

31 July 2024

HDC Planning
The Cooperage
Suite 308 56 Bowman Street
PYMONT NSW 2009

Dear Sir/Madam

Development application 2023.338
Lot: 50 DP: 1109545 - 19-21 Weecoon Street EDEN

We received your development application on 23 January 2023. A detailed assessment of the application has been undertaken and unfortunately there are various matters that require further clarification.

The assessment process has been detailed due to the sensitivity of the Site, the nature and staging of the proposal and the multitude of documents that have been provided. Additionally, the review has identified a lack of consistency between the stated development description and the assessment/drawings being reviewed added to the complexity and often the document had to be reviewed in a narrow context of what is before Council in this particular DA.

We also appreciate that it has taken quite some time for all of the supporting documents to be prepared through the genesis, design and development of the proposal, with some documents evolving as a consequence of others needing to be reviewed and evolve. Equally, we appreciate that it has taken quite some time to review the submitted documentation, consult with stakeholders and understand the proposal in the context of our statutory obligations. It will be necessary for the following additional information to be provided;

PLANS AND DOCUMENTATION

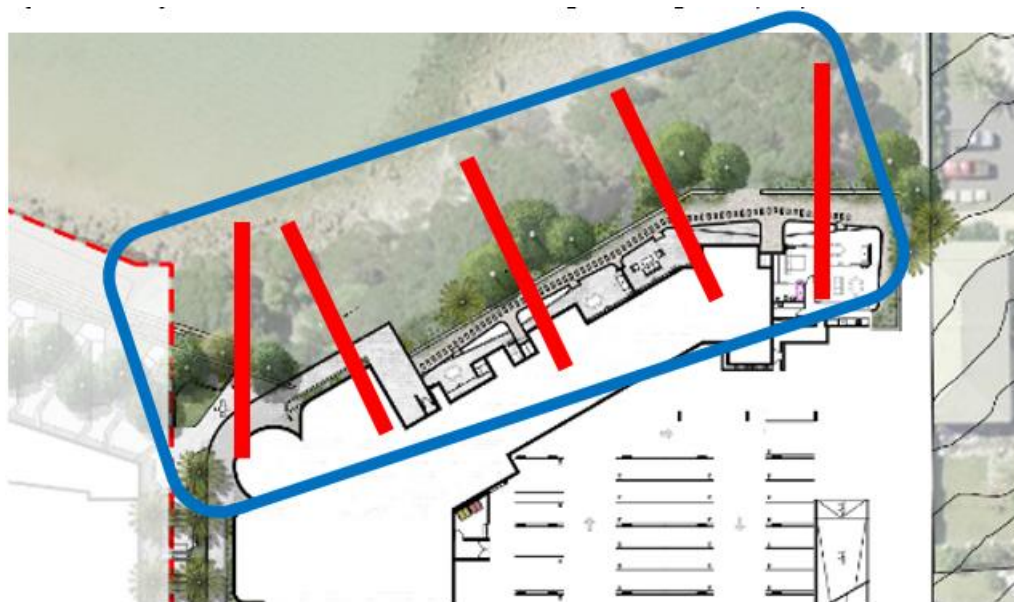
1. Overall, there is a lack of consistency across almost all of the submitted documents as to what the actual development consists of and how the document reflects the development for which consent is being sought. For example, a number of documents refer to the proposal as including a restaurant or supermarket, but do not identify the proposed stormwater drainage works. Other documents refer to some of the stormwater drainage works, not all that are proposed while others rely on what now appear to be superseded architectural drawings. It is important therefore that all amended supporting reports and documents refer to the same set of amended architectural drawings to be required by this Information Request, which are consistent with the description of the development.
2. The submitted architectural plans lack sufficient detail to accurately determine a number of aspects of the development or provide irrelevant or incorrect information. The plans are to be amended to address the following matters:

- a) Full details of all works and changes in natural ground level and finished level in the area between the northern elevation of the building and the MHWL, particularly around the “foreshore/ restaurant promenade”.
- b) The dimensions of the balconies (private open space areas) to demonstrate they meet the minimum unencumbered spatial requirements and are functional.
- c) The size and external appearance of a range of infrastructure such as the grease arrestor, water/ fire meter, water/ fire assembly, hydrant booster and electricity substation.
- d) The sizes and depth of planter boxes in order to demonstrate they are actually capable of growing the proposed landscaping.
- e) All deep soil zones are to be identified with dimensions and depths specified.
- f) Measures such as angled screens/ blade walls/ obscure glazing etc to prevent overlooking/ physical access between the balconies of apartments.
- g) All bedrooms and living areas are to be fully dimensioned to demonstrate room sizes and areas and functionality when basic furniture (such as beds, lounges, dining table are placed).
- h) The depth of each apartment from the back of the kitchen to the external windows is to be provided.
- i) The width between kitchen benches, the space between the wall and the storage areas/ cupboards (?) in the laundries and the space within walk-in wardrobes between the wardrobe and the wall is to be detailed to ensure functionality.
- j) The location of the proposed level spreader in terms of its physical dimensions and distances from adjacent trees, the proposed building, site boundaries and the cliff face.
- k) Setbacks to boundaries, future buildings, significant topographical features such as the cliff face.
- l) The area of red hatching on Drawing DA100 Issue A identified as “Trees to be removed” does not take into account the removal of trees T4-T12, T17-T23, T31-T34, T38-T40, yet covers an unusually shaped area within the footprint of the building that bears no correlation to the vegetation mapped on the Site. A more realistic representation is to be provided.
- m) The interface between the covered outdoor dining area and the balcony to Unit 01 and measures to prevent physical access, noise, light spill and direct view into the apartment.
- n) Please provide further details of the spaces between the balconies of the ground floor units, such as that shown circled below between Units 01 and 02 as it appears this is not landscaped and presents as a potential hiding place and serves little purpose.



