quotes from reputable construction companies. Their quote for this DA is in the vicinity of \$46 million & it includes an Olympic pool.</p> <p>Otium Report was not put out for public exhibition/consultation. Questionable acquisition of \$51 million. Federal Govt. was allegedly misled re. community consultation re. removal of 50 m pool or they just "had the wool pulled over their eyes! "Is this correct & admissible /allowable conduct that goes unchecked.</p> <p><u>Theatre</u> The theatre is shortchanged in that the grant submission stipulated 500 seat capacity (the community wanted 800 to 1000 for large events common in other towns of this size). The DA shows 350.</p> <p><u>Loss of Mini Golf</u> The negotiations with The Mini Golf business owners over lease buy out & compensation of a very popular prosperous tourist is of concern. At what cost to the taxpayer? Will it be relocated to Corrigans Beach for example? Is it factored into the \$49.5 million costs?</p> <p><u>Aboriginal Artefacts</u> Aboriginal artefacts on site are listed as one but this conflicts with the report on "A Plan of Management for Mackay Park" which lists more with more most likely. Report information included in this DA is incomplete & further research is needed & amendments need to be made to this DA before determination.</p>	<p><u>Theatre</u> The size of the performing arts space is considered appropriate having regard to the size of the local population.</p> <p><u>Loss of Mini Golf</u> The existing Mini Golf facility is privately operated. The future of the Mini Golf facility is a matter for the existing or future operator. It is not a relevant matter of consideration for this development application.</p> <p><u>Aboriginal Artefacts</u> The Mackay Park Plan of Management (POM) identifies one Aboriginal artefact found as part of the Aboriginal Heritage Due Diligence Assessment. That report is included with the Development Application,</p>	
---	--	--

<p><u>Solar Panels</u> Solar systems need to be big in this DA to defray running costs. Where is the solar?</p> <p><u>Lack of Community Consultation/50m Pool</u> Community was never consulted or given a choice re. Inclusions before the 50 m Pool was destined to be bulldozed & replaced by an inadequate 25 m pool. Many people & groups are destined to be excluded. 5,000 school children consulted before the decision to replace the 50 with a 25 m Pool was made. It needs to have a heated Olympic pool added indoor or outdoor & keep the 25 m pool as a warm-up warm-down pool as well as for other water activities. This would bring the facility into the category of an acceptable inclusive complex. An improvement is needed not a down dating facility as the DA promises. This DA does not deliver the right facilities for inclusivity & sustainability. It is too small & destined to become a sinking white elephant if approved on this site with its current specifications. You have a tidy sum of money \$51 million but is it enough? You need to spend more time on this most controversial project to make it a success. Check the measurements, Plans AB& C I recall did not have any.</p>	<p>which is entirely consistent with the POM.</p> <p><u>Solar Panels</u> Plan No. DA-015 included with the Architectural drawings identifies three roofed areas where solar</p> <p><u>Lack of Community Consultation/50m Pool</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council's website .</p> <p>Council is of the view that the proposed development will meet the needs of the majority of the community. This view is based on the business case developed at the concept planning stage and extensive community consultation over many years.</p> <p>In relation to a 50m pool, as stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p>	
---	---	--

Nature of Submission 7	Applicant Comment	Assessing Officer Comment
<u>Inclusions</u>	<u>Inclusions</u> At the concept design stage, the nature of inclusions in the	See summary in assessment report Section D

<p>It is hoped this development process, with all its twists and turns do result in creating a vibrant central Cultural and Community centre. The main pool, performance, community rooms and exhibition spaces are all too small for today's users and it seems will not be able to attract sufficient volumes of paying patrons to offset the ownership and running expenses and may therefore impact on general rates or community costs.</p> <p>The present DA is heavily focused on theatre, with little allocation for the display or engagement with the public re Visual Arts, yet this was an enduring and consistent request in community consultation. The limited 'hanging space' is not a substitute for gallery space and the exploration of wide- ranging visual and performing arts activities and items. It is of concern that Council has misjudged the dominant creative stream of the community. There is little in the plans that reflect the desire for a large, functional Gallery as well as performing arts spaces, as requested.</p> <p>There already exists a Theatre company, with its own premises, bought by dint of hard work, passion and perseverance. They have expressed no intention of relocating to the proposed new premises. Similarly, the South Coast Music society does not intend to relocate its concerts as it has available to it an acoustically excellent performance space and safe storage for piano and instruments. While there are very many artists in the community, exhibiting here and in wider localities, there is no focused gallery or visual arts exhibition venue of sufficient size to meet their needs.</p> <p><u>Bowling Club Site</u> Any proposals for the bowling club site will impact on the vision, approach and even usage of the proposed Indoor Aquatic Pool and Theatre complex. The present DA fails to include an outline of future parameters for the use of the bowling club site, yet one that complements the present DA is essential. Such a guarantee should be included in the DA and be conditional on its approval.</p>	<p>proposed facility were considered. There was significant community involvement in the concept design stage to inform the nature and size of inclusions. Refinement of the nature and size of inclusions through the detailed design stage was also the subject of significant community consultation.</p> <p>The long foyer provides art exhibition space. The dance/rehearsal room could also be used as a gallery. The theatre includes retractable seating allowing for other activities to use the space.</p> <p><u>Bowling Club Site</u> The purpose of the development application is to seek approval for an aquatic, arts and leisure facility on the site of the existing Batemans Bay pool. There is currently no development proposal on the site of the former bowling club. Any future development on that site will be the subject</p>	
---	---	--

<p><u>Future Expansion/Internal Design</u> The proposed development has a life expectancy of some 50 years yet has no evident room for expansion, either in the Theatre section or pool area, yet the demographic projections of council demonstrate an increasing need for the proposed services this facility is to provide. This is especially so in increased tourist numbers. The theatre design and siting preclude expansion or even addition.</p> <p>There is insufficient information on inclusions in the DA or its supporting documents that indicate the number and type/size of the proposed inclusions (such as piano, creative technology equipment and art workshop fit outs) nor means to assess if they will be appropriate to the needs of the community over the expected life of the complex.</p> <p>There has been no assurance given that should the development be approved, its inclusions (or indeed all its parts – pools, cafes, gym, theatre, workshops etc.) would not be reduced in number, nature or size in order to meet a ceiling development price deemed to be affordable within the grant context. No fallback position has been raised or discussed publicly nor has there been any public information given about this possibility.</p> <p>A full kitchen is still not in the plans, and this seems a real drawback for the centres' viability for both community and commercial functions and income. Also, no piano or storage for piano is included in the costings, whereas this would seem essential for theatre and music events. A space is available for technology activities but no equipment. More strategic planning underpinning the DA needs to be clarified before its approval.</p> <p><u>Traffic Generation</u> There remain reservations on the adequacy of traffic flow, especially in high volume times, and</p>	<p>of a separate development application.</p> <p><u>Future Expansion/Internal Design</u> The arts components of the facility are designed to be multi-purpose, allowing for changes in use over time. The design facilitates potential pool area expansion in and adjoining the outdoor water play area.</p> <p>Detailed fit-out inclusions will be considered in the construction design stage of the development.</p> <p>Council is committed to delivering the whole of the proposed development should consent be granted. Should additional funding be required to deliver the project in full, Council will investigate additional funding opportunities. The proposal includes a commercial kitchen for the café and a separate kitchenette adjoining the theatre. A range of storage spaces are provided in the vicinity of the theatre.</p> <p><u>Traffic Generation</u> The traffic report submitted with the development</p>	
--	---	--

