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Eden Cattle Bay Marina Pty Ltd
PO Box 363
EDGECLIFF NSW 2027

NOTICE OF DETERMINATION

under Section 81(1)(a) of the *Environmental Planning and Assessment Act 1979* (as amended).

The development application has been determined by granting consent under Clause 2.3 of the *Bega Valley Local Environmental Plan 2013* subject to conditions.

| | |
|--|---|
| DEVELOPMENT APPLICATION | 2014.430 |
| APPLICANT | Eden Cattle Bay Marina Pty Ltd |
| LAND | Lot 2 DP 1138056, Lot 4 DP 1138056 and Crown lands below Mean High Watermark |
| LOCATION | Cattle Bay Road EDEN |
| ZONE | Zone SP3 Tourist and Unzoned Land |
| PROPOSED DEVELOPMENT | Staged 154 berth marina and associated wave attenuator and piles in the waters of Cattle Bay, ancillary carparking, offices and amenities. Stage 1 – Wave attenuator, Refurbishment of existing wharf, Marina main arm, Part marina berthing arms with 85 vessel berths, Land based office, amenities, 50 car parking spaces and landscaping Stage 2 – Completion of marina berthing arms with additional 69 vessel berths and 47 car parking spaces |
| CLASSIFICATION(S) UNDER BUILDING CODE OF AUSTRALIA | Class 5 – land based component |
| DETERMINATION MADE ON | <DRAFT> |
| CONSENT TO OPERATE FROM | <DRAFT> |
| CONSENT TO LAPSE ON (SEE NOTE 3) | <DRAFT> |

development consent

Conditions of Approval

1. Approved development

Development shall take place in accordance with the following plans, specifications and reports, except as may be amended in red on the approved plans and by the following conditions:

- a. Environmental Impact Statement Proposed Marina at Cattle Bay, Eden inclusive of Appendices numbered 1 to 21 dated April 2019.
- b. Cattle Bay Marina Response to Agency Submissions, inclusive of Appendices numbered A to E dated 23 September 2019.

Reason: To ensure that the proposed development is undertaken in accordance with the above documentation and the conditions imposed in this Consent.

Construction Certification and Nomination of Principal Certifying Authority

2. Comply with the BCA

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

3. Appoint PCA

The person having the benefit of the Development Consent and Construction Certificate shall:

- a) Appoints a Principal Certifying Authority and notify Council of the appointment (if Council is not appointed), and
- b) Notify Council of their intention to commence the erection of the building (at least 2 days prior notice is required).

The Principal Certifying Authority shall determine when inspections and compliance certificates are required.

No building, engineering or construction works relating to the marina or physical works are to commence unless a Construction certificate has been approved.

Reason: To ensure that work associated with the construction of the approved marina development is compliant with the requirements of this consent and relevant construction standards.

Design Parameters

4. The proposed marina development shall be designed and constructed in accordance with:

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

5. All commitments identified in the Cattle Bay Marina Response to Agency Submissions inclusive of Appendices numbered A to E dated 23 September 2019, shall be undertaken. All commitments are to be included in the Construction and Operation Environmental Management Plans and Water Quality Management Plan.

6. Vessels subject to biosecurity control must only enter Australia at ports that have been determined as First Points Of Entry (FPOE) under section 229 of the Biosecurity Act 2015, unless permission has been granted by the department to enter a non-first point of entry (under subsection 247(2) of the Act).

The Operation Environmental Management Plan shall include reference that the marina will not permit vessels subject to biosecurity control unless the marina has been determined as a FPOE under section 229 of the Biosecurity Act 2015, unless permission has been granted by the department to enter a non-first point of entry (under subsection 247(2) of the Act).

7. Prior to the issue of any construction certificate, a design verification statement shall be submitted to the Principle Certifying Authority confirming compliance with the above Standards. The design verification statement shall be prepared by a suitably qualified and experience professional to the satisfaction of the Principle Certifying Authority.
8. As part of any subsequent construction certificate application, detailed siting and engineering design plans for the wave attenuator shall be submitted to the Principal Certifying Authority for endorsement.

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

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

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

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

10. No approval is granted for any use or works on the E2 Environmental Conservation zoned land other than the upgrade of the existing wharf facility and associated services and public access.

Developer Contribution

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

| Contribution type | \$ Total | Allocation No. |
|--------------------------|-------------|-----------------|
| Section 94A contribution | \$64,350.00 | 11320.1600.1612 |

Indexation: Where the monetary contribution is not paid before the first anniversary of the date of this development consent, the contribution amount must be indexed between the

date of the consent and the date of payment, in accordance with annual movements in the Consumer Price

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

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

Reason: To ensure the provision and adequacy of public infrastructure within the Bega Valley Shire for the users of new developments.

State Agency Requirements

Trade and Investment - Crown Lands

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

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

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

NSW Environment Protection Authority

13. The marina development shall comply with the General Terms of Approval issued by the NSW Environment Protection Authority on 4th October 2019.

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

Reason: To ensure the requirements of NSW Environment Protection Authority are imposed as conditions and are fully implemented to the satisfaction of the Authority.

NSW Department of Primary Industries – Fisheries

14. The marina development shall comply with the General Terms of Approval and supplementary conditions issued by the Department of Primary Industries Fisheries NSW on 29 July 2019.

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

Reason: To ensure that the requirements of the Department of Primary Industries - Fisheries NSW are imposed as conditions and are fully implemented to the satisfaction of the Department.

Roads and Maritime Services

15. A network of Aids to Navigation be installed in compliance with System A of the International Association of Lighthouse Authorities (IALA), subject to the additional approval of Maritime.

Reason: To provide for safe navigation of vessels. The documents provided by Council related to the proposed development do not include any details on any network of Aids to Navigation.

16. Any licence or lease that will provide for the occupation of NSW waters by the proposed development will not take effect until the use of the waters is immediately required for the construction of the facility and related occupation of NSW waters.
17. Maritime is provided with a minimum of 12 months notice on the intentions of the proponent to undertake activities that will require the displacement of Maritime mooring licenses.

Reason: To allow Maritime to maintain use of the waters affected by the proposed development through administering mooring licenses to the public. Documents related to the development detail a staged approach to the construction of the facility (refer: Appendix 8), however, there is no detail on construction timelines, commencement of work notification periods or acknowledgement of the relocation of 24 affected Maritime administered mooring licenses.

Port Authority of NSW

18. Prior to the commencement of waterside construction works, consultation with the Harbour Master will be required in relation to marina construction and operation including, but not necessarily limited to:
 - i. The relocation of swing moorings;
 - ii. The appropriate marking out and lighting moored construction vessels and the delineation of construction areas;
 - iii. Installation of the required aids to navigation; and
 - iv. The development of appropriate information on safe navigation in the Pot of Eden.

Written confirmation from Port Authority NSW that they have been consulted in relation to the above marina construction and operation requirements shall be submitted to Council prior to the issue of any Construction Certificate.

Reason: To provide for safe navigation of vessels.