- o) Heights of the retaining walls and walkways above (or below) existing natural ground level. Elevation E02 indicates the wall separating the restaurant promenade and the foreshore to be in excess of 5m in height and would amount to being classified as coastal protection works.
 - p) Drawing DA110 appears to be missing the residential storage areas.
 - q) Please clarify the notation to Elevation E-03 that states "NO 3 three storey residence holiday letting" as the dwelling at No. 3 Weecoon St is only 1-2 storeys in height and appears to be a private residence.
 - r) All elevations and sections are to be drawn at a suitable scale so that the detail is not unreadable when viewed zoomed in PDF format.
 - s) All elevations and sections are to be dimensioned and any parapet walls or screen around roof-mounted plant are to be identified with an RL and dimensioned.
 - t) All elevations and sections are to show relevant boundaries, including setback distances.
 - u) All elevations and sections are to clearly show the existing natural ground level and proposed finish level.
 - v) Drawing DA1000 states "Proposed Residential Flat Building with Restaurant and Café (Stage 1). Please clarify if the restaurant and café are to form part of this application, otherwise please amend the plans to delete any references to the restaurant and café uses accordingly.
3. A Revised Site Plan of just the proposed building and its immediate surrounds is to be provided so that the development and its proximity to the surrounding area can be better understood. The Site Plan shall include:
 - a) Distances to all allotment boundaries.
 - b) The Mean High Water Mark and shoreline.
 4. The submitted landscape plans lack sufficient detail to accurately determine several aspects of the development including:
 - a) The interface between the northern elevation of the development (pathways, retaining walls, building edge/ planter boxes) and the natural landforms/ ground level and retained vegetation.

- b) The interface between the eastern elevation of the development and the natural/ finished ground levels with all batters, terraces, infrastructure (including easements), retaining walls, planter boxes etc.
 - c) Details of the depth of soil in all landscaped areas, particularly the communal open space areas and areas where significant level changes are to occur.
 - d) Fencing to be used for the purposes of access control and boundary/ territorial definition.
 - e) The density of any retained vegetation and supplementary plantings on the northern side of the development which might affect the highly prized views over Yallumgo Cove, particularly from the lower apartments.
5. Further information is required to delineate the extent of works proposed as part of Stage 1 in the areas circled blue in the drawing extract below. Details of the proposed excavation/ fill showing finished ground levels, any proposed retaining walls and surface treatments, as well as the Mean High Water Mark are to be provided on amended architectural plans, landscape plan, civil drawings and the like. Information is to be presented in both plan view and in elevations with sections provided as shown by the heavy red lines below, demonstrating existing and proposed finished levels:



6. The Plan of Subdivision is to demonstrate how public access to and along the foreshore is to be achieved (e.g. dedication of land, creation of a ROW etc) with attention also being given to how the staging of the Site may affect public access.
7. It is noted that the zone boundary as mapped in the Bega Valley LEP 2013 does not correlate to the property boundary shown in the Survey Plan prepared by Caddey, Searl and Jarman, which also differs from the configuration of the land identified on the NSW Planning Portal and SIX Maps. A Site Plan is to be prepared showing the footprint of the development (including all ancillary landscape and site works), with the zone boundaries overlaid.

COASTAL PROTECTION WORKS AND HAZZARDS

8. The Regional Planning Panel raised the question during the Site Inspection whether the application proposes coastal protection works that might trigger Clause 8A, Schedule 6 of the SEPP (Planning Systems). Our review of the application and supporting information indicates

that the while the application is ambiguous as to the extent of the actual works proposed, particularly within proximity to the Mean High Water Mark (MHW), there is sufficient indication that works would be undertaken that would trigger Clause 8A, Schedule 6.

In this regard, it is noted that the architectural plans do not show sufficient details to clearly determine the full extent of any “Coastal Protection Works” proposed and the SEE fails to identify any discrete works. Likewise, the application form (the Approved Form) does not identify any works. Conversely, a number of supporting documents identify works that would satisfy the definition contained in the Coastal Management Act 2016 of “coastal protection works”. These works include the proposed retaining walls, upgrading of the stormwater outflow to the bay, the installation of the temporary sediment basin, energy dissipater and stormwater pipeline and pits G7-G9 and altering the profile of the ground adjacent to the restaurant.

Our preliminary review indicates that there is sufficient documentation available to conclude that it will be necessary to undertake coastal protection works as part of this Development Application, even though it is not specified or included in the SEE. This is because:

- The Site within the Coastal Zone and is mapped as both being within the Coastal Use Area and Coastal Environment Area, both of which are defined in Section 5 of Coastal Management Act 2016 (CMA) as forming the Coastal Zone.
- The development is directly adjacent to or under the waters of the open ocean.
- The proposal includes works that are defined as “coastal protection works”, which are defined in Section 4 of the CMA, as follows:

coastal protection works means—

(a) beach nourishment activities or works, and

(b) activities or works to reduce the impact of coastal hazards on land adjacent to tidal waters, including (but not limited to) seawalls, revetments and groynes.

- The submitted Coastal Risk Assessment demonstrates that the Site (including the proposed Stage), is subject to coastal wave action and thus, hazard. While the proposal does not directly state the above works are proposed, the plans and supporting documents in Appendix A sufficiently indicate coastal protection works will form part of the works associated with the subject application.

Accordingly, please provide clarification as to the full extent of all works within the Coastal Zone and demonstrate whether the application proposes coastal protection works that might trigger Clause 8A, Schedule 6 of the SEPP (Planning Systems).

9. The submitted Coastal Risk Assessment is to be amended to provide a detailed assessment of the final nominated design, in order to demonstrate whether the subject proposal will be at risk of coastal hazards and processes (including scour as noted in Section 7.1), as opposed to providing preliminary recommendations and advice. The assessment is also to address the provision of public access to the foreshore across the staging of the development and the potential exposure of the stormwater drainage infrastructure proposed as part of this DA.

STAGING

10. A staging plan is to be provided that clearly identifies the entire area encapsulated in Stage 1 of the development and identify any ancillary works such as stormwater drainage and water quality works, public access, augmentation of utilities, street tree planting, footpath and kerb

and guttering and the like. The staging plan is to be sufficiently dimensioned so that it can be easily identified on-site.

Note: All consultant's reports and plans are to be consistent with the staging plan.

