

DETERMINATION AND STATEMENT OF REASONS

SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Tuesday, 31 st March 2020
PANEL MEMBERS	Gordon Kirby, Renata Brooks and Tim Fletcher
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Rob Pollock: Eurobodalla Council is the applicant. He is a councillor at Eurobodalla Shire Council.</p> <p>Lindsay Usher: Eurobodalla Council is the applicant. He was involved in the preparation of the development application.</p>

Public meeting held at Teleconference Call on 31 March 2020, opened at 12pm and closed at 1:10pm.

MATTER DETERMINED

PPSSTH-11 – Eurobodalla Shire Council – DA0189/20 at 8 Vesper Street, Batemans Bay – Regional Arts, Aquatic and Leisure Centre and demolition of existing (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The panel adjourned the Teleconference call meeting and agreed to defer consideration of the matter to enable people who lodged submissions to the development application but were unable to participate in the teleconference, an additional 14 days to submit written submissions for the panel's consideration. This decision was made in recognition of the potential for confusion over the format of the meeting due to the onset of Covid-19 restrictions and that members of the public may have difficulty accessing the teleconference due to damaged infrastructure following the bushfires in early 2020.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

- The proposed development is permissible with development consent in the RE1 Public Recreation and RE2 Private Recreation Zones under Eurobodalla Local Environmental Plan 2012;
- The proposed development is generally consistent with the objectives of the zones;
- Subject to the conditions of consent, the proposed development can be constructed and managed to avoid negative impacts on the adjoining wetlands and associated native vegetation and adjacent aquatic areas;
- The Panel is satisfied that the built form and scale of the development is appropriate in the context;

CONDITIONS

The development application was approved subject to the amended conditions in the *Memo – Post Briefing DA0189/20 - PPSSTH-11 – Regional Aquatic, Arts and Leisure Centre Conditions of Consent* dated 22 April 2020.

The amended conditions reflect discussions between the Panel and Council officers to strengthen the consent by incorporating several proposed environmental management measures into the consent. The key changes to the Conditions are:




- **Approved Plans** – the condition was reworded to specifically reference the Statement of Environmental Effects, Flora and Fauna Assessment and Aboriginal Heritage Due Diligence.
- **Department of Planning, Industry and Environment - Aboriginal Cultural Heritage Conditions** – amended to delete the words “it is recommended that”
- **Ocean/Flood** – amended to clarify that the revised plans demonstrate that building be designed to a flood planning level of 3.13m AHD
- **Stormwater Network** – to be revised to require the detailed stormwater design plans to be consistent with the preliminary plans reviewed by the assessment officers.
- **Site Contamination Assessment / Remediation and Validation Report** - to reinstate the originally recommended conditions relating to the handling and removal of any contaminated materials to be in accordance with the relevant Australian Standards or guidelines.
- **Crime Prevention and Security Management Plan** - to include a new condition to require the recommendations and advice of the NSW Police to be included in a Crime Prevention and Security Management Plan.
- **Ecological Management** - to include a new condition to require the recommendations of the Flora and Fauna Assessment to be implemented.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel also considered the submissions were received from the public during the 14 day period following the public meeting. The panel notes that issues of concern included:

- The proposed development does not include a 50 metre swimming pool
- The business plan and operating costs for the facility
- Adequacy of consultation
- Internal uses and functionality of spaces
- Loss of the mini golf business on the site
- Flooding / sea level rise
- The adequacy of the geotechnical studies and potential development cost implications
- Lack of inclusion of the Bowling Club site.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and the amended conditions of consent. Several issues raised in submissions, and during the public teleconference meeting, related to the proposed development’s business plan and operating costs and other commercial enterprises on the site. While the concerns raised are noted, the Panel is of the view that these are not planning matters and are therefore not within the scope of the Panel’s consideration and determination of the application.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Tim Fletcher
 Renata Brooks	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-11 – Eurobodalla Shire Council – DA0189/
2	PROPOSED DEVELOPMENT	Regional Arts, Aquatic and Leisure Centre and demolition of existing
3	STREET ADDRESS	10-12 Vesper Street. Batemans Bay
4	APPLICANT/OWNER	Eurobodalla Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (State & Regional Development) 2011 ○ State Environmental Planning Policy (Primary Production and Rural Development) 2019 ○ State Environmental Planning Policy No. 33 - Hazardous and Offensive Development ○ 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 (CM SEPP) ○ State Environmental Planning Policy (Vegetation in non-rural areas) 2017 ○ Eurobodalla Local Environmental Plan 2012 • Relevant State Legislation: <ul style="list-style-type: none"> ○ Environmental Planning Assessment Act 1979 ○ Biodiversity Conservation Act 2016 ○ Rural Fires Act 1997 ○ Marine Estate Management Act 2014 ○ Fisheries Management Act 1994 ○ Coastal Management Act 2016 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Eurobodalla Shire Council Development Contribution Plan • Planning agreements: Nil • Provisions of the Environmental Planning and Assessment Regulation 2000: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the Environmental Planning and Assessment Act 1979 or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 17 March 2020 • Memo – Post Briefing DA0189/20 - PPSSTH-11 – Regional Aquatic, Arts and Leisure Centre: Conditions of Consent: 22 April 2020 • Written submissions during public exhibition: 15 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ In support – Nil

		<ul style="list-style-type: none"> ○ In objection – Jeff de Jager, Kate Humble, Antony Dean, Coral Anderson, Joan Armstrong (read by Coral Anderson), Peter Coggan. ○ Council assessment officer – David Meagher, Rebecca Ireland ○ On behalf of the applicant – Stephen Phipps, Lindsay Usher • Written submissions following teleconference meeting: <ul style="list-style-type: none"> ○ Coral Anderson, Sue Mackenzie, Patricia Gardiner, Brett Stevenson, Joan Armstrong, Jeff de Jager, Kathryn Maxwell, Maureen Searson, Peter Coggan
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation, Tuesday, 31st March 2020 11am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Tim Fletcher and Renata Brooks ○ <u>Council assessment staff</u>: Rebecca Ireland, David Meagher
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report and revised in Council Memo dated 22 April 2020