Public Access

19. Prior to the issue of any construction certificate, the proponent shall negotiate with and enter into a lease arrangement with the Department of Trade and Investment – Crown Lands which, among other things, shall secure lawful public access over the existing wharf component of the proposed marina development. A copy of the endorsed lease shall be submitted to Council within 3 months of its endorsement date to give effect to this condition.
20. Unrestricted public access to the existing Cattle Bay wharf component of the marina shall be maintained at all times to Council's satisfaction unless closure is in the interest of public safety and/or security.
21. Public access to the floating component of the marina and proposed new wharf shall be maintained between the hours of 7am to 6pm (Summer daylight saving) and 7am to 5pm (non daylight saving) to Council's satisfaction unless closure is in the interest of public safety and/or security.

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

Sustainable Design

22. The following requirements shall be designed and installed in the development:
- a) water efficient fixtures and fittings of minimum rating in accordance with Australian and New Zealand Standard AS/NZS 6400.2005;
 - b) high efficiency lighting throughout the development;
 - c) solar hot water system to service the needs of the management/facilities building.

All sustainable commitments shall be fully detailed on the construction plans and/or associated specifications and submitted to Council for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.

The Construction and Operational Environmental Management Plans shall be amended accordingly to Council's satisfaction.

Reason: This condition is required to help ensure an acceptable level of sustainability.

23. The Construction and Operational Environmental Management Plans shall be amended to reference the report prepared by Ocean Environmental Consulting entitled "Cattle Bay Marina Marine Ecology Report 2019" and the response to agency submission by Ocean Environmental Consulting dated 20 September 2019 inclusive of the water quality management, NSW DPI Permit to harm Marine Vegetation, Marine Mammal Protection Plan and Introduced Marine Species Management Plan and mitigation measures to be initiated during construction and operation of the marina and water quality monitoring protocols.

The Construction and Operational Environmental Management Plans shall be submitted to Council and identified State Agencies in this consent for endorsement prior to the issue of any construction certificate by the Principal Certifying Authority.

Reason: This condition is required to ensure water quality and the implementation of appropriate mitigation measure as warranted.

24. The Construction and Operational Environmental Management Plans shall be amended to address the management (inclusive of storage, resource recovery and spill prevention/mitigation) of solid, liquid and hazardous waste during the construction stage and over the long term whilst the marina is operating.

The Construction and Operational Environmental Management Plans shall be submitted to Council and identified State Agencies in this consent for endorsement prior to the issue of any subsequent construction certificate by the Principal Certifying Authority.

Reason: To ensure that appropriate waste management strategies are endorsed and implemented to ensure environmental quality, public safety and health.

Hazard Management

25. A flood emergency response plan shall be prepared and submitted to Council for endorsement prior to the issue of any construction certificate by the Principal Certifying Authority.

The Plan shall be referenced for implementation in the Construction and Operational Environmental Management Plans.

Reason: This Condition is required to ensure the appropriate monitoring of localised flood events and that appropriate protocols are adopted and implemented to mitigate the impact of flood events on public safety, marina infrastructure and property.

26. Prior to the issue of any construction certificate for work on Lot 2 DP 1138056, a preliminary site contamination report shall be submitted to Council for concurrence.
27. Prior to the issue of any occupation certificate, a site contamination validation report is to be submitted to Council for concurrence. Any subsequent Construction Environmental Management Plan shall be amended accordingly to give effect to this condition.

Reason: These conditions are required to ensure that potential site contamination is adequately addressed and as warranted, appropriate remediation works are carried to ensure environmental integrity and public health.

Off-Street Car and Bicycle Parking

28. A minimum of 97 off street carparking spaces shall be provided in accordance with Council's adopted Bega Valley Development Control Plan 2013 and the Roads and Traffic Authority publication 'Guide to Traffic Generating Developments' 2002.

Engineering design plans for the car park including parking layout, surface paving and drainage, shall be prepared and certified by a chartered professional engineer and submitted to Council for endorsement prior to the issue of any construction certificate by the Principal Certifying Authority for work on Lot 2 DP 1138056.

All works required in the construction of the carpark shall be undertaken and completed in accordance with the certified engineering plans prior to the issue of any subsequent occupation certificate by the Principal certifying Authority.

29. The design and construction of the carpark and driveway areas shall incorporate the provision of suitable landscaping. A detailed landscape plan for the carpark area shall be submitted and approved by Council prior to the issue of any construction certificate by the Principal Certifying Authority for work on Lot 2 DP 1138056. The plan shall be prepared by a qualified landscape architect.

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

Reason: These conditions are required to ensure that a suitable carpark is provided on site which satisfies the traffic generating potential of the marina development and to ensure that the carpark is constructed to a standard which ensures its effective use with a minimum of maintenance whilst effectively reducing its visual impact.

30. Secure bicycle parking in accordance with AS 2890.3 1993 – Parking Facilities – Bicycle Parking Facilities, shall be provided and made available to staff and patrons of the marina and the general public at all times. Details shall be submitted to Council for endorsement prior to the issue of any occupation certificate by the Principal Certifying Authority.

Reason: To ensure the provision of suitable on-site bicycle parking which meets the operational needs of the marina and the recreational opportunities of the general public.

Biodiversity

31. Prior to the issue of any construction certificate by the Principal Certifying Authority, a Construction Environmental Management Plan shall be prepared in consultation and submitted to Council and identified State Agencies in this consent for endorsement. The form and content of the Plan shall be compliant with the Plan prepared by Royal Haskoning DHV - Cattle Bay Marina Construction Environmental Management Plan dated April 2015 and shall include (but not all inclusive) the following amendments:
- (a) Section 1.3 of the CEMP being amended to address the scope of works associated with:
 - i. the final alignment of the wave attenuator inclusive of documentation being submitted by Royal Haskoning and/or Cardno which certifies that the final design and location of the attenuator is consistent with the modelled design in the report prepared by Cardno 'Cattle Bay Marina, Eden – Wave Modelling' dated 28 July 2014 and subsequent correspondence by Royal Haskoning DHV entitled "Cattle Bay Marina – Response to Submissions on EIS Supplementary Statement on Wave Attenuator and Potential Impacts" dated 8 April 15; and
 - ii. the renovation and landscaping of the carpark area and site generally as required by this consent.
 - (b) Section 1.4 of the CEMP being amended to reference and to ensure compliance with the South Australian Government Department of Planning Transport and Infrastructure Underwater Piling Noise Guidelines 2012.
 - (c) Section 4.5 of the CEMP being amended to acknowledge the presence of the *Posidonia australis* weed bed to the east of the marina site and to facilitate its location on-site as an exclusion zone during construction.
 - (d) Section 4.8 of the CEMP being amended in relation to the public notification to the effect that an introductory letter (inclusive of the construction program and sketches of the project) shall be circulated to all residences within a 250 metre radius of the construction site as measured from the end of the existing wharf structure.
 - (e) Section 4.12 of the CEMP being amended to preclude Council's foreshore public reserve (Lot 4 DP 1138056) and Cocora Beach and adjacent foreshore areas from being used as a staging area for works associated with the refurbishment of the existing wharf or the construction of the floating components of the marina or wave attenuator
 - (f) Section 4.12 of the CEMP being amended to facilitate the erection of security fencing of the boundaries of Council's foreshore public reserve (excluding the access corridor) to Council's satisfaction for the purpose of precluding direct access from the construction site and Cattle Bay Beach during construction.
 - (g) Section 4.2 of the CEMP being amended to ensure that appropriate soil and water management controls are implemented and maintained in accordance with the Landcom publication Managing Urban Stormwater: Soils and Construction 4th Edition March 2004 (Blue Book)

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

32. Prior to the issue of any construction certificate by the Principal Certifying Authority, an Operational Environmental Management Plan shall be prepared in consultation with all

relevant authorities and submitted to Council for endorsement. The form and content of the Plan shall be compliant with the Plan prepared by Royal Haskoning DHV - Cattle Bay Marina Operational Environmental Management Plan dated March 2013 and shall include (but not all inclusive) the following amendments.