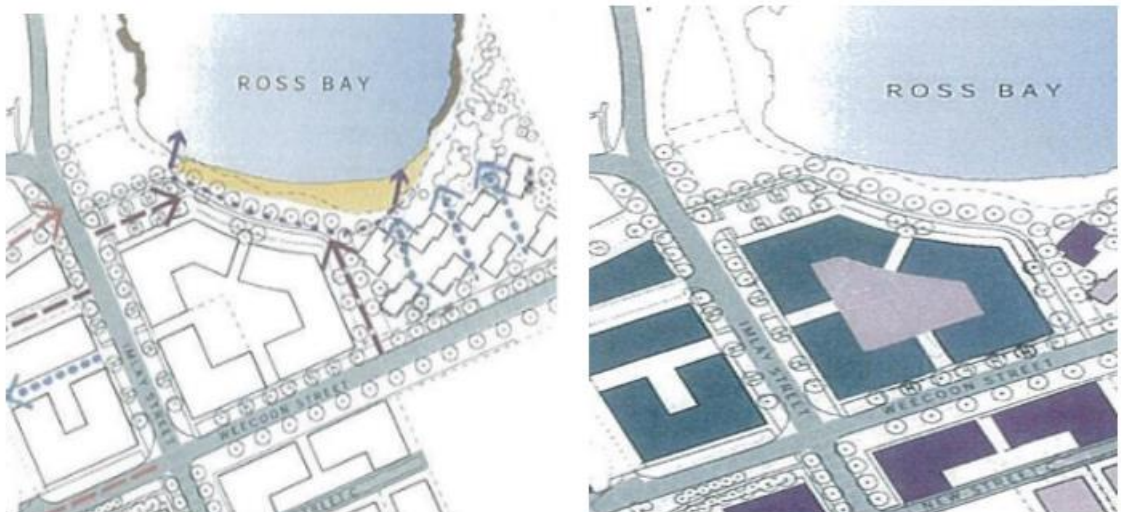
11. The demarcation line between Stage 1 and the subsequent stages appears to be in the middle of the area denoted as "Restaurant Access" which consists of a number of stairs in a landscaped setting. Please confirm whether the full extent of the landscaping and stairs will be provided or only partial width, as well as detail any interim fencing or other measures to prevent access to the remaining stages. All plans are to be fully dimensioned.

SNUG COVE MASTERPLAN COMPLIANCE

12. Having reviewed all of the submitted documentation carefully in the context of the Site and the underlying statutory and advisory documents, the height, massing and scale of the proposal is such that it cannot be supported in its current form. There is a very clear and deliberate strategic intent for the Site and surrounding area that has been developed by Council, the community and the former Department of Lands and the former Department of Infrastructure, Planning and Natural Resources to protect the coastal environment and ensure new development is sympathetic with the scale and character of existing development.

This is achieved, in part, by retaining a 2 storey height limits, retaining and strengthening view corridors, enhancement of the coastal vegetation in the northern section of the Site, maintaining appropriate setbacks between new development and the foreshore and providing new foreshore links to beaches that retain their natural character.

The development proposed however, as will be evident in this Information Request, lacks a significant volume of detail and coordination. The development is not considered to be consistent with the desired future character and does not provide a scale, height or massing to the surrounding existing residential buildings. Furthermore, it does not seek to retain and manage the existing coastal vegetation, instead seeking to remove a large proportion of it.



It is also quite clear within the Masterplan that five storey development is not warranted, nor is a building that has such a large footprint on the steeper eastern portion. The drawing excerpt above right shows new development with a maximum height post-development of 3

storeys (green) while the majority of the development would be expected to be two stories. Likewise, the shadow diagrams indicate that less than 50% of the communal open space would receive at least 3 hours of sunlight in midwinter, partly because of the massing, height and orientation of the built form of the towers.

Accordingly, a significant reduction in height is to occur, with the orientation of the towers reconsidered to facilitate better view corridors over Yallumgo Cove (as per the Masterplan) and improved solar access. The justification submitted is not supported and a design response that does not require such massive excavation, the clearing of visually significant coastal vegetation or rely on an unsubstantiated claim for a reducing in car parking spaces must form part of the re-evaluation of the proposal as it stands.

Any redesign must be accompanied by a detailed statement that quantifies and demonstrates how each of the Principles and Controls have been met.

TRANSPORT, TRAFFIC AND PARKING

13. The submitted Traffic and Parking Assessment refers to a proposed restaurant, however as stated previously, this does not form part of the subject application and the report should be revised accordingly.
14. The Civil Works Plan identifies a minimum of 10,048m³ of excavated material to be carted off-site and depending on suitability of this material as fill, potentially 2,653m³ of incoming fill material. The submitted Traffic and Parking Assessment provides very little assessment of the potential impacts of trucks on the local road network with respect to the volume of excavated material going to or from the Site or other construction traffic. Further, there has been no consideration of the potential haul route through the Eden town centre and beyond, no details of the destination of the fill material (whether the material is contaminated or not) or potential sources of imported fill material and potential haulage routes.

Consideration of the impacts of construction activities at the development assessment stage is required. The assumption that operational traffic numbers would be greater than construction traffic and therefore construction vehicles would not have significant adverse impacts is not supported. The position taken of the Traffic Consultant fails to recognise the inherent difference between a truck and dog combination taking excavation off the Site or cement trucks queuing prior to a major concrete pour and regular traffic.

Accordingly, the Traffic and Parking Assessment is to be amended to take into account traffic-related impacts during the construction phase, with input provided by the required Construction Environmental Management Plan. This additional assessment is to extend to include all vehicles related to the delivery of plant, equipment, materials, skip bins and the removal and importation of excavated/ fill material, as well as the likely disposal and collection locations and the impact on the regional/ local road network, noting that potentially, construction of just Stage 1 alone could occur over an extended period of time.

15. The Traffic and Parking Assessment does not take into account peak times and events such as the arrival of cruise liners and the increased use of coaches and charter buses or peak weekly times such as on weekends. Further, it would appear that the modelling undertaken has been based on traffic counts obtained on only two weekdays with a single hour in the morning between 8am and 9am and a single hour in the afternoon between 3pm and 4pm. This is not considered to be sufficient in the context of the development proposed and the restricted access to the Site via Imlay Street. Accordingly, a significantly broader dataset of

traffic movements is to be obtained, providing a more comprehensive understanding of the local network throughout the week, including weekends. Ideally, this should also be undertaken when a cruise ship is using the facilities at the adjacent wharf and/ or when public transport is operating in peak times.

16. Vehicular access for all resident, commercial tenant/ restaurant staff and patrons, as well as visitors and maintenance vehicles for the entire development is based on a singular access point which incorporates a hard righthand bend that has to be negotiated just inside threshold of the driveway. There does not appear to be any devices such as mirrors, flashing lights or traffic lights to warn of on-coming vehicles or physical separation to prevent vehicles from drifting onto the wrong side of the driveway and causing collisions.

Immediately adjacent to the entry point a car space no. 1 for “restaurant use”. All 10 of the “restaurant car parking spaces” are located in the vicinity of the single access point for residents and visitors on this and the lower level. Patrons using the restaurant parking, who are likely to be relatively unfamiliar with the access arrangements, will have to manoeuvre in or out of these spaces, which could occur blind of the operation of the security gates, especially in peak times.

The restaurant parking is also disconnected from the restaurant with pedestrian access arrangements unclear. It would appear that restaurant patrons would have to exit the building onto the footpath (potentially via the driveway, causing conflict with vehicles) and then use a series of stairs and ramps, which is undesirable. Experience has shown that patrons will look for alternative parking closer to their destination or with a less complicated path of travel.