<p>associated with increased and changing flows in regard to the new Bridge.</p> <p><u>Business Plan</u> Reservations remain on the financial viability of the DA and the proposed facility, not only for its construction, but for its ongoing viability. Without open access to the latest business plan (withheld, claiming commercial in confidence reasons), we feel the community and councilors have not been given sufficient information to decide –</p> <ul style="list-style-type: none"> •If the proposed development will meet the current and future needs of the shire’s residents and visitors or •If the complex will be affordable in relation to its initial construction and on-going ownership, financial and operational expenses •If the centre will be affordable by the local community sufficient to ensure ongoing and sufficient usage to make the centre viable •What the management plan is and how that will impact the balance between local and visiting users. <p>There remain major reservations on the ongoing viability of the site, and the proportionate use of grant money.</p> <p>Council appears to be establishing a facility that would allow direct competition with the private sector. One glaring example would be the performance space being in direct competition with the excellent facilities at the Batemans Bay Soldiers club that already offer a performance space with a capacity of 500 ably supported by parking, restaurants, bars and staffing. There are also several gyms already operating in the community that will be impacted by the</p>	<p>application assesses the impact of traffic generated by the development on existing traffic flows, taking into account the proposed new bridge over the Clyde River. The report concludes that the facility is not expected to result in any adverse impact on the surrounding road network.</p> <p><u>Business Plan</u> At the concept design stage in 2017, a business case for the proposed development addressing the current and future needs of the community, the affordability of the development in relation to construction and on-going operation and the potential revenues to offset costs was made public and is still available on Council’s website . Updated detailed costings for the proposed development is commercial-in-confidence information, so as not to prejudice the tendering process to select a construction company.</p> <p>The potential impact of a development on other businesses are not a relevant matter for consideration. Notwithstanding, as outlined in the Business Case prepared at the concept stage, the proposed development provides arts facilities not currently available in Batemans Bay, such as a black box theatre space with retractable seating. A gymnasium is an essential component of the</p>	
---	--	--

<p>proposed DA, and not necessarily advantageously</p> <p><u>Sale of Community Assets</u> There is grave concern that this DA will be contingent on the sale of other community assets, be they the present Community Centre, green space (especially flat, accessible green space near public amenities and attractions such as beaches, playgrounds, etc.) and no evidence or assurance that, if sales of other community assets are being considered to offset initial development costs, all services currently provided for (such as Meals on Wheels, adequate meeting rooms for community organisations and activities) will be satisfactorily sited and accommodated elsewhere.</p> <p>At the moment there does not seem the planning, capacity or design that demonstrates accommodating wider community assets; while moving all “eggs into one basket” is a clearly an inadvisable move, siting across a busy highway will definitely detract from local usability (a situation strongly felt by the indigenous youth). We are concerned that the Mackay Park project is shaping up as a ‘glamour project’ for locals and visitors, while the nuts and bolts of everyday community life are being downplayed and de-valued. For a balanced community life, we need facilities that are all- demographics, community-wide inclusive. With our increasing population (expected to rise 17.9% by 2036 to 45,000) that need is only going to get more pressing in the future.</p> <p><u>Loss of Mini Golf</u> Great detriment to the image and economy of the Bay as a holiday activity yet placing it near or beside the Arts complex would potentially devalue the role the Arts building is trying to portray to the wider area. A suitable alternative site for the Mini Golf needs to be clarified and made definite before DA approval of the Centre.</p>	<p>development bringing significant income to the facility to offset operational costs.</p> <p><u>Sale of Community Assets</u> The means of funding a development proposal is not a relevant consideration for a development application. Should the sale of existing community assets be considered as part of the funding mix, Council will consult with the community on the future of services currently accommodated within those assets.</p> <p><u>Loss of Mini Golf</u> The existing Mini Golf facility is privately operated. The future of the Mini Golf facility is a matter for the existing or future operator. It is not a relevant matter of consideration for this development application.</p>	
---	--	--

<p><u>50m Pool</u> No provision is included for a future Olympic size pool on site despite assurances by council to the community that this would be accommodated in the plans.</p> <p><u>Geo-Tech Report</u> The costs of providing proper foundations in this area could be under-estimated in the development's declared value. The Geotech Report indicates that no bore holes were drilled in the footprint of the current facilities, so no certainties are available in this regard.</p> <p><u>Sea Level Rise/Flooding</u> Council projections themselves, of almost a meter rise in the next lifetime, would impact the site and development severely. How is this eventuality to be accommodated?</p> <p><u>Masterplan for Batemans Bay</u> It would seem to be desirable that a DA of this magnitude would be embedded in a Master Plan for Batemans Bay, and not looking at the Mackay Park proposal in isolation to the rest of the town center. This DA needs to be considered as a component of an overall vision and plan for Batemans Bay and the wider area. Until such a plan is evident and supported by the community, there are shortfalls in this application.</p>	<p><u>50m Pool</u> As stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p> <p><u>Geo-Tech Report</u> A sufficient number of boreholes were drilled across the site to determine the soil, water and bedrock conditions of the site. While it was not possible, or appropriate, to drill boreholes within the footprint of existing facilities, the soil, water and bedrock conditions are unlikely to be significantly different from surrounding areas where boreholes were able to be drilled. Contingencies for unknown sub-surface conditions are included in the quantity surveyor's advice.</p> <p><u>Sea Level Rise/flooding</u> The facility has been designed to ensure finished floor levels are above predicted inundation events to 2100.</p> <p><u>Batemans Bay Masterplan</u> The proposed development is consistent with various strategic plans, including Council's Recreation and Open Space Strategy and the South East and Tablelands Regional Plan.</p>	
--	---	--

Nature of Submission 8	Applicant Comment	Assessing Officer Comment
<p><u>Lack of Community Consultation</u> No community consultation, and the council failed to advise the Batemans Bay swimming club, and local schools.</p> <p><u>50m Pool</u> The council's own survey results demonstrated overwhelming support for a 50 meter pool to be included in the above project. To propose expenditure of over 40 million dollars, yet reduce the size of the Batemans Bay pool from 50 metres to 25 metres and then suggest residents travel to Narooma to access a 50 metre is totally bewildering.</p>	<p><u>Lack of Community Consultation</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council's website .</p> <p><u>50m Pool</u> As stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p>	<p>See summary in assessment report Section D</p>

Nature of Submission 9	Applicant Comment	Assessing Officer Comment
<p><u>50m Pool</u> I strongly object to plans for the above swim centre. It needs a 50 m pool in the plans. I cannot understand why you would add another gym when there is so many within walking distance and I'll bet struggling to survive. Any child with ambitions to be an Olympian will not happen in this town, but I'll bet we claim them as a local despite the fact that they would have had to train and travel on the main highway to train elsewhere. I find it a pretty low act when the councilors and the Mayor promise these things to get voted in and then just discard any commitment that we, the public were promised. Its obvious none of you swim laps of any pool to for endurance. Impossible in a 25 m pool. Very short sighted on councils part.</p>	<p><u>50m Pool</u> As stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future. A gymnasium is an essential component of the development bringing significant income to the facility to offset operational costs.</p>	<p>See summary in assessment report Section D</p>

Nature of Submission 10	Applicant Comment	Assessing Officer Comment
<p><u>50m Pool</u> Strong objection to council removing our 50 metre pool. This decision is short sighted and does not make sense. A 50 metre pool is the standard length for all competitions everywhere. Kids need it to train properly. please do not short change them.</p>	<p><u>50m Pool</u> As stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future. A gymnasium is an essential component of the development bringing significant income to the facility to offset operational costs. As stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p>	<p>See summary in assessment report Section D</p>

Nature of Submission 11	Applicant Comment	Assessing Officer Comment
<p><u>Lack of Community Consolation/50m Pool</u> Council obtained letters of support from various (unknown) community members/organisations by deceptive method. When garnering letters to support their grant application (again, the contents of which council refuse to make public) Council failed to advise their targeted groups/community members their intention to demolish the 50m Olympic pool in Batemans Bay.</p> <p>Once a number of supporters learned of this deception (including Batemans Bay Swimming Club and PSSA member schools) they wrote to Council with their strong opposition to its plans</p>	<p><u>Lack of Community Consultation/50m Pool</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council's website .</p> <p>In relation to the 50m pool, as stated in the Statement of Environmental Effects submitted with the</p>	<p>See summary in assessment report Section D</p>