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

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

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

Aboriginal Cultural Heritage

- 33. Prior to the commencement of any works associated with the renovation of the existing concrete slabs, the provision of service infrastructure and site landscaping on Lot 2 DP 1138056, an Aboriginal Heritage Management Plan (AHMP) shall be prepared by a qualified archaeologist in consultation with the Office of Environment and Heritage and submitted to Council for endorsement.

34. No Aboriginal objects may be harmed unless an Aboriginal Heritage Impact Permit has been issued by the NSW Office of Environment and Heritage.
35. If any Aboriginal objects are unearthed during construction all work must cease immediately and the NSW Office of Environment and heritage must be contacted for advice before any works re-commence.
36. All site workers and contractors must be provided with induction training on the identification of Aboriginal artefacts, Aboriginal cultural awareness and procedural protocols as outlined in the Aboriginal Heritage Management Plan during the construction phases of the development.
37. Section 4.10 of the Construction Environmental Management Plan shall be amended to embody the requirements of above conditions.
38. Section 4.10 of the Construction Environmental Management Plan shall be amended by deleting reference to 'Heritage Act 1977' and its replacement by National Parks and Wildlife Act 1974.

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

Visual Quality

39. Detailed design and construction plans of the proposed portable building shall be submitted to Council for endorsement prior to the issue of any construction certificate by the Principal Certifying Authority. The design of the building shall have regard to the visual quality of the locality and shall include:
 - (a) a design solution which positively mitigates potential visual impacts;
 - (b) external building finishes (including glazing);
 - (c) a colour palette (including colour samples)The buildings shall be constructed and finished in accordance with the approved plans to the satisfaction of the Principal Certifying Authority.
40. A detailed landscape plan shall be submitted and approved by Council prior to the issue of any construction certificate by the Principal Certifying Authority. The plan shall be prepared by a qualified landscape architect. The plan shall have regard to the visual quality of the locality and shall provide for:
 - (a) the provision of landscaping having a minimum width of 6 metres across the Cattle Bay Road frontage of the site;
 - (b) the provision of landscaping within the carpark area including the curtilage of the temporary building;
 - (c) the provision of landscaping having a minimum width of 3 metres across common boundary with Council's public reserve (Lot 4 DP 1138056).

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

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

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

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

Noise and Vibration

43. Prior to the issue of any construction certificate by the Principal Certifying Authority, Construction and Operational Noise Management Plans shall be submitted to Council for endorsement. The Plans shall be generally compliant with the Report prepared by West and Associates entitled 'Cattle Bay Marina Development Application Acoustic Report at Cattle Bay Road Eden' October 2015.

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

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

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

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

Aquaculture Integrity

47. The Construction and Operational Environmental Management Plans shall be amended as appropriate to give reference to the mitigation measures and recommendations made in the Water Quality Management Plan prepared by Ocean Environmental Consulting December 2018. The amendments are to be in consultation with all relevant authorities and submitted to Council for endorsement.

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

Public Interest

48. Sections 6 and 18 of the Operational Environmental Management Plan shall be amended to facilitate:
- a) The provisions of emergency berthing of vessels;
 - b) The casual and emergency overnight stay on vessels but limiting the period to a maximum of 6 nights to any calendar month; and
 - c) Allowing for the minor emergency or temporary repair and/or maintenance of vessels to restore sea worthiness.

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

Signage and Advertising

49. No advertising sign shall be erected, painted or displayed without prior approval from Council except those in accordance with Schedule 2 of Bega Valley LEP 2013 and/or the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

Reason: To ensure that appropriate signage is erected which contributes to the visual quality of the locality.

Building and Health Conditions

50. Application to connect to existing sewer service

A separate application to obtain approval to connect to Council's sewerage system under Section 68 of the Local Government Act 1993 must be submitted to Council for approval (copy attached). A plumbing and drainage plan is to be submitted with the application to Council.

51. Long Service Levy payments

The payment of a long service levy as required under Part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, proof that the levy has been paid is to be submitted to Council. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council's office.

Note: The Long Service Levy is a State Government Levy (not a Council fee).

52. Maintenance of site

- a) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.

- b) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- c) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- d) During construction:
 - i. All vehicles entering or leaving the site must their loads covered, and
 - ii. All vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- e) At the completion of the works, the work site must be left clear of waste and debris.

53. Drainage connections

- a. Roof storm water is to be disposed of to the satisfaction of council.
- b. Any roof storm water and surface water from driveways and car parking area to be conveyed to the watercourse.

54. Protection of adjoining areas

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of works if the works:

- a) Could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- b) Could cause damage to adjoining lands by falling objects, or
- c) Involve the enclosure of a public place or part of a public place.

55. Construction certificate must be obtained

A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing. A construction certificate certifies that the provisions of Clauses 79A-79H of the Environmental Planning and Assessment Amendment Regulations, 1998 have been satisfied, including compliance with the Building Code of Australia and conditions of development consent.

56. Occupation Certificate must be obtained

An **Occupation Certificate** must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of the *Environmental Planning and Assessment Act 1997* have been satisfied.

If you have obtained an Occupation Certificate that only covers part of the development a further Occupation Certificate for the whole development must be obtained within 5 years of the partial Occupation Certificate being issued.

57. Signs

Signs are to be provided at the front of the property or in a prominent location, and shall contain the following details: -

- owner's name, lot number and street number

- a rural address number (when relevant) provided at the entrance of the property (eg. affixed to an entrance gate)
- signage must clearly identify the Principal Certifying Authority (PCA) and contact number
- that unauthorised entry to the work site is prohibited
- details of the Principal Contractor (i.e. the coordinator of the building work).

58. Copy of plans onsite

The builder must at all times maintain on the job, a legible copy of all the relevant plans and specifications bearing the stamp and development consent of Council.

59. Toilet facilities

Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- a) Be a standard flushing toilet connected to a public sewer, or
- b) Have an on-site effluent disposal system approved under the Local Government Act 1993, or
- c) Be a temporary chemical closet approved under the Local Government Act 1993.

60. Garbage receptacle

- 1) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- 2) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

61. Floors of wet areas

The floors of wet areas shall be on an approved impervious material, properly graded and drained. The junctions of the floors with the walls shall be so treated as to prevent the penetration of moisture into the walls.

62. Waste pipes

All waste pipes, stack work and vents to be concealed.

63. Construction hours

Works shall be confined to normal working hours, being 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays, (no work on Sundays or Public Holidays) and in a manner so as not to cause a nuisance (by the generation of unreasonable noise or other activity) to the owners and/or residents of adjoining and adjacent properties.

Piling activities must only be conducted between 8am and 5pm Monday to Friday.