Additionally, the lower level provides a delivery area, implying that deliveries for the future restaurant will need to somehow enter (and then leave) the secured car park, potentially causing conflict between residents and delivery drivers or delays at an intercom system/ card or fob swipe point (if provided). Delivery drivers are also unlikely to wait to enter the secured area, then traverse to the lower level and then repeat on exit due to time constraints and will likely park where convenient (most likely Weecoon Street).

Accordingly, the proposed vehicular access, and parking arrangements need to be reviewed to avoid conflict between user groups and take into account security arrangements, connectivity with the particular premises or land use and potential choke points to be eliminated.

17. Access for emergency services also appears to have been overlooked with the potential pathways that ambulance personnel may need to take to transport a patient on a stretcher from each level of the building to be demonstrated.
18. The Traffic and Parking Assessment does not take into account the multiple times a week that resident and commercial waste vehicles and sanitary/ washroom servicing vehicles will need to access the Site, the potential impact on the functioning of the building and its car parking areas while trucks are collecting waste or waiting to collect or the impact on the local road network by the additional HRVs/ service vans or pantechs.
19. The Traffic and Parking Assessment states that the lack of significant public transport services is justification for not expanding or making provisions for additional services. However, taking into consideration the additional residential units and likely commercial facilities (as well as future stages), the argument presented cannot be supported. The application is not

supported with any evidence such as liaison with public transport providers, taxi companies or community transport services or community surveys. Accordingly, the applicant is to undertake further engagement with key local transport service providers to examine opportunities for providing services to the Site and subject development.

20. The Traffic and Parking Assessment seeks a 50% reduction of car parking spaces for the commercial floor area. This arbitrary figure is based on an assumption that the premises will be used as a restaurant, and that at least 50% of the clientele will come from residents of the proposed apartments. The proposed concession is not supported for several reasons, including;
- a) The subject DA does not include either of the two commercial tenancies as a restaurant, stating that they are to be commercial tenancies.
 - b) The applicant has not demonstrated the potential permanent residential population or demonstrated that half of that population would frequent the restaurant on a sufficient basis to ensure a restaurant could operate in an economically viable manner.
 - c) No evidence has been provided to even demonstrate the likely economic impacts (positive or negative) of a restaurant outside of the town centre on the Site.
 - d) There is no certainty as to when a DA for a restaurant would be lodged, approved or open and no evidence to demonstrate there is sufficient demand for a restaurant outside the town centre, notwithstanding that it would be reliant on 50% of its patrons coming from the apartments.
 - e) In the event that a restaurant is viable on the Site and it generates significant patronage from beyond the proposed apartments, there may still be a significant adverse impact on the local network and on-street parking spaces.

Accordingly, car parking is to be provided in accordance with the current version of the Bega Valley DCP 2013 (5 July 2024).

21. In relation to deliveries and waste collection, the Traffic and Parking Assessment states as follows:

“Servicing of the Restaurant and Café will be undertaken either kerbside from Weecon Street for vehicles larger than an SRV vehicle able to enter the car park and utilise the deliveries bay within the car park. It is estimated that 80% of deliveries will be able to use the on-site delivery bay.

Waste collection will be undertaken kerbside in Weecon (sic) Street by both Council and a private contractor once a week on alternating weeks.”

This is contrary to the Operational Waste Management Plan, which has based the two bin collection options based on all waste collections being by 12.5m HRV’s accessing both basement levels with two different collection options suggested, as per Section 5.2, which could result in between 3 and 7 trucks a week, depending on the type of bins used.

Given the disparity between the Traffic and Parking Assessment and Operational Waste Management Plan, and the need to undertake a significant review of the proposed access arrangements, it is suggested that a coordinated traffic/ waste/ architectural solution be developed to ensure the Site is adequately serviced and the Site can function effectively.

SIGNIFICANT ISSUES:

ACCESS AND ACCESSIBILITY

22. The Access Report provides a detailed assessment of a component of the building (the restaurant) for which development consent is not sought under this application. To avoid confusion, the report is to be amended to demonstrate compliance for the development that is the subject of the development application. The revised report should also ensure it relates to the version of plans submitted with the DA.
23. The amended Access Report should also reflect recent amendments to the Bega Valley LEP 2013 - Amendment No. 43 (BVLEP) and Bega Valley DCP 2013 (BVDCP), which repealed Section 3.2.2.5 of the BVDCP and require at least 25% of dwellings to meet the silver performance level (Clause 6.20(3) BVLEP).
24. Please demonstrate the route through the Site that pedestrian visitors and emergency service personnel (such as paramedics with a stretcher) would take when accessing the ground floor apartments 01-04. Likewise, please demonstrate the route visitors would take to the same apartments if seeking to access any of the visitor parking on the Site.

ACOUSTIC ASSESSMENT

25. An acoustic assessment addressing the acoustic impacts of all plant and equipment, such as air conditioning systems, the operation of garage doors, waste collection and expected traffic generation.

BASIX

26. The BASIX Certificate states single phase air conditioning units with a 3.5 star rating are to be provided to all units. Please demonstrate the location of all A/C units on the submitted plans as they can impact on the overall design of the development, the utilisation of the spaces they are located in and acoustic amenity of the dwelling/ adjoining dwellings. Conversely, if the plant is to be provided on the roof of the building, this is to be identified.

BCA ASSESSMENT

27. The BCA 2022 Compliance Report provides a detailed assessment of a component of the building (the restaurant) for which development consent is not sought under this application. To avoid confusion, the report is to be amended to demonstrate compliance for the development that is the subject of the development application. The revised report should also ensure it relates to the version of plans submitted with the DA and details of the Access Consultant (which is the same consultant) updated. Furthermore, the report should ensure that it refers to the correct legislation, such as the Environmental Planning and Assessment Regulation 2021 (refer to Section 3.1), which came into effect on 1 March 2022. The Access Report provides a detailed assessment of a component of the building (the restaurant) for which development consent is not sought under this application. To avoid confusion, the report is to be amended to demonstrate compliance for the development that is the subject of the development application. The revised report should also ensure it relates to the version of plans submitted with the DA.
28. It is noted that the Report identifies a non-compliance that may result in additional built elements or have consequences where additional information that has a material effect on the design of the development and external impacts is required. In this regard, P. 54 – Exit travel distances is not complied with and the solution recommended is a sprinkler system.

Generally, sprinkler systems require a water storage tank and pump facilities. Accordingly, details are to be provided on the architectural plans, including the location, volume, height and nature of access required (e.g., whether access by a fire truck is necessary).