<p>to not replace the 50m Olympic sized pool. Council ignored Our Towns Our Say’s Brief of Evidence which showed clear support from the public for the inclusion of a 50m Olympic sized pool in the redevelopment.</p> <p><u>Business Plan/Funding</u> Council has refused to supply revised costings for the project despite being instructed to do so by Minister Constance at a public meeting on 17th November 2017 at which both Mayor Innes and deputy Mayor Rob Pollock were present.</p> <p>Despite assurances from Mayor Innes that Plan D (as contained in the DA) would show where a 50m pool could be sited, such siting is not shown on the plan D accompanying the Development Application.</p> <p>The proposed ‘Shire’ 50m pool in Narooma, according to Otium Consultants’ report, is in a far worse state than the 50m pool in Batemans Bay. Transporting hundreds of school children along a busy highway from one end of the Shire to the other for regional/school swimming carnivals, is a dangerous exercise. The Aboriginal community oppose the removal of the 50m pool in Batemans Bay.</p>	<p>development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p> <p><u>Business Plan/Funding</u> At the concept design stage in 2017, a business case for the proposed development addressing the current and future needs of the community, the affordability of the development in relation to construction and on-going operation and the potential revenues to offset costs was made public and is still available on Council’s website . Updated detailed costings for the proposed development is commercial-in-confidence information, so as not to prejudice the tendering process to select a construction company.</p>	
--	--	--

<p>Nature of Submission 12</p>	<p>Applicant Comment</p>	<p>Assessing Officer Comment</p>
<p><u>Lack of Community Consultation</u> Lack of proper community consultation 50m Pool Council's survey results showed overwhelming support for 50m pool. The growing community needs 50 metre Olympic size pool for swimming training, school swimming carnivals, community aquatic classes and general community and visitor use. It is too far and costly for families to travel from Batemans Bay to Narooma for 50 metre swimming training.</p>	<p><u>Lack of Community Consultation</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council’s website.</p> <p>50m Pool As stated in the Statement of Environmental Effects submitted with the</p>	<p>See summary in assessment report Section D</p>

	<p>development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p>	
--	--	--

<p>Nature of Submission 13</p>	<p>Applicant Comment</p>	<p>Assessing Officer Comment</p>
<p><u>Business Plan/Funding</u> The economics of building and maintaining the complex on this site has not been accurately determined - not only building costs, but consequent maintenance and running costs have not been sufficiently determined to approve a DA for such an important project. The consequences of that could see components of the project downsized (as has already happened with the pool and the theatre, namely 10 lanes, reduced to 8 and theatre capacity downgraded to 350 from 400) - although strangely the gymnasium space has increased.</p> <p>It is my opinion that based on current prices for a senior of Ulladulla Pool, which is adult \$6, concession \$4.50, child (3-16) \$4.50, entry costs must be competitive and being constrained by competitive market factors. As the cost of the total development is not yet established and given the difficulties of building on the chosen site (as outlined in the Geotechnical report), can Council give any assurance, at this stage, that the entry prices will be competitive?</p> <p><u>Lack of Community Consultation</u> I do not believe that extensive community consultation has been either sought or obtained to justify deleting any proposal to build a 50 metre pool (either in the brief or should future requirements justify building an Olympic size pool). I believe stakeholder consultation was very inadequate. It is my understanding that local schools, individual users of the existing 50 metre pool and other community groups were not consulted in relation to the building of, what I believe to be a very inadequate 25 metre</p>	<p><u>Business Plan/Funding</u> At the concept design stage in 2017, a business case for the proposed development addressing the current and future needs of the community, the affordability of the development in relation to construction and on-going operation and the potential revenues to offset costs was made public and is still available on Council's website. Updated detailed costings for the proposed development is commercial-in-confidence information, so as not to prejudice the tendering process to select a construction company. The cost of entry to the facility is not a relevant matter of consideration for this development application.</p> <p><u>Lack of Community Consultation</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council's website.</p>	<p>See summary in assessment report Section D</p>

<p>indoor pool. It is also my understanding that initial proposals for future incorporation of a 50 metre pool within the existing DA will no longer be possible.</p> <p><u>Art Space</u> From a business and artistic perspective, I don't believe placing a token art gallery space in the same complex, and on the same level as a swimming centre (requiring the use of chlorine and other OH&S issues) is appropriate or aesthetically pleasing and may detract from high end exhibitors wishing to use the facility, diminishing the cost effectiveness of one feature of the complex.</p> <p><u>Lack of Public Transport</u> My concern here is that local bus routes are very unlikely to schedule services when people need to access the entire facility. As a senior member of the community, I believe it would be impossible for me to catch public transport to and from the facility at a time of my choosing. I therefore dispute the claimed transportation benefit.</p> <p><u>50m Pool</u> There will be no 50 metre public pools between Ulladulla and Narooma or between Batemans Bay and east of Canberra. The community will be required to travel relatively vast distance for competitive training and events at considerable cost, family disruption and potential risk of sustaining road accident injury or fatality. Batemans Bay is the largest population centre with likely greater growth potential than any other location within the shire.</p> <p><u>Gym Space</u> Further to this, it is my understanding that the original proposal was for the gym to occupy an area of 700 square metres. This is now 1120 square metres and will be situated adjacent to the swimming complex. Has this additional area been allocated at the expense of the possible future development of a 50 metre pool?</p>	<p><u>Art Space</u> The facility has been designed to ensure adequate separation of aquatic and arts facilities to address odour concerns. The location of the arts component at the 'front' of the development, with a separate dedicated entrance and foyer space satisfactorily addresses the aesthetic concern raised.</p> <p><u>Lack of Public Transport</u> The facility has been designed to facilitate access by local bus services. The facility is also within walking distance of the Batemans Bay Town Centre.</p> <p><u>50m Pool</u> As stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p> <p><u>Gym Space</u> The size and location of the gym is not at the expense of a 50m pool. The possible future development of a 50m pool has been considered as noted above.</p>	
--	--	--

Nature of Submission 14	Applicant Comment	Assessing Officer Comment
<p><u>Lack of Community Consultation</u> Eurobodalla Shire Council (ESC) have not made it clear nor available to the interests of the Community of Eurobodalla Shire to engage a Referendum over the ongoing debate about the changes made in the demolition and or new rebuild of the existing 50 mtr Olympic Pool in Batemans Bay NSW. A Referendum would engage trust within the Community and set Fair and Equitable standards between ESC and their constituents of the Shire.</p> <p><u>Water leakage from the existing pool</u> ESC has shown no evidence to date that the Olympic Pool leaks water other than normal evaporation. At earlier Council Meetings constituents were told (re minutes of the meeting) that the Batemans Bay Olympic pool loses massive amounts of water each day due to its age and leaking concrete pool foundations which have not being validated to date.</p> <p><u>Conflict of Interest</u> At the ESC regular public meetings, questions were raised about One Life Health and Fitness moving into the new Batemans Bay Aquatic and Leisure Centre. I draw your attention that such alleged actions would create a Conflict of Interest. I note that 12 Community facilities are consigned for DA approval but no companies and or sub-contractors are endorsed which leaves it open to no transparency.</p>	<p><u>Lack of Community Consultation</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council’s website.</p> <p><u>Water leakage from the existing pool</u> The issue raised is not a relevant matter of consideration for the development application. Notwithstanding, a report relating to this matter was made public by Council and can be found on Council’s website.</p> <p><u>Conflict of Interest</u> The issue raised is not a relevant matter of consideration for the development application. In any case, no decisions have been made by Council with regards to the management of any component of the facility. Tender processes will follow standard tender practices for a development of this scale.</p>	<p>See summary in assessment report Section D</p>