Variations to these hours or days may be approved by the consent authority on a case by case basis.

64. Accessible car parking

Car parking spaces provided for people with disabilities shall be designed and constructed to comply with requirements of AS/NZS 2890.6:2009 (Off-street parking for people with disabilities)

Note: An accessible path of travel is required from the designated car space to the principal entrance of the building.

65. Erosion and sediment controls

The Principal Certifying Authority shall be provided with details of the sediment and erosion control measures to be implemented and maintained until the site is fully revegetated and landscaped.

66. Annual fire safety statement – essential fire safety – Class 2-9

The owner of a building, to which an essential fire safety measure is applicable, shall provide Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:

- a) deal with each essential fire safety measure in the building premises, and
- b) be given:
 - within 12 months after the last such statement was given, or
 - if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

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

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

67. Fire safety statement – critical fire safety – Class 2-9

A supplementary fire safety statement is to be given to Council where a critical fire safety measure is implemented. A supplementary fire safety statement for a critical fire safety measure must be given at such intervals (being intervals of less than 12 months) as is specified in respect of that measure in the current fire safety schedule for the building.

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

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

68. A fire safety list of essential fire or other safety measures shall be submitted prior to the issue of the Construction Certificate. The fire safety list shall specify all measures (both current and proposed) that are required for the building so as to ensure the safety of persons in the building premises in the event of fire. The fire safety list must distinguish between the measures that are:-

- a. Currently implemented in the building premises; and
 - b. To be proposed to be implemented in the building premises, and must specify the minimum standard of performance for each measure.
69. The final construction plans shall demonstrate compliance for the access of people with disabilities and must be provided in accordance with the requirements of the Building Code of Australia, AS 1428.1, AS3962 and with regard to the Disability Discrimination Act 1992 - Access to Premises Standards 2010. These plans shall be submitted to Council for concurrence prior to the release of any construction certificate.
70. A revised design of the shore based amenities incorporating an additional unisex sanitary compartment with shower and an outside cold water shower are to be submitted to Council for concurrence prior to the release of any construction certificate.
71. Toilet and shower facilities shall be made available to marina patrons at all times.
72. Sanitary facilities are to be made available to all visitors to the wharf during daylight hours.
73. All wharf, ramp and pontoon decks are to be finished with non-slip surface.
74. All pontoon arm gates shall be readily openable in the direction of egress without a key by way of a single downward acting handle.

Engineering Conditions

Roads and Easements

75. Section 138 approval for construction works within the road reserve
An application for approval under Section 138 of the Roads Act, 1993 for works within the road reserve shall be submitted to Council for acceptance. The Section 138 application shall be accompanied by construction plans and specifications for all public engineering works within the road reserve required as part of this development consent.

These works shall be designed in accordance with Council's Development Design and Technical Specifications as current at the date of approval, and sound engineering practice.

The works shall be designed by persons holding suitable qualifications and experience for design of works of this type and current professional indemnity insurance.

Note: Evidence of the concurrence of Roads and Maritime Services to the design of all works within any classified road (as defined in the Roads Act, 1993) must be provided to Council.

76. Design of Gross Pollutant Trap
Prior to the issue of any construction certificate for work on Lot 2 DP 1138056 full engineering detail of the Gross Pollutant Trap and proposed method of installation shall be submitted to and approved by Council. Stormwater runoff from the proposed car park shall be directed through a Gross Pollutant Trap, prior to discharge to a Council controlled stormwater system, or an existing waterway.

The Gross Pollutant Trap shall be designed and Installed in such a way that there is no reduction in capacity of the existing stormwater pipelines and backflow through the Gross Pollutant Trap is prevented during surcharged conditions.

The system shall be designed for optimum performance in the 1 year ARI rainfall event.

77. **Heavy Vehicle Manoeuvring Plan**
Prior to the issue of any construction certificate Council must be provided with a plan demonstrating that the largest proposed service vehicle can manoeuvre within the site and exit in a forward direction.
78. **Protection of existing public infrastructure**
Lodgement of security with Council, in the amount of \$10,000, for remedying any damage to any public assets resulting from the execution works in connection with this consent.

Security can be provided by the payment of money or by unconditional bank guarantee in a form acceptable to Council. A bond administration fee will be payable to council, as per the latest schedule of fees and charges.

The funds realised from this security may be paid out by Council to meet any costs referred to in this condition.

79. **Contractor's insurance (Public Works)**
Each contractor engaged in the construction of public works (such as road work, kerb and guttering, footway construction, stormwater drainage, water supply, sewerage works and environmental controls) must provide evidence of public liability insurance (minimum \$20,000,000.00) endorsed to note the contractor and Council for their rights and interests.

Prior to construction work commencing

80. **Traffic Control Plan**
No work shall be carried out within six metres of the carriageway of a public road subject to motor vehicle traffic until Council has sighted a satisfactory Traffic Control Plan relating to that work, and the relevant Roads Authority has issued any associated Roadworks Speed Limit. The Traffic Control Plan shall be prepared by a person who is authorised by the Roads and Maritime Services to prepare these plans. Evidence of Certification must be submitted with the Traffic Control Plan.

The Council endorsed Traffic Control Plan shall be referenced in any subsequent Construction Environment Management Plan for the marina development and shall be implemented to give effect to this condition.

All measures described in the Traffic Control Plan shall be implemented and maintained for the duration of any work within/adjacent to the road carriageway.

81. **Asset Protection Plan**
Prior to any site works commencing, a detailed stormwater and sewerage asset protection plan shall be submitted to and endorsed by Council. The Plan is to be developed in consultation with relevant Council Staff and is to detail all protection arrangements to ensure the integrity of Council's infrastructure with regard to the movement of heavy plant in and around the development site.

The endorsed asset protection plan shall be referenced in any subsequent Construction Environment Management Plan for the marina development and shall be implemented to give effect to this condition.

During construction

82. Certification and inspection of public engineering works
All public engineering works (driveway crossover, footpaths, roadworks, stormwater works etc) must be inspected and tested by Council's inspector in accordance with Council's Development Design and Construction Specifications.

Typically, inspections are required at, but not limited to, the following stages.

- a. After placement of all signs and control measures in accordance with the approved Traffic Control Plan
- b. After stripping of topsoil from roads and fill areas, all Soil & Water Management Plan controls shall be in place at this stage
- c. After completion of road subgrade
- d. After placement and compaction of each layer of gravel pavement material
- e. During application of bitumen seal or asphaltic concrete wearing surface
- f. After laying and jointing of all stormwater pipelines prior to backfilling
- g. After surface preparation, placing reinforcement and prior to pouring concrete for roads and driveways
- g. After completion of works
- h. As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls

It should be noted that Council charges fees for inspections and certificates.

The developer will complete quality assurance testing of all public asset works in accordance with the inspection and testing plans detailed in Council's Development Construction Specifications.

Testing results shall be provided as required throughout the construction phase of the development.

83. Erosion and sediment controls
Construction and maintenance of all erosion and sediment control works necessary to ensure that the quality of stormwater discharged from this development site, both during and after the construction period, is similar to the quality of stormwater runoff from the site in an undeveloped state. These works shall be documented in a site specific Soil and Water Management Plan. These plans shall be in accordance with Council's Development Design Specification D7, Erosion Control and Stormwater Management.