CAPACITY OF UTILITY NETWORKS

29. The development (both as individual stages and in its overall concept) has the potential to have a significant adverse impact on local utility networks and require augmentation works well beyond the immediate area. The Services Assessment undertaken by Accor notes that it is limited in its scope and that it does not provide any assessment of the capacity of the relevant network in the context of the proposal.

As demonstrated below, both Council as the relevant authority relating to waste and recycling, water, sewer and stormwater, as well as Essential Energy have concerns with the proposal. Further, submissions received from the community indicate concerns relating to the collection of waste/ recycling and the potential disruption to the local area.

Accordingly, further information is required, demonstrating that the relevant utility networks have adequate capacity to support the proposed development.

30. Please provide details of any discussions held with NSW Fire and Rescue and whether any provision has been made in the proposed design in terms of the storage of water for fire-fighting purposes and provision of sufficient water pressure to serve that purpose. In the event that external plant and equipment or storage tanks are required, please provide sufficient details on the amended architectural drawings.

CIVIL WORKS

31. The Civil Works drawings Drawing No. 22214.DA.C01 Sheets 1 to 25 prepared by Site Plus details the civil works to be undertaken for the entire development, not just Stage 1 for which the subject DA relates. Please provide revised drawings that delineate those works relevant to Stage 1, which is the subject of this DA.
32. Sheet 1 of 25, "Title Page" of the submitted Civil Works drawings refers to several authorities and their requirements that are not relevant to the Bega Valley (Sydney Water, Endeavour Energy). The drawings are to be correctly notated and need amending.

CONSTRUCTION MANAGEMENT

33. Given the location of the Site, the presence of contaminated materials and groundwater on the Site, the expected duration of works, the single road access in and out of the peninsula and potential for construction traffic to affect Port operations and traffic in the Eden CBD, a Construction Environmental Management Plan (CEMP) is to be prepared and submitted for review. The CEMP is also to specifically address how the proposed construction activities are to be managed to prevent adverse impacts on the local community and the biophysical environment, with strategies to reduce or mitigate potential impacts to address, but not be limited to:
- a) The delivery of goods and materials including likely vehicle sizes, access points, traffic management strategies/ control measures/ controllers and loading/ unloading measures, parking for construction workers, location of Site Office/ amenities buildings, holding bays/ areas where trucks will queue while waiting to deliver materials/ be loaded.
 - b) The expected numbers of workers on the Site at key stages of the proposal.

- c) The location of work zones, materials storage areas, site offices and facilities for construction workers, car parking for construction staff.
- d) Security lighting and other security measures including security patrols and the location of security fencing – particularly along the foreshore/ vegetation in the NE corner.
- e) Noise and air pollution control.
- f) Measures to prevent the escape of pollutants and sediments from the temporary energy dissipator and sediment basin into Yallungo Cove during design storm events.
- g) Erosion and sediment control, including preventing stormwater runoff from entering Yallungo Cove, taking into account likely peak tides/coastal hazards.
- h) Management of activities during peak tourist times of the year/ week (including holiday times and when cruise ships are docked in Snug Cove where there is a high volume of pedestrians and greater coach/ charter bus/ shuttle bus patronage).
- i) Management of activities/ deliveries during peak times of the day.
- j) Haulage routes for incoming fill material and contaminated waste streams and fill material being taken off the Site, given a minimum of 10,048m³ of excavated material is to be carted off-site and potentially 2,653m³ of material is to be imported. The location of facilities that will accept the contaminants identified in the Detailed Site Investigation (TRH/ benzene/ asbestos containing material) is also to be confirmed and taken into account.
- k) An unexpected finds protocol in relation to contaminated material, human skeletal remains or suspected remains and archaeological finds/ artefacts.
- l) Noise and vibration monitoring during bulk earthworks adjacent to Nos. 1 and 3 Weecoon Street.
- m) The management of stormwater pondage within the excavation area and subsoil seepage during excavation and after construction.

CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED)

- 34. A CPTED Report is to be prepared by a suitably qualified person. The report will consider the relationship between the proposal and adjoining properties, proposed future commercial/restaurant land uses, public access across and through the Site for both this stage and subsequent stages, acknowledging that public access may change as a result. The assessment must also consider the basement car park areas, the interface between the development and the public domain as well as the interface between the commercial and residential elements. Access to and within the Site for service/delivery/waste collection vehicles to all levels and the internal residential areas shall also be considered.

ESTIMATED COST

- 35. The submitted Cost Summary Report provides a “Proposed Cost of Development” has been prepared under the superseded Environmental Planning and Assessment Regulation 2000, which was replaced on 1st March 2022 by the Environmental Planning and Assessment Regulation, 2021. Accordingly, please provide a report, prepared by calculation of the “Capital Investment Value”, prepared in accordance with Planning Circular PS 21-020, which was in force at the time the Development Application was lodged (Refer to the following link: <https://www.planning.nsw.gov.au/sites/default/files/2023-03/planning-circular-ps-21-020-calculation-of-capital-investment-value.pdf>). The Report to be prepared by a suitably qualified Quantity Surveyor.

(NOTE: The current provisions in the Environmental Planning and Assessment Regulation 2021 relate to an "Estimated Development Cost". This only applies to DA's lodged after 4 March 2024).

EXTERNAL LIGHTING

36. A plan demonstrating the external lighting strategy is to be submitted, demonstrating the location of various types of lighting, detailing how the communal areas will be illuminated in a manner that facilitates the safety of residents and minimises light spill onto Yarramalong Cove and the properties to the east.

INDIGENOUS CULTURAL HERITAGE

37. The Aboriginal Archaeology Due Diligence Assessment refers to the development as a recreational complex on more than one occasion and the plans do not reflect the proposal at hand, which includes subdivision, stormwater drainage works and the mixed-use building containing two commercial tenancies and 57 residential apartments. The proposal also includes works external to the Site including reconstruction of the road and footpath within both street frontages as well as the installation and augmentation of utility services. It is apparent that the assessment does not identify or take these works into account and has focussed on the wider end development concept.

The Assessment also states that the existing pebble shoreline (the top of which is at about 1.2m AHD according to the Survey Plan) is "wholly inundated at high tide" which occurs twice a day, even though the MHW is at 0.38m AHD and there is no indication in the Coastal Risk Assessment that this occurs. Accordingly, please clarify that the assessment extends to the entire suite of works posed by the subject application (including those outside the subject allotment) and document the sources of information, such as Figure 4.

38. The Assessment should also be reviewed to ensure that it reflects the current statutory and policy provisions. For example, Section 11.2 insofar as it relates to the Environmental Planning and Assessment Act 1979, should also be updated to reflect the current requirements, noting that Section 90 was superseded in 2018 by Section 4.15.