Nature of Submission 5	Applicant Comment	Assessing Officer Comment
<p><u>Lacks Merits/50m Pool</u> It is patently absurd for a regional centre such as Batemans Bay not to have a 50m pool, which would allow for the conduct of school, college and State-level swimming competitions, and the development of future swimming champions, as well as encouraging tourism. Council’s justification for a 25m pool in place of a 50m pool is, we are told, one based costs. It is claimed that a 50m pool would cost approximately \$6.5 million more than a 25m pool, though no substantiating figures have been publicly produced and, significantly, the 50m pool costed in this comparison is, I understand, not a straightforward 50m pool but, rather, one that could be partitioned. In other words, like is not being compared with like.</p> <p><u>Business Plan</u> I believe that it has every chance of being a White Elephant and a huge cost burden on the community. Should the tender responses exceed budget expectations then Council will have to reconsider delivery of the project overall, including possible significant changes to scope and design, noting that any scope and design changes will come at a cost in itself”! (emphasis added) How can any project be approved when its costs are not known and the design not finalised, especially one that relies entirely on very large sums of public money?</p> <p><u>Geo-Tech Report</u> Geotechnical investigations of the project site were not undertaken until the very final stages of the project development. Although grossly inadequate, as far as their scope is concerned, they reveal a watertable with an average depth of just 1.5m, which is expected to be subject to tidal fluctuations. And so inadequate have those investigations been that the Senior Geotechnical</p>	<p><u>Lacks Merits/50m Pool</u> As stated in the Statement of Environmental Effects submitted with the development application, subject to an adjustment of the boundary of the site with Vesper Street, space is available external to the building to accommodate a 50m pool should such a facility be proposed in the future.</p> <p><u>Business Plan</u> At the concept design stage in 2017, a business case for the proposed development addressing the current and future needs of the community, the affordability of the development in relation to construction and on-going operation and the potential revenues to offset costs was made public and is still available on Council’s website. Updated detailed costings for the proposed development is commercial-in-confidence information, so as not to prejudice the tendering process to select a construction company.</p> <p><u>Geo-Tech Report</u> A sufficient number of boreholes were drilled across the site to determine the soil, water and bedrock conditions of the site. While it was not possible, or appropriate, to drill boreholes within the footprint of existing facilities,</p>	

<p>Engineer has advised that “The subgrade conditions within the swimming pool and mini-golf complexes, with respect to the presence of any fill and the degree of compactness of underlying sand strata, are not known” (emphasis added). A thorough geotech investigation of the site should have been the very first task undertaken, at the project’s commencement stage. Design concepts and building costs estimates rely so very much on the results of such investigation</p> <p><u>Lack of Community Consultation</u> I refer to several documents provided to me by the Fight For Batemans Bay 50m (FFBB50m) group (subsequently renamed as Our Towns our Say (OTOS)), which were provided to that organisation by local schools and colleges within the shire, revealing that at the time Council sought letters of support from schools and colleges, for the purpose of meeting the requirements of grant applications for the project, schools were advised that a “lap pool” would be included but there was no mention of the removal and non-replacement of the 50m pool. And, of course, details were provided of other, appealing, facilities to be provided as part of the arts and leisure centre. Consequently, letters of support were provided. But after having subsequently learnt of the removal and nonreplacement of the 50m pool, that support has been withdrawn, in writing, directly to OTOS, including from a prestigious secondary college, the principal of which advised that: I can confirm that did not receive a copy of the draft concept plan. We would like to express our concerns of a 25m pool being installed in place of the 50m option. This will prove problematic for the facilitation of swimming carnivals, learn to swim programs held annually for our Junior School students and other school based swimming activities. Our swimming program encourages the promotion of health, fitness and wellness and educates the child on water awareness and survival. We do not support the decision to build a 25m pool for the above reasons.gs, for which the corresponding requirements will be obvious.</p>	<p>the soil, water and bedrock conditions are unlikely to be significantly different from surrounding areas where boreholes were able to be drilled. Contingencies for unknown sub-surface condition are included in the quantity surveyors advice.</p> <p><u>Lack of Community Consultation/50m Pool</u> Evidence of extensive community consultation by Council with regards to the proposed development (over a significant period of time) can be found on Council’s website.</p>	
---	---	--

<p>I understand that the Batemans Bay Swimming Club (BBSC) also withdrew its support for the development once it learnt of the removal and non-replacement of the 50m pool.</p> <p>By any measure, the ‘consultation’ council undertook with schools and colleges and, as I understand it, the BBSC, was most certainly neither genuine nor transparent; and therefore in breach of the relevant requirements of community participation on this most important aspect of the project did not take place. Such engagement was quite deliberately prevented when, on 27 March 2018, a majority of councillors voted to “not include a 50m pool in the proposed centre or retain the existing 50m pool”.</p> <p>From that point, the possibility of a 50m pool being provided was removed with that single, strategic circumvention: it was nothing less than a coup de grace. I submit that by this move council breached the relevant requirements of the EP&A Act. So determined has council been to reject any consideration of incorporation of a 50m pool into the project plan, that it summarily dismissed the overwhelming evidence provided by the results of a survey it conducted itself, as published on 30 April 2019. The results of that survey left no doubt at all that, overwhelming, the community wants, demands, a 50m pool for Batemans Bay. The group OTOS has conducted a number of public meetings at which attendances have been substantial for a small community, ranging roughly from 60 to 100 attendees. Also, its members have made numerous presentations to council, in the council chamber and have engaged in strong advocacy in support of a 50m pool through the various media outlets. Yet OTOS has been very firmly excluded as a stakeholder in the various behind-closed-door discussions between selected groups and council. One can only assume that the rationale for this exclusion has been that OTOS was seeking that which council had decided was not to happen. But the exclusion from engagement took place even before the coup de grace decision of 27 March 2018; being further evidence that council has had no interest in consulting with the</p>		
---	--	--

community on the inclusion of a 50m pool; in fact it has displayed a determination to prevent such an inclusion.		
--	--	--

Attachment One – Draft Conditions of Consent

1 **Approved plans**

The development must be carried out in accordance with the following stamped approved plans and documentation, or as modified by any conditions of this consent, or as noted in red by Council on the approved plans.

DA & Sheet Nos.	Plan Nos.	Date of Plan	Prepared by
DA0189/20 Sheet 1 of 17	18076-NBRSDPA-A-DA Revision 1 000 – Cover Page	10 January 2019	NBRS Architecture
DA0189/20 Sheet 2 of 17	18076-NBRSDPA-A-DA Revision 1 001 - Location Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 3 of 17	18076-NBRSDPA-A-DA Revision 1 002 – Site Analysis	10 January 2019	NBRS Architecture
DA0189/20 Sheet 4 of 17	18076-NBRSDPA-A-DA Revision 1 010 – Site Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 5 of 17	18076-NBRSDPA-A-DA Revision 1 011 – Demolition Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 6 of 17	18076-NBRSDPA-A-DA Revision 1 012 – Ground Floor Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 7 of 17	18076-NBRSDPA-A-DA Revision 1 013 – Level 1 Floor Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 8 of 17	18076-NBRSDPA-A-DA Revision 1 014 – Roof Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 9 of 17	18076-NBRSDPA-A-DA Revision 1 015 – Future Stages Plan	10 January 2019	NBRS Architecture
DA0189/20 Sheet 10 of 17	18076-NBRSDPA-A-DA Revision 1 020 – Elevations 1	10 January 2019	NBRS Architecture
DA0189/20 Sheet 11 of 17	18076-NBRSDPA-A-DA Revision 1	10 January 2019	NBRS Architecture

	021 – Elevations 2		
DA0189/20 Sheet 12 of 17	18076-NBRSDPA-A-DA Revision 1 022 – Elevations 3	10 January 2019	NBRS Architecture
DA0189/20 Sheet 13 of 17	18076-NBRSDPA-A-DA Revision 1 030 – Sections	10 January 2019	NBRS Architecture
DA0189/20 Sheet 14 of 17	18076-NBRSDPA-A-DA Revision 1 050 – External Finishes	10 January 2019	NBRS Architecture
DA0189/20 Sheet 15 of 17	18076-NBRSDPA-A-DA Revision 1 060 – Café/Kitchen Detail Plans & Elevations	10 January 2019	NBRS Architecture
DA0189/20 Sheet 16 of 17	18076-NBRSDPA-A-DA Revision 1 061 – Bar & Kitchenette Detail Plans and Elevations	10 January 2019	NBRS Architecture
DA0189/20 Sheet 17 of 17	18076-NBRSDPA-A-DA Revision B 201 – Carparking Plan	18 December 2019	NBRS Architecture

Council Stamp No.	Document title	Date of document	Prepared by
DA0189/20 Doc 1 of 2	Noise Impact Assessment	30 September 2019	Norman Disney & Young
DA0189/20 Doc 2 of 2	Acid Sulfate Management Plan	Undated	Navigate Planning

Note: Any alteration to the plans and/or documentation may require the lodgement of an application to modify the consent under s96 of the Environmental Planning and Assessment Act (EPA Act) 1979, or a fresh development application. Your Certifying Authority should be consulted prior to any works contrary to this consent being carried out.

