



PO Box 492, Bega NSW 2550
P. (02) 6499 2222
F. (02) 6499 2200
E. council@begavalley.nsw.gov.au
www.begavalley.nsw.gov.au
ABN. 26 987 935 332
DX. 4904 Bega

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	2019.208
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 8 and 11 to 21 dated April 2019.
- b. Cattle Bay Marina Response to Agency Submissions, inclusive of Appendices numbered A to E dated 23 September 2019.
- c. Revised Construction Environmental Management Plan dated February 2020 and Operational Environmental Management Plan dated February 2020

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).
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 final Construction Environmental Management Plan and Operational Environmental Management Plan incorporating all required 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.

Hazard Management

24. 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 attached to the final 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.

25. 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.

26. 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

27. 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.

28. 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.

29. 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

30. Prior to the issue of any construction certificate by the Principle certifying Authority, a Marine Mammal Protection Plan (MMPP) shall be prepared in consultation with the NSW Department of Planning, Industry and Environment, Biodiversity Conservation Division. The MMPP must be attached to both the Construction Environmental Management Plan and Operational Environmental Management Plan.

Aboriginal Cultural Heritage

31. Prior to the commencement of any works that will occur below the existing concrete slabs required for their renovation for carparking areas/driveways, 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 NSW Department of Planning, Industry and Environment and submitted to Council for endorsement.

32. No Aboriginal objects may be harmed unless an Aboriginal Heritage Impact Permit has been issued by the NSW Department of Planning, Industry and Environment.
33. If any Aboriginal objects are unearthed during construction all work must cease immediately and the NSW Department of Planning, Industry and Environment must be contacted for advice before any works re-commence.
34. 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.

Visual Quality

35. 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.

36. 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.

37. Lighting of the marina component shall be in accordance with Australia Standard AS 3962-2001 'Guidelines for Design of Marinas'.

38. 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

39. 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.
40. 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.

Signage and Advertising

41. 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

42. 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.

43. 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).

44. 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.

45. 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.

46. 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.

47. 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.

48. 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.

49. 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).

50. 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.

51. 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.

52. 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.

53. 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.

54. Waste pipes

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

55. 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.

56. 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.

57. 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.

58. 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.

59. 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.

60. 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.
61. 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.
 62. 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.
 63. Toilet and shower facilities shall be made available to marina patrons at all times.
 64. Sanitary facilities are to be made available to all visitors to the wharf during daylight hours.
 65. All wharf, ramp and pontoon decks are to be finished with non-slip surface.
 66. 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

67. 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.

68. 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.

69. 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.

70. 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.

71. 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

72. 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.

73. 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

74. 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.

75. 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.

76. 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.

77. 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.

78. 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.

79. Removal of gross pollutants

Construction of the gross pollutant trap required by this consent.

Prior to issue of an Occupation Certificate

80. 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.

81. 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.

82. 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.

83. 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.

84. 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

85. 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

86. 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.

87. 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.

88. 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.

89. 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 WSAAs Codes and Australian Standards.

90. 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.

91. 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.

92. 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.

93. 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.

94. 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.

95. 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.

96. 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:

Dial before you dig

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW).

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

National Parks and Wildlife Act

The developer's attention is drawn to the requirements of the National Parks and Wildlife Act with respect to the conservation of Aboriginal archaeology.

As a landowner and/or developer you have a responsibility to not disturb or destroy any such item. Should you become aware of the existence of an item during the construction of this development you are required to comply with the National Parks and Wildlife Act and contact Council or the National Parks and Wildlife Service immediately for guidance in the conservation or collection of the item(s).

Carparking calculations

Car parking requirements have been calculated on the basis of the specified use. Should any change of use be contemplated car parking requirements may need to be re-assessed.

Biosecurity Act 2015

All landowners should be aware of their General Biosecurity Duty under the provisions of the Biosecurity Act 2015 which states; *"any person who deals with biosecurity matter or a carrier and who knows, or ought reasonably to know, the biosecurity risk posed or likely to be posed by the biosecurity matter, carrier or dealing has a biosecurity duty to ensure that, so far as is reasonably practicable, the biosecurity risk is prevented, eliminated or minimised"*.

For information on Priority Weeds and the South East Regional Strategic Weed Management Plan contact Council's Vegetation Management Team on 6499 2222.

Change of contact details

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.

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact:

Telstra's Network Integrity Team on Phone Number 1800 810 443

Right of appeal

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you, the applicant, the right to appeal to the Land and Environment Court within 6 months after the date you receive this notice or the date the application was determined under Section 82(1).

Section 97 of the *Environmental Planning and Assessment Act 1979* does not apply to the determination of a development application for local development that has been the subject of a Commission of Inquiry.

For the purposes only of Section 97 of the Environmental planning and Assessment Act 1979, if this consent is a deferred commencement consent under Section 80(3) of the Act, Council is deemed to have notified the applicant that Council is not satisfied as to the deferred commencement conditions after 28 days from the date the applicant has provided the applicant's evidence.

Designated Development

An objector who is dissatisfied with this determination may, within 28 days after the date on which notice of the determination was given in accordance with the regulations, and in accordance with rules of court, appeal to the Court.

Review of determination

Section 8.2 of the *Environmental Planning and Assessment Act 1979* gives you, the applicant, the right to request the Council to review the determination of your application. This request must be made within sufficient time so as to allow Council to determine the application within the time prescribed by Section 8.3 and be accompanied by the fee prescribed by Section 257 of the Environmental Planning and Assessment Regulation 2000. Review provisions do not apply to a determination:

- a) to issue or refuse to issue a complying development certificate, or
- b) in respect of designated development, or
- c) in respect of integrated development, or
- d) made by the Council under Section 116E in respect of an application by the Crown.

Mark Fowler

Senior Town Planner

FOR BEGA VALLEY SHIRE COUNCIL