Note: Technical advice on the design, construction and maintenance of stormwater quality control measures is contained in NSW Government and Landcom, "Managing Urban Stormwater - Soils and Construction" (4th Edition 2004).

Note: The responsibility for the maintenance of all works constructed for controlling stormwater quality shall remain with the developer until the end of the defects liability period except where an extended maintenance condition has been imposed.

84. Road upgrade works
Prior to the issue of any occupation certificate for any part of the approved development, Cattle Bay Road shall be upgraded.

Design of these works shall be in accordance with the engineering plans prepared by Tasman Engineering Consultants entitled "Cattle Bay Road Upgrade Concept" drawing number E191 (sheets 1 to 5 inclusive) dated 19 June 2017 and the following conditions:

- An amended pavement joint detail is to be included. The interface between new and existing pavement shall be stepped or transitioned. Pavement joints shall not be located under the likely wheel path,
- The second coat of seal must extend to the crown of the road,
- Installation of guideposts, protection fencing, pavement markings and signposting to standards specified in the Austroads Guide to Road Design are required.

85. Concrete footpath crossing

The construction of a concrete footpath crossover(s) is required between the edge line and the road boundary, in accordance with Council's standard drawings 1691 and 1692.

Detailed design of the driveway and carpark area shall avoid conflict with existing and any proposed sewer manholes.

86. Road signage

The following signage is to be installed by the developer.

- Signage prohibiting a right turn into Cattle Bay Road from the development,
- Signage installed on Mitchell St/ Imlay St (Princes Highway) to direct patrons to the Marina via that route and,
- Local traffic only signage be installed on Cattle Bay Road at approximately chainage 450m and 657m.

A plan of signage is to be approved as part of the Section 138 application.

Regulatory signage must be approved by Council's Local Traffic Committee.

87. Removal of gross pollutants

Construction of the gross pollutant trap required by this consent.

Prior to issue of an Occupation Certificate

88. Easement to contain Council owned drainage works

Establishment of easements to drain water not less than 3.0 metres wide (piped) in favour of Council within Lot 2 DP 1138056 to contain stormwater drainage works that form part of the Council-controlled drainage system.

A copy of the plan registered with the NSW Land and Property Information creating this easement shall be provided to the Council demonstrating compliance.

89. Easements for services

Establishment of easements for services as necessary to provide for the connection of water supply, sewerage, electricity and telecommunications services.

A copy of the plan registered with the NSW Land and Property Information creating this easement shall be provided to the Council demonstrating compliance.

90. Engineer's certification – development works

Council shall be provided with certification from a suitably qualified and experienced chartered professional engineer (or equivalent) confirming that the Gross Pollutant Trap works satisfy the specified performance and acceptance criteria.

91. Works as executed plans

Council shall be provided with the following works as executed plans for all public assets constructed:

- a) A PDF copy of the construction certificate plans clearly marked up to show all variations from the approved design.
- b) AutoCAD DWG or DXF file that includes the as-built details of all works. The map projection in the drawing shall be MGA94 Zone 55 and different infrastructure elements shall be delineated into different drawing layers.

Works as executed plans must be prepared and certified by an experienced Surveyor or Professional Engineer as a complete and accurate record of the work.

92. Public Engineering Works Completion Certificate

All public engineering works (driveway crossover, footpaths, roadworks, stormwater works etc) shall be constructed in accordance with the accepted construction plans, Council's Development Construction Specifications and conditions of this consent.

In this regard a Completion of Engineering Works Certificate (Compliance Certificate) must be obtained from Council prior to the issue of any Occupation Certificate.

Conditions of use

93. Public Parking Area

The on-site driveways and carparking areas associated with the proposed marina development shall be made available at all times to the general public for the purpose of access and parking until such time as alternative parking has been provided to council's satisfaction.

Water and Sewer Services

94. Certificate of compliance

A Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the *Water Management Act 2000* must be obtained prior to the issue of any Construction Certificate.

95. Sewerage supply design (gravitational areas)

The design of all sewerage reticulation works including sewerage junction works and any associated facilities to service the development shall be in accordance with WSAA Codes and Australian Standards. All plans and specifications for proposed sewerage works are to be approved by Council.

Note: Designs are to be of sufficient depth and grade so that at least 90% of the developable land can drain to proposed reticulated sewerage system. This may require augmentation of Council's existing sewerage system. The applicant is advised to consult with Council before proceeding with detailed design and specifications for any sewer reticulation works.

96. Water supply construction

Construction of all water supply reticulation works and associated facilities to service the proposed development shall be as per the approved design plans. Any construction must be carried out by Bega Valley Shire Council accredited contractor(s) and in accordance with WSAA Codes and Australian Standards.

97. Sewer construction

Construction of all sewerage reticulation works including sewerage junction works and any associated facilities to service the development shall be in accordance with the approved

design plans. Any construction shall be carried out by Council accredited contractor(s) and in accordance WSAA Codes and Australian Standards.

98. Hydraulic engineer's report for internal plumbing

A hydraulic consultant or suitably qualified person shall verify whether the existing water service and water meter size is suitable for the proposed development, as required by the current Australian Standard 3500 and the New South Wales Code of Practice - Plumbing and Drainage. Certification shall be lodged with Council confirming such and where required, the applicant shall make application for modification to the metered service.

99. Hydraulic engineer's report for firefighting pressure

A hydraulic consultant or suitably qualified person shall verify that the residual network pressure as a result of the proposed fire suppression system is greater than 150kPa. If a residual pressure of 150kPa is not achievable, a break tank shall be required. Certification shall be lodged with Council confirming such.

100. Certification and inspection of work

The works must be inspected and tested by Council's inspector at each stage of construction listed below, in accordance with Council's Technical Specification for Civil Engineering Works.

A Completion of Engineering Works Certificate must be obtained from Council to demonstrate that all works have been completed.

Inspections must be conducted at the following stages:

- a) After placement of all signs and control measures in accordance with the approved Traffic Control Plan;
- b) After laying and jointing of all water supply pipelines prior to backfilling;
- c) After laying and jointing of all sewerage pipelines prior to backfilling;
- d) During pressure testing of all water supply pipelines;
- e) During pressure testing of all sewerage pipelines;
- f) During testing of all sewer manholes;
- g) After completion of works;
- h) As otherwise required to confirm that the works are satisfactorily executed and in conformity with environmental controls.

It should be noted that Council charges fees for inspections and certificates.

101. Drainage – liquid trade waste

A separate application to obtain approval to discharge liquid trade waste to Council's sewerage system under Section 68 of the *Local Government Act 1993* must be submitted to Council for approval. If the applicant is not the owner of the premises, the applicant must obtain the owner's consent to the application.

Note: Application forms are available on Council's website.

102. Works as executed plans

Council shall be provided with the following works as executed plans for all subdivision works:

- a) A PDF copy of the subdivision works certificate plans clearly marked up to show all variations from the approved design.
- b) AutoCAD DWG or DXF file that includes the as-built details of all works. The map projection in the drawing shall be MGA94 Zone 55 and different infrastructure elements shall be delineated into different drawing layers.

Works as executed plans must be prepared and certified by an experienced Surveyor or Professional Engineer as a complete and accurate record of the work.