Where there is an inconsistency between the documents approved with this consent and the following conditions, the conditions shall prevail to the extent of that inconsistency. [0001]

2 Earthworks, retaining walls and structural support

Any earthworks (including any structural support or other related structure for the purposes of the development):

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and
- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
- (c) that if fill brought to the site - must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the Protection of the Environment Operations Act 1997, and
- (d) that if excavated soil is to be removed from the site - it must be disposed of in accordance with any

requirements under the Protection of the Environment Operations (Waste) Regulation 2005. [11.16]

3 **Loading and Unloading**

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times. [15.07]

4 **Carpark/Road/Public Space Lighting**

All external lighting shall be installed and operated in accordance with the AS/NZ 1158 Lighting for roads and public spaces and AS/NZ 4282:2019.

5 **Water & Sewer Inspections**

All plumbing and drainage works (water supply, sanitary plumbing and drainage, stormwater drainage and hot water) are to comply with Plumbing and Drainage Act 2011 and the Plumbing Code of Australia. Works must only be installed by a licensed person and must be inspected and given final clearance from Council prior to issue of any Occupation Certificate.

The following inspections are required to be carried out by Council in regard to the installation of plumbing and drainage works. Inspections may be arranged by contacting Council:

- (a) Sanitary drainage under hydrostatic test and prior to backfilling trenches or covering;
- (b) Hot and cold water plumbing under pressure test prior to covering;
- (c) Internal stackwork under hydrostatic test prior to covering; and
- (d) The installation of the septic tank and any sullage trenches prior to backfilling or covering.
- (e) Issue of final satisfactory inspection. [2.16]

6 **Demolition Standards**

Building demolition works are to be carried out in accordance with AS 2601 (2001) - *The Demolition of Structures*.

Note: *Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications.* [21.01]

7 **Discharge of Liquid Trade & Factory Waste**

Liquid trade and factory waste or chemicals or other impurities from any business, trade or manufacturing process other than domestic sewage is not permitted to be discharged into Council's sewerage system without application and approval by Council. The application for approval must be in accordance with Council's Liquid Trade Waste (LTW) Policy. [4.14]

8 **Food Premises**

The food business operating in the premises shall submit a Notification of a Food Business (available on the Council website) to Council by prior to occupation.

9 **Design of Food Premises**

The construction and fit-out of the food premises shall comply with the construction requirements of the Food Act 2003, Food Regulation 2004, Food Standards Australia New Zealand (FSANZ) and AS4674-2004 "*Design, Construction and Fit-out of Food Premises*".

Prior to the issue of a Construction Certificate, plans and specifications showing compliance with the above which include details of fixtures and fittings together with wall, floor and ceiling finishes to all food preparation, cool-room and storage areas, shall be submitted to and approved by the Certifying Authority. These plans are to provide the location of the hand wash basin for the ice cream server.

10 **NSW Rural Fire Service Recommend Conditions**
Emergency Management Planning

Intent of measures is to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

- (a) A Bush Fire Emergency Management and Evacuation Plan shall be prepared in accordance with Table 6.4d of 'Planning for Bushfire Protection 2018'.

Access

Intent of measures is to provide safe operational access for emergency services personnel in suppressing a bush fire, while residents are accessing or egressing an area.

- (b) Access is to comply with Table 6.4b of 'Planning for Bushfire Protection 2018'.

Asset Protection Zones

The intent of measures is to provide sufficient space for fire fighters and other emergency services personnel, ensuring radiant heat levels permit operations under critical conditions of radiant heat, smoke and embers, while supporting or evacuating occupants. To achieve this, the following conditions shall apply:

- (c) At the commencement of building works, and in perpetuity, the area around the building shall be managed as outlined within Table 6.4a and Appendix 4 of 'Planning for Bush Fire Protection 2018' and the NSW Rural Fire Service's document 'Standards for asset protection zones' as follows:
- North and East Directions: To the property boundary as an Inner Protection Area (IPA);
 - South Direction: IPA for a minimum distance of 23 metres; and
 - West Direction: IPA for a minimum distance of 39 metres.

Construction Standards

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

- (d) New construction must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 Construction of buildings in bush fire-prone areas or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas - 2014' as appropriate and section 7.5.1.1 of Planning for Bush Fire Protection 2018.

Water and Utility Services

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:

- (e) The provision of water, electricity and gas shall comply with Table 6.4c of 'Planning for Bush Fire Protection 2018'.

Landscaping Assessment

The intent of measures is for landscaping. To achieve this, the following conditions shall apply:

- (f) All landscaping within the site shall comply with the principles of Appendix 4 of 'Planning for Bush Fire Protection, 2018'.

11 **Department of Planning, Industry and Environment - Aboriginal Cultural Heritage Conditions**

- I. If the area of low to moderate archaeological potential (below the imported fill) is going to be impacted, subsurface testing should be conducted within the area of impact to determine the nature of the subsurface deposits. Subsurface testing must be completed in accordance with OEH Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW.
- II. The natural banks of the estuarine swamp flats and marshlands should be avoided by the

- proposed works to prevent any inadvertent disturbances to subsurface Aboriginal objects.
- III. If Aboriginal objects are identified and harm to those objects cannot be avoided, an Aboriginal Heritage Impact Permit (AHIP) is required. This will require a full Aboriginal cultural heritage assessment including archaeological survey and Aboriginal community consultation in accordance with the Department guidelines. All Aboriginal objects must be reported to AHIMS under s.89A of the Act.
 - IV. If Aboriginal objects are identified during construction, work must stop immediately and the Department must be contacted by calling 131 555. If human skeletal remains are discovered, work must stop and both the NSW Police and the Department must be called.

Aboriginal Heritage Due Diligence

It is recommended that:

- V. For works to proceed with caution the proposed development footprint must avoid the isolated artefact (AHIMS #58-4-1379/Mackay Park IF 1), the area considered to have low to moderate archeological potential (below the imported fill) and the natural banks of the estuarine swamp flats and marshlands.
- VI. A minimum buffer of 5 m should be placed around the site AHIMS #58-4-1379/Mackay Park IF 1.
- VII. The natural banks of the estuarine swamp flats and marshlands should be avoided by the proposed works to prevent any inadvertent disturbances to subsurface Aboriginal objects.
- III. If the isolated artefact (AHIMS #58-4-1379/Mackay Park IF 1), the area considered to have low to moderate archeological potential (below the imported fill) and the natural banks of the estuarine swamp flats and marshlands identified within this report are unable to be avoided by the proposed development than an Aboriginal Cultural Heritage Assessment must be undertaken as per the Guides and Codes of practice by OEH, including Aboriginal community consultation.
- IX. For works to proceed in the area considered to have low to moderate archeological potential (below the imported fill) a program of limited subsurface testing should be undertaken within the playing fields to establish the true archaeological potential and extent of any archaeological sites within the works area. All subsurface testing must comply with the OEH *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW*.
- X. If the proposed development footprint proceeds with caution in line with Recommendation 1 and any items suspected of being Aboriginal in origin are discovered during the work, all work in the immediate vicinity must stop and OEH notified. The find will need to be assessed and if found to be an Aboriginal object and Aboriginal Heritage Impact Permit (AHIP) would be required.
- XI. The continuation of day to day maintenance works and use of the playing fields is unlikely to impact the natural subsurface sand layer so long as works do not extend below the fill deposit or involve activities that are considered major earthworks and therefore can continue.
- XII. Any activity proposed outside of the current assessment area should also be subject to an Aboriginal heritage assessment.
- XIII. Public Works Advisory are reminded that it is an offence under the NSW *National Parks and Wildlife Act 1974* to disturb, damage or destroy an Aboriginal object without a valid Aboriginal Heritage Impact Permit.

12 **Noise Management**

The recommendations as outlined in the Norman, Disney & Young Acoustics Report page 26 of 31 stamped approved DA0189/20 Doc 1 of 2 shall be implemented during construction and for the life of the development.

13 NSW Roads and Maritime Recommended Conditions

Prior to commencing works within the road reserve, the developer must:

- (a) Obtain Section 138 consent under the Roads Act, 1993 for the works associated with the WAD.
Notes:
 - TfNSW will be exercising its powers under Section 64 of the Roads Act, 1993 to become the roads authority for works associated with the WAD and therefore responsible for issuing the Section 138 consent for those specific works.
- (b) Apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on a State road or any other works that impact a travel lane of a State road or impact the operation of traffic signals on any road.