Further, Section 11.3 refers to the aims of the Bega Valley DCP 2013 as contained in Part 1 (1.2i) relating to heritage. This is not the case as the DCP does not contain any aims and the reference appears to be the Bega Valley LEP 2013. Likewise, the references to an "Aboriginal place of heritage significance" also appear to relate to the definition contained in the Dictionary to the LEP. The significance here is that the LEP is a statutory document, while the DCP is not. It is important that any assessment be reflect the current statutory requirements so as to ensure the right matters are being addressed and that the technical integrity of the document is upheld.

PLAN OF SUBDIVISION

39. The Plan of Subdivision is to be amended to demonstrate how public access to and along the foreshore is to be achieved, allowing for the staging of the development. Draft terms of all likely easements, restrictions etc are to be prepared and submitted.

OPERATIONAL PLAN OF MANAGEMENT

40. Given the nature of the proposal and the various points at which the general public, residents and prospective commercial uses, an operational plan of management is to be prepared to outline the following matters:

- a) Pedestrian and vehicular access of the Site by the general public, residents and their guests, as well as staff and commercial deliveries, noting that a deliveries bay is proposed on the Ground Floor on Drawing DA1100.
- b) Allocation of car parking areas for residents, visitors, commercial tenancies and deliveries.
- c) Parking for and access by emergency services personnel, as well as how access to the delivery area will be achieved via the secured gateway.
- d) Management of waste collection, maintenance of the Oceanguard GPT and Stormfilter stormwater quality devices (including replacement of the Stormfilter cartridges and cleaning of the Oceanguard GPT), and cleaning of resident communal and public spaces.
- e) Responsibility for undertaking repairs and maintenance, including landscape maintenance.
- f) Integration of the waste management activities and responsibilities as per Section 7 of the Operational Waste Management Plan.
- g) Patron, resident and guest behaviour.
- h) Use of the communal areas and facilities including limitations on the hours of use (if any), noise, responsibility of waste and cleaning, lighting limitations/ timers etc
- i) Complaint/ noise management and resolution procedures and a mechanism to engage with the surrounding residential and non-residential properties.
- j) Use of units as serviced apartments/ short-term rental/ holiday accommodation/ "party houses" (e.g. listings on AirB&B).

OPERATIONAL WASTE MANAGEMENT

- 41. Section 3.0 of the submitted Operational Waste Management Plan (OWMP) refers to the Bega Valley LEP 2015 which does not exist and incorrectly states that the OWMP is a requirement of the BVLEP 2013 (which it is not).
- 42. The OWMP provides two options for the design and servicing residential waste bins, resulting in either a weekly or twice a week collection by a mix of Council and private contractors (3 times a week for food waste). The OWMP states that a 12.5m long HRV would access the sole access point and enter the "loading bay".

On closer examination of the report and plans, it appears that both Council and private contractor's trucks are intended to enter into both levels of car parking, traverse through the residential parking area, reverse into the two pick up areas (both not much bigger than a standard car space) and then leave the building. No details are provided on where the trucks would park when accessing the eastern waste storage area.

Council does not support the need for the trucks to have to enter residential car parking areas or in fact enter onto private property. Accordingly, further clarification of the collection details. A bin strategy however, must firstly be determined so that the waste storage areas can be appropriately designed and located. It is also recommended that, in line with other required design amendments, the entire manner in which vehicles access this site and the separation between resident and non-resident, servicing and ancillary activities be reviewed to avoid significant conflict from occurring. Regardless of any redesign, all swept paths for the design HRV are to be demonstrated.

- 43. Given that a building manager would be responsible for collecting bins from the waste rooms on each level and transporting them to the loading bay on multiple occasions each week, please provide details on how this would be undertaken. Alternatively, if the bins are to be placed kerbside, as suggested in the Traffic and Parking Assessment, please advise

where the bins are to be placed for collection and measures to ensure access by garbage trucks.

OWNER'S CONSENT

44. It is understood that the ownership of the land may be different to the records Council holds on file. Please provide the written consent to the lodgement of all landowners with appropriate documentary evidence demonstrating that they are the registered owners.
45. It appears that works relating to the new sewer line will be undertaken within the front yard of No. 3 Weecoon Street and over Lots 11 and 12 in DP565608 (208 Weecoon Street). Please provide the written consent of the landowners and update the parcels of land affected by the proposed works in the Portal and all supporting information, reports and plans accordingly.
46. Where works are proposed below the MHWM, owners consent from the Roads and Maritime Services in the form of a "Permission to Lodge" (PTL) approval is to be submitted to Council.

RESIDENT FACILITIES

47. The proposal makes no provision for the drying of resident's clothes, either by way of individual or communal drying areas or tumble dryers or the like. Reliance upon residents using drying racks on the balconies of the units compromises the use of the private open spaces, makes no allowance for poor weather and results in an undesirable appearance to the buildings when viewed from the public domain. Please demonstrate how residents would be expected to dry their washing, including larger items like bed linen and/ or provide appropriate drying facilities.
48. Please clarify the proposed method of access control for residents and measures to prevent unauthorised access to resident facilities such as waste storage, car parking, resident storage areas and communal open space areas.
49. The plans indicate BBQs on all apartment balconies. Please clarify whether these are fixed structures or mobile and the source of fuel (e.g. mains supplied gas, bottled gas, solid fuel etc) and whether mechanical ventilation is required.
50. Please provide details of the HVAC systems, including the location of any plant, any noise attenuation and exhaust management measures necessary.

STATUTORY COMPLIANCE

51. It is noted that the SEE is dated 4 December 2023 and documents were uploaded to the NSW Planning Portal between 5 December 2023 and 15 December 2023. Formal lodgement of the DA did not occur until 25 January 2024. However, SEPP (BASIX) 2004 was repealed on 30 September 2023, where it was replaced with SEPP (Sustainable Buildings) 2022. SEPP 65 - Design Quality of Residential Flat Development was also repealed on 14 December 2023 and accordingly, the provisions of State Environmental Planning Policy (Housing) 2021 (the Housing SEPP) came into effect.

Accordingly, the SEE is to be amended to demonstrate the proposal's compliance with the following:

- Chapter 2 – Standards for residential development – SEPP Sustainable Buildings.
- Chapter 3 – Standards for non-residential development – SEPP Sustainable Buildings.

- Chapter 4 – Design of residential apartment development – SEPP Housing.
52. Given the nature of the amendments required, the proposal will need to be supported by a revised Statement addressing the requirements of Schedule 9 of SEPP Housing. The format of the Design Principles is slightly different to the former SEPP 65 Design Quality Principles and the revised Statement must address all subsections of each Design Principle in full and not truncate the text.