103. A detailed waste water management plan shall be provided to Council for endorsement. The waste water management plan shall include, but not be limited to, the management of discharge of any boat pump out system wastes including bilge water, galley waste, toilet waste and chemical toilet waste, carting and disposal arrangements.

Note: Council does not permit any discharge of bilge water to the sewerage system

Reason: These conditions are to ensure compliance with the Liquid Trade Waste regulation guidelines.

104. Detailed design of a dockside waste water pump out point, or an on-land connection point to the local sewerage system for a mobile waste water pump out unit shall be submitted to, and approved by Council. Any on-land connection point for a mobile waste water pump out unit shall be contained entirely within the development and may not encroach onto road reserve or public land. This connection point shall include:
- a) Physical measures for the prevention of spills
 - b) Provision for wash down / cleaning of the mobile unit within a bunded area
 - c) Provision of a sampling point for the quality of discharge to Council sewer
 - d) Measures for the prevention of odour
 - e) Physical measures to exclude unauthorised public access
 - f) Ongoing maintenance and ownership of this connection point will remain the responsibility of the marina owner/operator.

Reason: To ensure the provision of a sanitary method of disposal of waste water from vessels moored at the marina facility.

The above conditions are in the public interest to reduce any potential environmental impact and to ensure the proposed development complies with:

- the provisions of the *Environmental Planning and Assessment Act 1979* and Regulations
- any environmental planning instruments applying to the subject land
- Council's codes and policies
- *Section 94 Development Contribution Plan* and *Tree Preservation Order*.

Advisory Note

As per Council's fees and charges, there is a fee for the checking of Engineers 'Building over Sewers' details. This fee will need to be paid with submission of the Engineers details.

Notes:

1. The proponent, or any entity or contractor acting on their behalf, are not exempt from the provisions of the Marine Safety Act 1998, or any other relevant legislation, and all parties must comply with any direction given by Roads and Maritime Services' officers with regard to safe navigation or the prevention of pollution.
2. In accordance with the provisions of Section 82A of the *Environmental Planning and Assessment Act 1979* (as amended) the applicant can request Council to review this determination. The request must be made within a period of 6 months from the date shown on this determination. A fee, as prescribed under Council's current Management Plan – Fees and Charges, is payable for such a review.
3. Section 97 of the *Environmental Planning and Assessment Act 1979* (as amended), gives the applicant the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.
4. In accordance with Section 95 of the *Environmental Planning and Assessment Act 1979*, this development consent will lapse 5 years after the date from which it operates ('Consent to Operate' date) unless work is physically commenced, on the land to which the consent applies, before the date on which the consent would otherwise lapse ('Consent to Lapse' date).
5. Before any building works are commenced a Construction Certificate must be obtained from Council or an accredited certifier.
6. It is the applicant's responsibility to advise Council of any changes to contact details in a timely manner. Council will not be held responsible for any lost documents, delays or missed inspections if any of the details are in any way not up-to-date. Should duplicate documents be required they will incur an additional fee in this circumstance.

Mark Fowler

Senior Town Planner

FOR BEGA VALLEY SHIRE COUNCIL

General Terms of Approval - Issued



Notice No: 1586455

Bega Valley Shire Council

Bega NSW 2550

Attention: Mark Fowler

Notice Number 1586455
Date 04-Oct-2019

Re: Eden Cattle Bay Marina Pty Ltd - Proposal for Cattle Bay Marina

Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979

I refer to the development application and accompanying information provided for the proposed Cattle Bay Marina received by the Environment Protection Authority (EPA) on 26 September 2019.

EPA has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence.

The general terms of approval for this proposal are provided at attachment A. If Bega Valley Shire Council grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable EPA to determine whether its general terms need to be modified in light of the changes.

In assessing the proposal EPA has also identified a number of environmental issues that Bega Valley Shire Council may wish to consider in its overall assessment of the application. Specifically, it is recommended that council:

1. Require residents along streets fronting the proposed marina location to be appropriately notified of the time and duration of any piling works if they are to be impact piling
2. Restrict repairs and/or maintenance works on the existing wharf to standard construction hours

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3. Require an appropriate Marina Occupation Agreement between marina owner and the owner/operator of any vessel berthing at the marina, as described in 8.2 of the EIS

If you have any questions, or wish to discuss this matter further please contact Tristan Johnston on (02) 6229 7002.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M Rizzuto'.

.....
Matthew Rizzuto

Unit Head

South East - Queanbeyan

(by Delegation)

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Administrative conditions

Note: Mandatory conditions for all general terms of approval

A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application 2019.108 submitted to Bega Valley Shire Council on 5 July 2019;
- any environmental impact statement within Environmental Impact Assessment - Marina Development at Cattle Bay, Eden, April 2019 (DOC19/854638-1) relating to the development; and
- Appendices 1 - 27 supplied to the EPA in relation to the environmental impact statement, including but not limited to:
 - *Eden Marina Project Report* - March 2019 (DOC19/854638-1)
 - *Cattle Bay Marina Water Quality Management Plan* - December 2018 (DOC19/854638-1)
 - *Cattle Bay Marina Development Application Air Quality Report At Cattle Bay Road Eden for Eden Resort Hotel Pty Ltd (Issue C)* - 14 October 2015 (DOC19/854638-1)
 - *Cattle Bay Marina Development Application Acoustic Report At Cattle Bay Road Eden for Eden Resort Hotel Pty Ltd (Issue E)* - 13 October 2015 (DOC19/854638-1)

A2. Fit and Proper Person

A2.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

Limit conditions

L1. Pollution of waters

L1.1 Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

Note: For the purpose of L1 pollution of waters include but is not limited to wash water and detergent generated from boat cleaning activities, detergent, paint, fuel, oil, grease, debris, litter and sediment.

L2. Waste

Note: Mandatory conditions to be placed on all general terms of approval

L2.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be

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disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

L2.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

L2.3 The applicant must assess, clarify and manage any waste generated at the premises in accordance with the Waste Guidelines prior to dispatching the waste off site.

L2.4 For the purpose of condition L2, waste generated at the premises includes waste collected from vessels at the premises and may include but not limited to contaminated bilge water, litter, garbage, fuel, oil and waste from abrasive cleaning, sanding, scraping and painting.

L3. Noise limits

Hours of operation

L3.1 Normal construction work at the premises must only be conducted between 7:00am and 6:00pm Monday to Friday, and 8:00am to 1:00pm Saturday. No work is to be conducted on Sundays and Public Holidays. Piling activities must only be conducted between 8:00am, and 12:00pm and 5:00pm Monday to Friday.

L3.2 This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.1, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

L3.3 The hours of operation specified in conditions L6.1 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

Operating conditions

O1. Activities must be carried out in a competent manner

O1.1 Activities must be carried out in a competent manner

This includes:

- a. The processing, handling, movement and storage of material and substances used to carry out the activity;
- b. The treatment, storage, processing, reproducing, transport and disposal of waste generated by the activity;
- c. The clearing of boats and disposal of waste water generated from the cleaning of boats

O2. Odour

O2.1 No condition of this approval identifies a potentially offensive odour for the purposes of the Protection of the Environment Operations Act 1997

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03. Dust

03.1 Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

03.2 Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

Note: Guidance information on the source of odours, dust and particulates is available in the Environmental Guidelines - Best Management Practice for Marinas and Boat Repair Facilities, 1999.

