

## RECORD OF DEFERRAL

### SOUTHERN REGIONAL PLANNING PANEL

<b>DATE OF DEFERRAL</b>	1 April 2020
<b>PANEL MEMBERS</b>	Renata Brooks (Acting Chair), Tim Fletcher and Angus Gordon
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	<p>Gordon Kirkby declared a conflict of interest as he was involved in this development application in the past. While a considerable amount of time has elapsed since that involvement, Mr Kirkby did not participate in any Panel discussion or deliberation of this application.</p> <p>Russell Fitzpatrick declared a conflict of interest as a representative of Cattle Bay Marina has lodged a conduct complaint against him. Cr Fitzpatrick did not participate in any Panel discussion or deliberation of this application.</p> <p>Jo Dodds and Mitchell Nadin declared conflicts of interest as they had participated in a Council decision on a modification application for the same site.</p> <p>Angus Gordon declared that he has had a professional relationship with Greg Britton in the past, who is a consultant for the applicant. Mr Gordon has not discussed this application with Mr Britton, and has not worked for Mr Britton within the last two years.</p>

Public meeting held via teleconference on Wednesday, 1 April 2020 opened at 1:30pm and closed at 2:00pm.

#### MATTER DEFERRED

PPSSTH-2 – Bega Valley – DA2019.208 at Cattle Bay Road, Eden – Cattle Bay Marina (as described in Schedule 1)

#### REASONS FOR DEFERRAL

The panel agreed to defer the determination of the matter pending receipt of a supplementary report from Council which addresses the following matters:

1. Further detail on design of the wave attenuator including representative, dimensioned cross section(s) of the structure, proposed final length and dimensioned location and further assessment of:
  - a. Whether wave reduction will be sufficient to enable the marina to meet Australian Standard AS3962-201 “Guidelines for design of marinas”; Australian Standard AS4997-2005 ‘Guidelines for design of maritime structures’ and NSW Maritime Authority Guidance Note 8.3.02.
  - b. Potential impacts on Cattle Bay and Cocora Beaches, the likelihood of overtopping and inundation of the land based aspects of the development, safe navigation, the competency of the existing sea wall, and changes to public access along the beach.
2. A plan with dimensions confirming the location of the marina envelope within Cattle Bay
3. Further detail on the proposed marina layout that shows how the nominated range of berth sizes can be accommodated within the marina footprint including sufficient information to demonstrate




that the berth dimensions can meet the Marina Standards in terms of navigability and wave conditions at all berths.

4. An assessment of the application against the requirements of the Coastal Management Act 2016, and in particular the changes modelled for Cattle Bay Beach of erosion and recession at its western end, including options and responsibilities for remedial action.
5. An assessment of the condition of the existing concrete sea wall backing Cattle Bay Beach noting:
  - a. the assessment of flood/inundation impacts on the land based components of the development relies on the integrity of the sea wall
  - b. The wave conditions and sea level rise projected in the application documentation.
  - c. The potential impact on public access and safety
6. Options for appropriate independent peer review of both the final design of the wave attenuator and of the marina prior to certification that enables construction to take place, and a further independent peer of the completed works, prior to final certification of the project
7. Further detail on the area to be occupied by the portable buildings, specifically the maximum height of the buildings and setbacks to the reserve, and on the flood compatible building materials and appropriate floor heights to be used in the context of localised flood risk, including oceanic inundation.
8. Comment on the compatibility between the previous concept approval for mixed Tourist and Residential development of the land based area and any works to be carried out under that approval and any conflicting works related to the approval of this application.
9. The location of the Bundian Way and appropriate measures to protect it via conditions of consent
10. An appropriate monitoring regime (eg. annual report) by the owner/operator of the facility to Council addressing the status and compliance with all relevant DA conditions to facilitate the orderly implementation of proposed consent conditions
11. Adequacy of emergency management arrangements should an accidental contamination event occur, for example from spill of sewage or bilge water pump out
12. A revised set of conditions informed by Council's assessment of the above matters.

In relation to point 1 above, the Panel notes that the DA appears to be of a concept nature with the "wave attenuator" shown as a one dimensional line "cranked" in its midsection rather than a design that is sufficiently advanced to enable an assessment of the proposed structure, and also that the applicants consultants have indicated the model testing shows that the tested concept did not achieve the level of wave reduction required to achieve the wave conditions within the marina as required by the Standards quoted and that the length may need to be increased.

When this information has been received, the panel will determine the matter electronically

The decision to defer the matter was unanimous.

PANEL MEMBERS	
 Renata Brooks (Acting Chair)	 Tim Fletcher
 Angus Gordon	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-2 – Bega Valley – DA2019.208
2	PROPOSED DEVELOPMENT	Construction of a 154 berth marina comprising three floating pontoon arms restrained by piles, a fixed wave attenuator , minor refurbishment of the existing wharf, landside car park comprising 97 spaces plus 3 loading/unloading spaces, temporary building to house administration and toilets and relocation of 24 swing moorings
3	STREET ADDRESS	Cattle Bay Road, Eden
4	APPLICANT/OWNER	Eden Cattle Bay Marina Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - marina or other related land and water shoreline facilities
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Environment Protection and Biodiversity Conservation Act 1999</li> <li>Protection of the Environment Operations Act 1997</li> <li>Fisheries Management Act 1994</li> <li>Biodiversity Conservation Act 2016</li> <li>National Parks and Wildlife Act 1974</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy (Primary Production and Rural Development) 2019</li> <li>State Environmental Planning Policy No 33 – Hazardous and Offensive Development</li> <li>State Environmental Planning Policy No 44 – Koala Habitat Protection</li> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</li> <li>Bega Valley Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy No 44 – Koala Habitat Protection</li> </ul> </li> <li>Development control plans: <ul style="list-style-type: none"> <li>Bega Valley Section 94 and 94A Contribution Plan 2014</li> <li>Bega Valley Development Control Plan 2013</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 4 December 2019</li> <li>Addendum Council assessment report: 11 March 2020</li> <li>Written submissions during public exhibition: six (6)</li> </ul>

		<ul style="list-style-type: none"> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Council assessment officer – Mark Fowler</li> <li>○ On behalf of the applicant – Michael Jarvin</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation, 1 April 2020, 12:00 pm. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Renata Brooks (Acting Chair), Tim Fletcher and Angus Gordon</li> <li>○ <u>Council assessment staff</u>: Mark Fowler, Keith Tull, Derek Van Bracht and Will Nichols</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report as amended by the addendum Council assessment report.