Notes:

- For information on the ROL process and to lodge an ROL application, please visit <https://lmyrta.com/oplinc2/pages/security/oplincLogin.jsf>
- The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.
- The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.
- An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.

14 Department of Primary Industries - Fisheries and Batemans Marine Park - General Conditions of Consent

- (a) Any revegetation within the riparian buffer area and adjacent to the carpark to be revegetated with River Red Gums and other native species endemic to this site and the locality.
- (b) The bund created for stormwater control must not encroach into the adjoining Coastal Wetland zone, and its bank is to be treated to reduce sedimentation impacts to the wetland.
- (c) Prior to works commencing for construction (excluding demolition), a copy of the Construction and Environmental Management Plan is to be submitted to the Batemans Bay Marine Parks for comment.
- (d) The stormwater treatment facility is to be maintained in accordance with the manufacturer's specifications over the life of the proposal.
- (e) All actions in the Acid Sulphate Soil Management Plan are to be undertaken by a suitably qualified and/or experienced person and includes:
 - (i) Briefing contractors and workers on site regarding the Acid Sulphate Spoil Treatment Plan;
 - (ii) Identifying any excavated Acid Sulphate Soil (ASS) or Potential Acid Sulphate Soil (PASS); and
 - (iii) Supervising the treatment and storage of ASS and PASS.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**15 Erosion Control Plan**

Designs for sedimentation and erosion control by a qualified practising engineer are to be submitted to the Accredited Certifier prior to issue of a Construction Certificate. All requirements of the approved plan are to be implemented on-site. The erosion control plan is to be prepared in accordance with "Managing Urban Stormwater: Soils and Construction - Volume 1, Landcom 2004". [11.01]

16 Long Service Levy

Long Service Levy is required to be paid to the NSW Long Service Payment Corporation prior to the issue of a Construction Certificate. The amount to be paid is 0.35% of the cost of buildings and works where these are valued at \$25,000 or more. [2.03]

17 Water Meter - Commercial Development

Prior to issue of a Construction Certificate, submission to Council of certification and a layout plan for the service by a suitably qualified hydraulic engineer/consultant on the recommended water meter size required for the development in accordance with AS 3500.1:2003 National Plumbing and Drainage Code and AS2441-2005 Installation of Fire Hose reels.

Note: *All fire hose reels must be supplied through the metered supply.*

Council will provide a quote to construct the water service complete with meter with prepayment required prior to works being scheduled. The meter is to be located so as to be accessible to Council's Water Meter Reader at all times. Any work required to Council's infrastructure to extend the main or allow installation of the meter other than a standard meter connection, is to be undertaken at full cost to the applicant.

Note: *A backflow prevention device is to be installed and certified by a private plumber in accordance with Council's Backflow Prevention policy.*

A standard meter connection is where the water main is located on the same side of the street as the property, the meter is to be located approximately 2.4 metres from the water main to just inside the property boundary and laid in a non-hard surface area (grassed). Please contact Council's Water and Sewerage Project Engineer on 44741342 to arrange the quote and prepayment will be required to be receipted at Council Administration Centre at Vulcan Street Moruya, the Batemans Bay or Narooma depot. [5.05a]

18 Ocean/Flood

Prior to issue of a Construction Certificate, submission to and approval by the Certifying Authority, of designs by a suitably qualified and experienced Structural/Civil Engineer that the development will be capable of withstanding the impact of the flood/ocean hazard applicable to the location. The applicable flood planning level for the development is 3.13m AHD. The site is subject to wave run-up as identified in Council's Eurobodalla Coastal Hazard Assessment 2017.

19 Construction Management Plan

Prior to the issue of a Construction Certificate submission of a Construction Management Plan to the Certifying Authority. The plan is to be prepared by a suitably qualified person and shall address, but not be limited to, the following matters:

- (a) hours of work;
- (b) contact details of site manager;
- (c) arrangements for site deliveries and removal of material from site;
- (d) details of hoardings;
- (e) details of demolition works and the presence of any asbestos or other hazardous waste;
- (f) traffic and/or pedestrian control measures;
- (g) dust control measures;
- (h) noise control measures;
- (i) screening from adjoining properties;
- (j) environmental management (sediment and erosion, groundwater, etc.).

20 **Acid Sulfate Soil Management Plan**

Prior to the issue of a Construction Certificate an Acid Sulphate Soils Management Plan is to be submitted to the Certifying Authority. The management plan is to be certified by a suitably qualified and experienced consultant for compliance with the NSW Acid Sulfates Soil Manual (1998), refer to <https://epa.nsw.gov.au>.

PRIOR TO COMMENCEMENT OF WORKS

21 **Waste Management Plan**

A Waste Management Plan shall be submitted to and approved by Council, prior to demolition works commencing. The Plan shall address, but not be limited to, the following matters:

- (a) details of demolition works and the presence of any asbestos or other hazardous waste;
- (b) details of waste to be generated by the work;
- (c) arrangements for removal of waste material from site;
- (d) destination of waste materials being removed from the site.

22 **Stormwater Network**

Submission to and approval by Council, prior to works commencing, of plans for the stormwater network traversing the site and servicing the development. Plans are to be prepared by a suitably qualified engineer in accordance with Council's Infrastructure Design Standard. Design is demonstrate the capacity of the receiving network at the north western corner is capable of servicing development discharge, or propose upgrade to network as required. The stormwater treatment in the north western corner of the development is to be located outside of the road pavement area.

23 **Stormwater Quality**

Submission to and approval by Council, prior to works commencing, of stormwater design plans that are certified by a suitably qualified engineer that demonstrate any stormwater leaving the site complies with the water quality benchmarks for the Batemans Marine Park as expressed in the NSW Water Quality Objectives that accord with the ANZECC 200 Guidelines for Water Quality (Info available at OEH website - www.environment.nsw.gov.au/ieo/Clyde/index.htm <<http://www.environment.nsw.gov.au/ieo/Clyde/index.htm>>). Design is to minimise the Council's ongoing maintenance requirements of the components within the stormwater treatment train. The stormwater treatment in the north western corner of the development is to be relocated outside of the road pavement area.

24 **Construction in a Road Reserve**

Prior to commencement of any works within the road reserve a separate approval is to be obtained from Council under section 138/139 of the Roads Act. The application would consider:

- Public safety, WH&S issues, risk assessment, public liability insurance, control of vehicle and pedestrian traffic, location of plant and equipment, inspections bonding and an application fee.
- Where a traffic control plan is required, the plan is to be prepared by a suitably qualified consultant, certified by the Roads and Maritime Service (RMS), in work site traffic control plan preparation.
- Where the Traffic control plan requires a reduced speed, or temporary traffic signals, a Speed Zone Authorization (SZA) is to be obtained from Council for the specific days of work
- Where works are on a Roads and Maritime Services (RMS) road or would impact traffic on an RMS road, a Road Occupancy Licence (ROL). is to be obtained from the RMS Ms Peta Smith (02 42212509) or email. rol_southern@rta.nsw.gov.au

Where works are undertaken by other than the applicant, the supervisor of the works is to be advised of this condition. Details for an application form and fees are available by contacting council Engineering Development Assessment Officer (44741254) & form available from

http://www.esc.nsw.gov.au/media/395951/Section_138_Roads_Act.pdf

Carrying out works contrary to this condition will result in a penalty being issued under the roads act and works being suspended until such time as a Section 138 consent being issued. [14.09]

25 **Construction Certificate**

The construction works subject of this development consent MUST NOT be commenced until:

Detailed plans/specifications of the building have been endorsed with a Construction Certificate by:

- (i) the Council, or
- (ii) an accredited certifier, and

The person having the benefit of the development consent:

- (i) has appointed a Principal Certifying Authority, and
- (ii) has notified the Council of the appointment, and

The person having the benefit of the development consent has given at least two (2) day's notice to the Council of the person's intention to commence the erection of the building; and

Builders name and licence number has been supplied to Council or the Principal Certifying Authority; and

Owner Builders permit issued by Department of Fair Trading to be supplied to Council or the Principal Certifying Authority; or

Home Building Compensation Fund (HBCF) has been paid and a copy of the Certificate supplied to Council or the Principal Certifying Authority; and

A sign has been erected on site in a prominent position containing the information prescribed by Clause 98A(2) & (3) of the EP & A Regulations being the name, address and telephone number of the Principal Certifying Authority for the work, and name of the principal contractor for the work and telephone number on which that person may be contacted outside working hours, and stating that unauthorised entry to the site is prohibited. This sign must be maintained on site while work is being carried out and removed when the work has been completed. [2.06]

26 **NSW RMS Condition**

Prior to any works involving the southern road access, the developer must:

- (a) Enter into a Works Authorisation Deed (WAD) with the TfNSW for all works on Vesper Street.