04. Waste management

04.1 All activities at the premises must be carried out in a manner that will prevent waste from polluting waters.

04.2 The applicant must provide facilities to ensure the collection, storage and disposal of waste generated at the premises so that it does not pollute waters

04.3 For the purposes of condition 04:

- a. Waste generated at the premises includes waste collected from vessels at the premises and may include but not be limited to contaminated bilge water, litter, garbage, fuel, oil and waste from abrasive cleaning, sanding, scraping, painting and any waste water generated from boat washing activities.
- b. Facilities may include but not be limited to tarpulins, waste bins, pump-out facilities, signage and agreements with those operating on the site

Note: All waste that contains organotin biocides must be collected, stored and disposed of in accordance with the Organotin Waste Chemical Order 1989. Guidance information relating to the Organotin Chemical Control Order and other solid and liquid waste is provided in the Environmental Guidelines - Best Management Practices for Marina and Boat Repair Facilities, 1999

04.4 The applicant must ensure that contaminated stormwater at the premises is managed in a manner that will prevent pollution of waters

Note: Information on sources of stormwater containment and management of contaminated stormwater is provided in Environmental Guidelines - Best Management Practices for Marina and Boat Repair Facilities, 1999.

04.5 The applicant must ensure that sewage and greywater, that is associated with vessels at the premises, is managed in a manner that will prevent pollution of waters.

Note: Information on collection of sewage and greywater from vessels is provided in the Environmental Guidelines - Best Management Practices for Marina and Boat Repair Facilities, 1999.

Note: Materials and substances includes but not limited to vessels, watercraft, tanks and engines.

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Monitoring and recording conditions

M1 Monitoring records

M1.1 The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

M1.2 All records required to be kept by the licence must be:

- a. in a legible form, or in a form that can readily be reduced to a legible form;
- b. kept for at least 4 years after the monitoring or event to which they relate took place; and
- c. produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected:

- a. the date(s) on which the sample was taken;
- b. the time(s) at which the sample was collected;
- c. the point at which the sample was taken; and
- d. the name of the person who collected the sample.

Reporting conditions

R1 Annual return documents

R1.1 The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

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Attachment – Mandatory Conditions for all EPA licences

Administrative conditions

Operating conditions

Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner.

This includes:

- a. the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b. the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the licensed activity:

- a. must be maintained in a proper and efficient condition; and
- b. must be operated in a proper and efficient manner.

Monitoring and recording conditions

Recording of pollution complaints

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- the nature of the complaint;
- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
- if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made.

The record must be produced to any authorised officer of the EPA who asks to see them.

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Telephone complaints line

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.

Reporting conditions

Annual Return documents

What documents must an Annual Return contain?

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a. Statement of Compliance; and
- b. Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

Period covered by Annual Return

An Annual Return must be prepared in respect of each reporting, except as provided below

Note: *The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.*

Where this licence is transferred from the licensee to a new licensee,

- a. the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b. the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: *An application to transfer a licence must be made in the approved form for this purpose.*

Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

- a. in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
- b. in relation to the revocation of the licence – the date from which notice revoking the licence operates.

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Deadline for Annual Return

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

Notification where actual load can not be calculated

(Licences with assessable pollutants)

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee's control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- a. the assessable pollutants for which the actual load could not be calculated; and
- b. the relevant circumstances that were beyond the control of the licensee.

Licensee must retain copy of Annual Return

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a. the licence holder; or
- b. by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

Notification of environmental harm

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

Written report

Where an authorised officer of the EPA suspects on reasonable grounds that:

- a. where this licence applies to premises, an event has occurred at the premises; or

General Terms of Approval - Issued



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- b. where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a. the cause, time and duration of the event;
- b. the type, volume and concentration of every pollutant discharged as a result of the event;
- c. the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- d. the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;

any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

General conditions

Copy of licence kept at the premises or on the vehicle or mobile plant

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

Our Ref: IDA19/80
Your Ref: DA 2019.208

29 July 2019

M Fowler
Senior Planner
Bega Valley Shire Council
PO Box 492
BEGA NSW 2550

Dear M Fowler,

Proposal: Integrated Development – 2019.208 – Erection 154 Berth Marina and Wave Attenuator

Property: Lot 2 & 4 DP 1138056 and the waters of Cattle Bay – Cattle Bay Road, Twofold Bay, Eden

Thank you for your referral of 5 July 2019 seeking comment on the proposal from DPI Fisheries, a division of NSW Department of Primary Industries. Thank you for your payment of the IDA assessment fee of \$320.00, a receipt has been sent to you separately.

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)*. In addition, DPI Fisheries is responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture and marine protected areas within NSW.

In relation to aquaculture the Department aims to encourage, support and protect sustainable aquaculture and to conserve and enhance the community's resources. To work with aquaculture industries, the community and other agencies to ensure aquaculture develops in a sustainable manner.

The Environmental Impact Statement (EIS) and associated appendices for the proposal have been reviewed by the Department.

Construction Environmental Management Plan (CEMP)

The Department requests the following amendments and inclusions be made to the CEMP

4.2 Soil and Water Management

- That a requirement for Environmental safeguards and mitigation methods to be installed for the marina construction works are consistent with "Managing Urban Stormwater: Soils and Construction" (4th Edition Landcom, 2004, aka the Blue Book) be included.
- That stockpiles should be located 20 metres away from adjacent water land. Stockpiles should be appropriately controlled by sediment fencing or other materials as prescribed in "Managing Urban Stormwater: Soils and Construction" (4th

Edition Landcom, 2004, aka the Blue Book) to ensure sediments do not enter the waterway

4.4 Water Quality

- That monitoring of turbidity during constructional 'impact' and 'control' sites be conducted on a **daily** basis.
- Additional mitigation method should be included;
 - visual monitoring of the worksite during construction is to be conducted to ensure that no visible turbid plumes are entering the environment.
 - anchors, cables, barge spuds etc, are not to be located within areas of seagrass or rocky reef.
 - hydraulic lines on plant operating on or adjacent to the water are to be sleeved to contain leaks or bursts.

I can advise that the Department is prepared to issue a Part 7 permit to enable construction of the Cattle Bay Marina and has no objections to Council issuing consent for the proposal, subject to the following General Terms of Approval (GTAs). As per s.91A(3) of the *Environmental Planning and Assessment Act 1979*, any consent issued by Council must be consistent with these GTAs.