STORMWATER INFRASTRUCTURE AND MANAGEMENT

53. The Concept External Works Plan indicates 2.7m x 0.6m box culvert with an outlet and tidal gate is to be provided on the foreshore. These works appear to be at 0.6m AHD and it is noted that the Mean High Water Mark (MHW) is at 0.38m AHD. Notwithstanding that there are no details of any erosion/ scour prevention/ protection, the proposed works appear to be partly outside the Site and accordingly, consent from the Roads and Maritime Services as the landowner is required.
54. Sheet 2 of 25 of the Civil Works Plan drawing set identifies a stormwater line passing through pits G4 to G9 with the section to the west of Pit G7 appearing to be outside of the Stage 1 area to which this application relates, although appearing to serve the proposed building. Please clarify whether this pipeline forms part of the works to be undertaken as part of this development application.
55. Sheet 23 of 25 (Soil and Water Management Plan) indicates an energy dissipator is to be constructed as part of the temporary stormwater management measures. However, this structure appears to be outside the subject Site and below the MHW, for which landowners consent from the Roads and Maritime Services is required. The environmental assessment must also address the impact of this structure and the sediment basis on the foreshore and the potential for sediment to escape into Yallumgo Cove.
56. The Civil Engineering Plans also indicate a level spreader is to be constructed in the northern corner of the Site, within the existing coastal cliff-top vegetation to be retained. The submitted supporting documents do not provide any assessment of the potential impact on that vegetation of the proposed structure in terms of vegetation removal, changed hydrological regimes or stability of the nearby cliff face.
57. The Stormwater Management Study does not appear to take into account the functioning of the rain gardens or level spreader, their role in achieving water quality and quantity objectives or factor in maintenance activities, unlike the Stormfilter and Oceanguard devices. Please amend the Study accordingly.
58. Based on the detail provided on sheets 5 and 20 of 25 of the Civil Engineering Plans, the level spreader is approximately 20m long by 2m wide with the surrounding ground level filled to a depth of approximately 1.34m surface. Given that it is to be nestled in amongst trees to be retained, the installation will result in these few remaining trees being removed. Accordingly, the level spreader is to be repositioned and redesigned to prevent any adverse impacts on the retained vegetation or require such significant earthworks.
59. Details of the measures to prevent the escape of pollutants and sediments from the temporary energy dissipator and sediment basin into Yallumgo Cove during design storm events are to be provided. The measures are to take into account likely peak tides/ coastal hazards.

SUSTAINABILITY MEASURES

60. The Sustainable Design Strategy Report identifies a 25KL water tank is to be provided and roof-mounted photovoltaic system on the residential tower roof decks however no details of the tank have been provided. While the drawings indicate the solar panels, please confirm whether this is just diagrammatic or if the spatial extent has been quantified.
61. Likewise, EV charging stations are stated as being provided, however no details of locations of the charging stations and any associated infrastructure have been provided, or whether the electrical design can adequately meet the expected charging loads.
62. The Sustainable Design Strategy Report states that Residential Buildings A and B will have separate waste stores “to improve accessibility”. Please demonstrate how this has been achieved when there is no mention of such a separation in the OWMP.
63. The Sustainable Design Strategy Report states that no works will occur on the natural shoreline, however the proposed temporary stormwater works as well as stormwater outlet and dissipator appear to be below the MHWL, rendering this statement incorrect.
64. Strategy 9 of the Sustainable Design Strategy Report states that a “Minimum 5 x 15000L Rain water” is required for carwashing and landscape, however this appears to conflict with other statements in Strategy 3 regarding a 25KL rainwater tank. Details of the rainwater storages are required.

TREE REMOVAL

65. Fundamentally, it would appear that much of the vegetation along the northern boundary is to be removed to improve the views from the proposed apartments over Wallungo Cove. The submitted plans and documents are generally obtuse and lack sufficient spatial details in relation to setbacks from the property boundaries, the relationship between the topography and vegetation to be removed/ retained and justification for the placement of the building in the first place. The supporting documents also fail to consider the landscape value of the vegetation or acknowledge the sensitive foreshore location and opportunities to restore degraded portions of the bushland, as opposed to simply removing it. Accordingly, the removal of the group of trees that includes T25-T40 is not supported and the proposal is to be amended to retain and enhance this portion of the Site.

Likewise, Trees T8 to T23 should also be retained with consideration to be given to reconfiguring the ground levels and use of retaining walls in this area.
66. The submitted Arboricultural Assessment has an underlying premise that any tree or group of trees within the building footprint cannot be retained simply because the proposed works are a higher priority. Notwithstanding this, the majority of the heathland vegetation to be removed is in close proximity to the foreshore and has a high amenity and landscape value. The assessment undertaken does not provide a qualitative assessment of the retention of the vegetation for its landscape value. Accordingly, an assessment using the STARS methodology, developed by the by the Institute of Australian Consulting Arborists (IACA) is to be prepared and submitted for consideration, notwithstanding that the removal of trees T8 to T23 is not supported.
67. It is also noted that the Flora and Fauna Assessment has estimated the extent of native vegetation to be removed however, this has not been quantified and mapped.

Furthermore, the Flora and Fauna Assessment provides descriptions and photos of the areas where vegetation is to be removed (such as Photo 5) that do not seem to match the Site Plan and Tree Protection Plan contained in the arborists report. Accordingly, a plan, demonstrating the exact area to be cleared is to be prepared to demonstrate that a BDAR is not required.

68. The Flora and Fauna Assessment does not identify the time of day the fauna-related activities were undertaken and does not provide any indication if pre-dawn, dawn or dusk/night surveys occurred, noting the number and type of animals species likely to be present on the Site.
69. The Flora and Fauna Assessment Report also refers to the development on future stages, with the accompanying plans appearing to be superseded. The Report is to be amended to reflect the plans that are the subject of this DA, noting that significant amendments are required. The Report is to also address the impact of other aspects of the proposed Stage 1, works including works within the rocky foreshore, temporary erosion and sediment control devices and the stormwater spreader.
70. A photo montage is to be prepared of the vegetation in the northern portion of the Site, demonstrating the difference between the existing appearance and following removal of the trees nominated in the Arboricultural Assessment. The montage is to be taken in the locations indicated in Appendix B to this Information Request and addressed as part of the revised Visual Impact Assessment and STARS assessment.