Notes:

- A WAD is a legally binding contract between TfNSW and the developer, authorising the developer to undertake works on a State road and/or install traffic signals.
- To progress the WAD, the developer needs to email a copy of the conditions of development consent to development.southern@rms.nsw.gov.au.
- All roadworks and traffic control facilities must be undertaken by a pre-qualified contractor. A copy of pre-qualified contractors can be found on the RMS website at: www.rms.nsw.gov.au/business-industry/partners-suppliers/tenders-contracts/prequalified-contractors.html
- Any new services or modifications to existing services associated with this development application that involve works on, over or under Vesper Street (as defined the area from kerb to kerb) must be incorporated into, and managed under, the Works Authorisation Deed for the project. Note: It is the developer's responsibility to identify these works to TfNSW project manager.
- More information on WADs can be found at:

www.rms.nsw.gov.au/documents/projects/factsheet-development-process.pdf

- (b) Demonstrate to the satisfaction of Council the post development storm water discharge from the subject site, if going into the Vesper Street drainage system, does not exceed the pre-development application discharge.

27 **Site Contamination Assessment**

Prior to works, a detailed geotechnical investigation, in line with the Stage 1 of the Contaminated Land Planning Guidelines, is to be completed once demolition of the existing structures has occurred to the satisfaction of the Certifying Authority.

DURING CONSTRUCTION

28 **Spoil Removal**

No spoil to be deposited on public roads during the cartage of materials from or to the site. The deposition spoil shall cease, as directed by Council, if the Council determines that excessive deposition of spoil onto the road is taking place. [11.12]

29 **Excess Fill**

Any excess clean fill (inert clean waste) removed from the site is to be taken to either:

- (a) a public waste disposal facility or
(b) a site approved by Council.

If option (b) is to be used the persons enacting this consent are to advise Council, in writing, of the chosen site and are not to commence any dumping until written approval is granted.

Note: Council may carry out random inspections and take photographic records to ensure the integrity of the fill. [11.14]

30 **Construction Works Inspection**

Council is to be notified two (2) days prior to commencement of any works for parking and access construction within the footpath or road reserve (Telephone [02] 44741393) to make arrangements for inspection. [14.08]

31 **Commercial/Industrial Construction Hours - NOISE**

Construction may only be carried out between 7.00am and 6.00pm on Monday to Friday, and between 8.00am to 5.00pm on Saturdays. No construction activity on Sundays and Public Holidays.

Work may be carried out outside of the above standard hours for construction if the work only generates noise that is:

- (a) no louder than 5dB(A) above the rating background level at any residence in accordance with the Interim Construction Noise Guidelines (ISBN 9781742322179) published by the NSW Dept of Environment and Climate Change, July 2009.
(b) no louder than the noise management levels specified in Table 3 of the Guideline at other sensitive receivers. [20.01a]

32 **Floor Level**

The minimum floor level of the development shall be at or above 3.13m AHD. This level is to be certified by registered Surveyor prior to the structure proceeding past the nominated level. [7.09]

PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**33 Section 7.11 Contributions**

Payment to Council pursuant to 7.11 of the Environment Planning and Assessment Act 1979, of contributions towards the provision of public amenities or services. The current contribution rates for the current financial year are as follows:

Waste Facilities: Gym – calculated on 21m² per person of Commercial Floor Area Per m² & \$2.50 for the 2019/20 financial year.

The above contribution will be subject to final design and is to be paid prior to any Occupation, and will be payable at the rate applicable at the time of payment.

Note: *The above contributions are reviewed at least annually and may be subject to increases as a result of indexation or other forces.*

The plan can be viewed on Council's website at http://www.esc.nsw.gov.au/development-and-planning/tools/development-contributions-plans/s94_development_contributions_plan.pdf [3.07]

34 Sealed Traffic Areas

Prior to any Occupation submission to and approval by Council of engineering plans for sealed car parking spaces for 200 spaces, dimensions, manoeuvring areas and access driveway & road, all conforming to AS/NZS2890.1:2004 & AS2890.2:2018. Drainage and pavement designs are to be prepared by a qualified engineer and are to address expected vehicle loadings and any fill compaction requirements. Disabled parking is to be designed in accordance with AS/NZS2890.6:200. Works are to be completed prior to release of any Occupation Certificate.

35 Eurobodalla Shire Council Local Traffic Committee - recommended conditions of consent

- (a) Prior to any Occupation, a detailed design of the roundabout intersection is to be approved by Council. The design is to comply with AUSTRROADS and Australian Standards for a 19m articulated vehicle.

Note: consideration is to be given to the road/intersection layout for access to the development from the western section of Beach Road to allow orderly development of the future precinct.

- (b) Prior to any Occupation, a detailed design of the shared pathway on the southern side of Beach Road to the appropriate width is provided, to comply with AUSTRROADS and Australian Standards and approved by Council.

Note: Consideration to be given to a pedestrian crossing point from the shared path on the southern side of Beach Road to Mackay Park. The shared path leading into the development on Beach Road needs to accommodate for high volume frequent use and allow sufficient separation from vehicles. Refer Austroads Guide to Road Design Part 6a - Paths for Walking and Cycling Section 2.4 Figure 2.3 and Table 5.3.

- (c) Prior to any Occupation, a detailed design of the accessible parking and related safe and practical pathway link to the building is provided, to comply with Australian Standards and approved by Council.

Note: Consideration is to be given to traffic calming devices such as road humps throughout the site. Particularly relevant at times when peak flows are encounters through to all facilities within the precinct.

All works are to be completed prior to any Occupation.

36 Occupation Certificate

The development shall not be used or occupied until an Occupation Certificate has been issued by the Principal Certifying Authority. [2.14]

37 Land Consolidation

Consolidation of the land into one lot is required. Plan of consolidation to be registered with the Land and Property Information NSW prior to issue of any Occupation Certificate. [3.15]

38 Stormwater Work as Executed Plans

Prior to issue of any Occupation Certificate stormwater construction is to conform to the approved plans. A Works as Executed plan of the work is to be provided to and approved by Council at the completion of the work. [6.06]

39 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the Accredited Certifier for all the “Essential Fire or Other Safety Measures” forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety Certificate must be submitted to Council by the Accredited Certifier prior to issue of an Occupation Certificate. [8.01]

40 Annual Fire Safety Statement

- (a) A final Fire Safety Certificate shall state that each essential fire safety measure specified in the current Fire Safety Schedule for the building to which the Certificate relates:
 - (i) has been assessed by a properly qualified person; and
 - (ii) was found, when it was assessed, to be capable of performing to a standard not less than that required by the current fire safety schedule for the building for which the Certificate is issued.
- (b) The assessment must have been carried out within the period of three (3) months prior to the date on which the final Fire Safety Certificate is issued.
- (c) The choice of person to carry out the assessment is up to the owner of the building.
- (d) The person who carries out the assessment:
 - (i) must inspect and verify the performance of each fire safety measure being assessed; and
 - (ii) must test the operation of each new item of equipment installed in the building premises that is included in the current Fire Safety Schedule for the building.
- (e) As soon as practicable after a final Fire Safety Certificate is issued, the owner of the building to which it relates:
 - (i) must cause a copy of the Certificate (together with a copy of the current Fire Safety Schedule) to be given to the Commissioner of New South Wales Fire Brigades; and
 - (ii) must cause a further copy of the Certificate (together with a copy of the current Fire Safety Schedule) to be prominently displayed in the building. [8.02]

41 NSW RMS Condition

Upgrade the junction of the access and Vesper Street to the Aquatic centre to the satisfaction of TfNSW.