1. The proponent must apply for and obtain a Part 7 permit for **dredging and reclamation** (s.201) and to **harm marine vegetation** (s.205) under the FM Act from DPI Fisheries prior to the commencement of any piling works on site, or lowering of the rock pinnacle. Permit application forms are available from the DPI Fisheries website at: <http://www.dpi.nsw.gov.au/fisheries/habitat/help/permit>;
2. All works must conform to and be consistent with the Environmental Impact Assessment (EIS) by Eden Cattle Bay Marina Pty Ltd dated April 2019 and associated appendices;
3. Environmental safeguards (e.g. silt curtains, sediment fences, booms etc.) are to be installed for the marina construction works consistent with "Managing Urban Stormwater: Soils and Construction" (4th Edition Landcom, 2004, aka the Blue Book) to ensure that there is no escape of turbid plumes into the aquatic environment;
4. Proposed Water Quality Monitoring Programs for both construction and operational periods are to be developed and provided to DPI Fisheries for comment and endorsement prior to the commencement of any works;
5. An amended Construction Environmental Management Plan (CEMP) is to be developed and provided to DPI Fisheries for comment and endorsement prior to the commencement of any works;
6. Debris and rubbish located in the vicinity of the existing jetty is to be removed;
7. Spill kits suitable for the containment of fuel and oils spills must be kept on site during construction; and
8. DPI Fisheries (1800 043 536) is to be immediately notified of any fish kills in the vicinity of the works. In such cases, all works other than emergency response procedures are to cease until the issue is rectified and written approval to proceed is provided by DPI Fisheries.

General comments related to operational risks and impacts over the longer term

Aquaculture

There are two Priority Aquaculture Areas (mussel leases) located 500 metres from the proposed marina and an additional two leases further south. These mussel leases are located within a NSW Shellfish Harvest Zone. Harvest standards are prescribed under

the NSW Shellfish Program administered by the NSW Food Authority, and the NSW mussel industry has a statutory responsibility to meet these standards. These standards also reflect the Australian standards for shellfish harvest prescribed in the Australian Shellfish Quality Assurance Program. These internationally accepted water quality standards are designed to protect consumers of shellfish from human pathogenic bacteria and viruses. Bacteria and viruses can accumulate in shellfish where shellfish growing waters are polluted by sewage or stormwater effluent.

Harvest of shellfish can be terminated if water quality deteriorates beyond accepted water quality standards. The long term protection of sanitary water quality in the area is therefore essential for human health reasons and the ongoing viability of the leases.

Concerns in relation to aquaculture broadly include:

- The potential risk to human health associated with accidental or intentional unmonitored sewage discharge from vessels. Discharges can result in closure of mussel leases to shellfish harvest and if not identified promptly, could result in contaminated shellfish entering the market place resulting in potential life threatening human health issues. Closure of mussel leases impacts the livelihood of mussel farmers and the economic flow-on to mussel farmers' service providers.
- Given the sensitivity of adjacent waters, the most critical issue for consideration in the proposed development is the potential for spill or process failure, causing human pathogenic viruses and bacteria to enter adjacent waters and potentially impact the water quality of adjacent mussel growing areas.

Appropriate conditions must be imposed to eliminate the risk of human pathogenic viruses and bacteria associated with sewage or sewage disposal systems affecting the sanitary water quality of the adjacent mussel growing areas.

Of serious concern is the limited provision made for onshore toilets and showers for marina users. The Department questions the adequacy of 1 shower, 4 toilets, 2 urinals and no laundry facilities being able to service a fully occupied and operational 154 berth marina. The ready availability of onshore facilities would reduce the risk of clandestine discharges from vessels.

DPI Fisheries has liaised with the NSW Food Authority regarding this referral, which has assessed the development application and provides the following response:

"The previous comments (provided by email 9 October 2017) would apply only if the storage tank component of the proposal was being pursued. As advised in the same email, 'the best outcome would be connection to the reticulated sewerage system and remove the effluent from the site'.

We note that the current DA supports wastewater being discharged into the Council wastewater system and '*suggests transporting the wastewater from the development to the existing manhole DZ1*'.

It is recommended that any private pump station installed as part of the development must be included on Council's inspection program as a high risk system."

Operational Management Plan

The Department requests the following amendments and inclusions be made to the Operational Environmental Management Plan;

9. Hazard Management

- i) a) The Marina Manager shall conduct **daily** inspections to monitor the site for leaks and spills

- iv) b) Cattle Bay Marina shall monitor the site on a **daily basis** to prevent discharges to bilge water and grey water from sinks, showers or other sources

14. Liquid Waste Management

- i) Cattle Bay Marina staff shall undertake **daily** inspections of the harbour waterways for detection of wastes, debris, oil slicks, coloured dye and other such material ...

15. Waterway Pollution

- ix) Cattle Bay Marina shall conduct **daily** inspections of the water surface ...

16. Water Quality

- iii) That levels of faecal coliform be included in the post construction monitoring of the water quality testing program

Super Yacht Berthing

We note that the super-yacht berthing area is situated in relatively shallow water (adjacent to and within the 5m depth contour). The EIS provided states that no dredging of Cattle Bay or Twofold Bay is required or proposed associated with this DA. DPI Fisheries is concerned that this location will provide inadequate keel clearance for its intended purpose and believe that further evidence is needed to confirm that dredging will not be required in this location.

We also have concerns about the capacity of the “muck truck” in relation to the sewage disposal requirements for “super yachts”. The effectiveness of the “muck truck” as an effective sewage disposal method for “super yachts” or provision of alternative arrangements should be detailed.

Recreational Fishing

The existing jetty is a popular local recreational fishing location. Any restrictions on public access will result in a reduction in recreational fishing opportunities. DPI Fisheries supports the proposal “that the marina will be made available to the public during marina opening hours (summer, Daylight saving 7am – 6pm, winter, Non-daylight saving 7am to 5pm)”. We also support the commitment to retaining 24hour per day public access to the jetty.

Wave Attenuator

There are currently 2 separate wave attenuators proposed for construction within Twofold Bay. The proposal has not included any assessment of the interaction of the two structures and the ultimate impacts on wave action.

Redistribution of sediments can lead to smothering of marine habitats such as rocky reef and seagrass vegetation along with land based erosion. The initial study based on the construction of a single wave attenuator predicted the realignment of Cattle Bay Beach. Further predictive studies analysing the combined impacts of both attenuators should be undertaken. A long term monitoring program should also be established to ensure that any predictions made in the modelling are accurate.

If council decides to issue development consent for the marina, DPI Fisheries recommends that the following conditions of consent be included to address ongoing operational issues:

1. Adequate onshore toilet, shower and laundry facilities are to be provided for the use of marina patrons.
2. An amended Operational Environmental Management Plan (OEMP) is to be developed and provided to DPI Fisheries for comment and approval prior to the commencement of operation.

3. An introduced marine species (IMS) management plan for construction and operation be developed and referred to DPI Fisheries (Biosecurity Division) for comment and approval prior to commencement of any works.
4. All relocated moorings are to be located outside of areas of rocky reef and seagrass.
5. All relocation moorings are replaced with sea-grass friendly moorings.
6. The finalised proposal(s) for the relocation of swing moorings be referred to DPI Fisheries for endorsement prior to commencement of any works.
7. The current 24hr per day public access to the existing jetty is not restricted or compromised by the operation of the marina.
8. The marina facility is made accessible to non-paying recreational users during marina opening hours as outlined in section 3.8 of the EIS.
9. The proponent is to keep detailed records in relation to the use and effectiveness of the "muck truck", including dates, times, name and berth of vessels using the machine, number of uses and volume and type of waste removed (sewage, grey water, bilge water).
10. Copies of the test reports produced from the operational water quality testing program be provided to DPI Fisheries.

If you require any further information, please contact me on (02) 4428 3007.

Yours sincerely



Jillian Reynolds
Fisheries Manager
Coastal Systems - South