Notes:

- The pavement design on Vesper Street must be in accordance with Austroads standards.
- Where required, the developer must upgrade/provide lighting in accordance with Australian Standard AS/NZS1158.
- All works need to be completed at no cost to TfNSW

42 Flood Action Plan

Prior to any Occupation, a site-specific Flood Action Plan, prepared by a suitably qualified engineer is to be submitted to the Certifying Authority. Evidence of implementation of the Flood Action Plan is necessary prior to the occupation of/or commencement of operations. The Flood Action Plan is to include an Emergency Plan available from the NSW State Emergency Service (SES) Website [<http://www.sesemergencyplan.com.au/>](http://www.sesemergencyplan.com.au/). The site-specific Flood Action Plan is to include but not be limited to:

- a. Property Address
- b. Local Emergency Contact Numbers
- c. Local Radio Stations for Emergency Warnings
- d. Bureau of Meteorology Website for Emergency Warnings
- e. Flood Warnings and Approximate Site Levels for occupants to determine flood severity.
- f. Evacuation Procedures
- g. Evacuation Map
- h. Location of SES Emergency Plan
- i. Location and Contents of Emergency Kit as per SES Emergency Plan.

ADVISORY NOTES***Essential Energy - General Conditions of Consent***

- (a) If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
- (b) Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above properties should be complied with.
- (c) Essential Energy has existing overhead powerlines located along Vesper Street. Any landscaping or planting of trees along this boundary must be undertaken in accordance with the latest industry guideline currently known as *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure.
- (d) Any driveway access and/or exit (concrete crossovers) into the properties (including the car park) must remain at least three (3) metres away from any electricity infrastructure (power pole/s) at all times to prevent accidental damage.
- (e) Minimum safety clearance requirements must be maintained at all times for any proposed driveway access and/or exit (concrete crossovers), as such driveways will pass under Essential Energy's existing overhead powerlines, located on the Vesper Street frontage of the properties. Refer Essential Energy's policy *CEOM7106.25 Minimum Clearance Requirements for NSW and ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*.
- (f) Satisfactory arrangements must be made with Essential Energy for the provision of power to all proposed improvements. It is the Applicant's responsibility to make the appropriate application with Essential Energy for the supply of electricity to the development, which may include the payment of fees and contributions. Essential Energy's internal records do not indicate electrical infrastructure at the oval, however, this may be because the infrastructure is privately owned. The Applicant will also need to be aware of this infrastructure.
- (g) In addition, Essential Energy's records indicate there is electricity infrastructure located within the properties and within close proximity to the properties. Any activities within these locations must be undertaken in accordance with *ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure*. Approval may be required from Essential Energy

- should activities within the property encroach on the electricity infrastructure.
- (h) Prior to carrying out any works, a “Dial Before You Dig” enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the *Electricity Supply Act 1995 (NSW)*.
 - (i) Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW (www.safework.nsw.gov.au <<https://protect-au.mimecast.com/s/1Dk4CwVLBNFKNjZTqDhek?domain=safework.nsw.gov.au>>) has publications that provide guidance when working close to electricity infrastructure. These include the *Code of Practice - Work near Overhead Power Lines* and *Code of Practice - Work near Underground Assets*.

NSW Police Recommended Conditions of Consent

Closed Circuit Television System

It is recommended that a closed circuit television (CCTV) system be installed internally and externally which complies with the Australian Standard - Closed Circuit Television System AS:4806:2006.

The system should be strategically positioned to cover all parts of the public space, pool areas both internally and externally, entry and exit points, service desks, office cash handling areas, bar and consumption areas. External forecourt entrance, carparking and loading dock areas should also be covered.

The gym is intended to be operated 24 hours per day and unsupervised. This area should be fully covered by the system with functions to monitor live ‘off’ site.

The system should be digitally recorded with computer hard drive back up with a 28-day retention period and capable of being downloaded for the purpose of any investigations by management or police.

Monitors should be positioned within the respective offices and counter areas that are usually staffed. This provides added security by live surveillance.

Alarms

Security to the building will be enhanced with a comprehensive alarm system to deter and detect intruders.

The alarm system should be monitored ‘back to base’ with facility to operate if local telephone lines are damaged.

Motion detection devices should be strategically located within the premises for operation when the facility is closed.

A duress facility should be incorporated to enable staff to activate in an event of an emergency, such as a robbery, assault on staff, etc. Duress devices should only be operated when safe to activate, so as to not put the staff member at further risk.

Landscaping

Landscape planting to be designed and maintained so as not to restrict sight lines to and from the centre, carparking and pedestrian pathways.

Landscaping should not create concealment opportunities where people are encouraged to walk and congregate.

Landscaping to consist of low-level ground cover planting and/or suitable trees with clean trunks to a height of 2 metres.

Any planting should not impact on the effectiveness of carpark and building lighting.

Dense planting should be restricted to areas that don’t present a concealment opportunity for criminal activity close to pathways and publicly accessible areas.

Lighting

Police recommend lighting to be installed to the perimeter of the building, carparking, loading dock and pedestrian ways.

Lighting in the carpark areas is to be sufficient to provide clear definition of people and vehicles. This should operate throughout the evening when events are occurring. If reduced carpark lighting is planned after hours, consideration should be given to suitable car park lighting for patrons utilising the gym close to the access door.

Lighting to be provided along pedestrian walkways from Vesper Street to the Centre highlighting a safe a passage. This should also be provided for pedestrian walkways and crossings from the car park.

Access

Afterhours access to the gym may be unsupervised. Suitable access card system is recommended. Appropriate internal security barriers should be installed to prevent access to the pool areas.

Pathways/footpath

The site plan for carparking to the western side of the complex indicates a clear designated footpath and pedestrian crossing. We recommend the extension of this pathway adjacent trailer carparking to encourage safe pedestrian access to and from the southern side of this area. There will be high usage by families with young children and pedestrian safety is a priority.

It is noted that the centre will have pedestrian footpath access from the Vesper Street intersection. Consideration should be made to the incorporation of a combined footpath/cycleway to promote safe access to the facility.

Signage

Install warning signage to indicate active CCTV and alarm systems are operating. This will assist as a crime prevention measure.

Cash handling

As a robbery prevention procedure, the following recommendations are made.

Ensure that there are strict cash handling procedures in place for staff. Ensure that cash is counted out of the view of the public in a secure room.

Limit the amount of cash in a drawer at any time.

Safes shall be designed and installed to Australian Standards. Safes should be secured to prevent removal. Consider time delay locks that can only be opened at particular times. The safe should be located in a restricted access area.

All transit cash handling should be done by specialist security companies, rather than staff.

Note: *It is noted that the development will include bar facilities in the arts/cultural centre. Police will seek conditions in relation to liquor licensing when application has been made to Liquor & Gaming NSW. As stated earlier, CCTV coverage of bar service and consumption areas is requested.*

Discovery of a Relic

If Aboriginal relics or objects are uncovered during work, excavation or disturbance of the area, any such activity must stop immediately. The Environmental Protections and Regulation Group of the Office of Environment & Heritage is to be immediately contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW Heritage Act 1977 may be required before further works can continue in that area. [13.07]

NCC/BCA Compliance

This Development Application has been subject to a merit-based assessment. The plans lodged and approved have not been assessed against the provisions of the Building Code of Australia (BCA). It is your responsibility to ensure the plans lodged with any Construction Certificate application show full compliance to all provisions of the BCA. [2.23]

Flooding Liability

The land may be subject to flooding and the development has been assessed using best available information concerning the likelihood of flooding at the date of determination. If the land is flooded Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent. [7.10]

Sea Level Rise Liability

This land may be subject to sea level rise and this development has been assessed using the best available information regarding the likelihood of inundation and/or coastal erosion at the date of determination. The infrastructure in this locality (such as sewer, water, stormwater and roads) may also be subject to sea level rise. At the granting of consent there is no commitment or intention by Council to improve or maintain infrastructure should this be impacted by sea level rise in the future.

If the land is impacted by sea level rise in the future, Council will not, pursuant to Section 733 of the Local Government Act 1993, incur any liability in respect of the granting of this consent. [7.13]

Attachment Two – Development Plan Set