VISUAL IMPACT ASSESSMENT

71. The submitted Visual Amenity and Impact Assessment does not provide an adequate assessment of the impact of the proposal of views and vistas obtained from both private residences and the public domain. In this regard, a revised Assessment is to be prepared to address the impact of the proposal of views and vistas obtained from both private residences and the public domain, demonstrating how the Planning Principles developed in *Tenacity Consulting v Warringah Council* [2004] NSWLEC 140 at 25-29 and *Rose Bay Marina Pty Limited v Woollahra Municipal Council and anor* [[2013] NSWLEC 1046 at 39 – 49.
72. The Visual Amenity and Impact Assessment also omits any evaluation of the proposal from the water to demonstrate that the development is sympathetic to the character of existing development as viewed from the water and with the character of the surrounding foreshores.
73. The View Loss Diagrams provided in the architectural drawings appear to be somewhat restrictive and do not show the full context. There is no correlation to where on the adjoining property the view is supposedly taken from and in the case of No. 8 Weecoon Street, the “40% view loss in fact appears to be almost 100% loss of the critical views of the water within the Cove and the opposite vegetated headland. View loss diagrams must be addressed in the context of a “Tenacity” assessment.
74. A fully detailed schedule of external materials, finishes and colours is to be provided with specific details – generic descriptions are not sufficient.

EXTERNAL AGENCY AND INTERNAL COUNCIL COMMENTS:

ESSENTIAL ENERGY:

75. Essential Energy have indicated that the proposal may encroach upon its network and have requested you demonstrate that the development complies with safe distances by submitting a Network Encroachment Form via Essential Energy's website, with supporting information. Applicants are advised that fees and charges will apply where Essential Energy provides this service.

The applicant's attention is also drawn to Section 49 of the Electricity Supply Act 1995 (NSW). Relevantly, Essential Energy may require structures or things that could destroy, damage or interfere with electricity works, or could make those works become a potential cause of bush fire or a risk to public safety, to be modified or removed.

76. Essential Energy makes the following general comments:

- If the proposed development changes, there may be potential safety risks and it is recommended that Essential Energy is consulted for further comment.
- Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
- Any activities in proximity to electrical infrastructure must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.
- Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW); the location of overhead and underground powerlines are also shown in the Look Up and Live app essentialenergy.com.au/lookupandlive.

INTERNAL COUNCIL DEPARTMENT COMMENTS

77. Design of the augmentation of Council's existing sewerage pump station adjacent the site. Upgrades to the pump station well and the wet weather emergency storage are required. The pump station will be required to contain storage for a minimum of 4 hours peak dry weather flow, and the wet weather storage is required to accommodate a minimum of 8 hours storage at peak wet weather flow for the entire catchment area.
78. Swept path consideration not noted in this application – Please provide swept paths for access and parking.
79. Existing sewer in the South Eastern corner may impact the site. Detailed understanding of the proximity to the retaining walls and other works in this corner of the development are to be provided.
80. Council's Strategic Planning Coordinator has raised concern at the need for the three lot subdivision to support this development and would prefer that the land remain as one lot if possible to ensure appropriate development of the whole site. Justification for the fragmentation of the Site via the proposed subdivision is to be provided.

It is noted that DA 2023.338 was lodged on 23 January 2024. I am required to advise per Part 4, Division 4 of the EPA Act, the DA assessment period ceases to run until further information is provided. Please note you have 30 days to provide the above information from the date of this

request for further information being 31 July 2024. Council staff are happy to discuss the issues raised in this letter to provide further clarification.

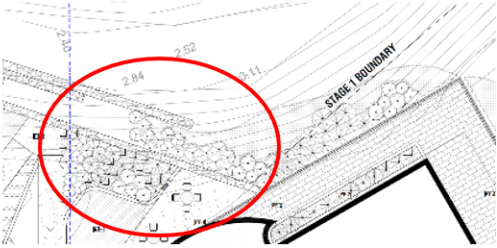
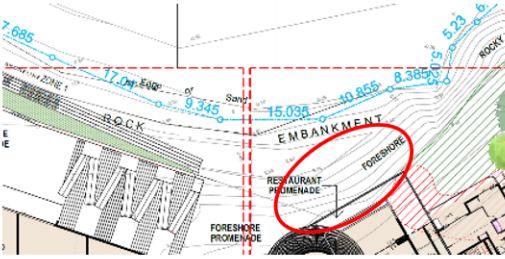
If you would like to discuss the above matters, please contact me on 0428 283 973 or email mfowler@begavalley.nsw.gov.au.

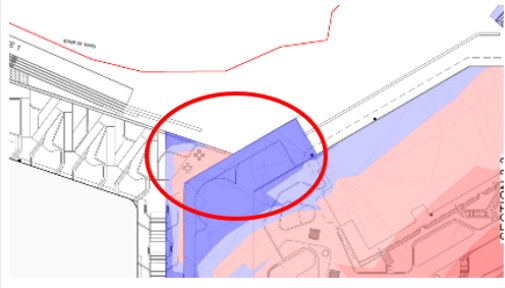
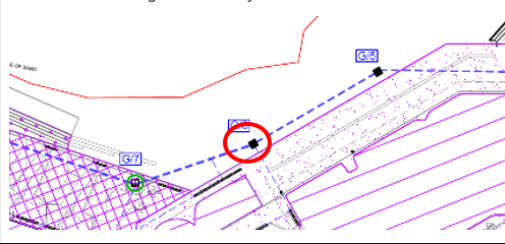
Regards

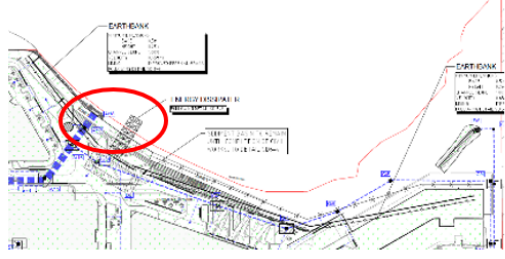
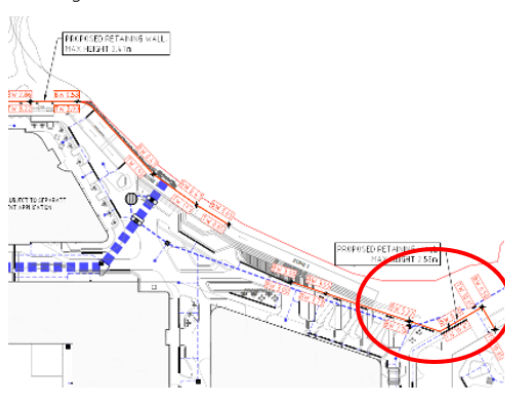
Mark Fowler

Planning Services Coordinator

APPENDIX A:

DOCUMENT	NOTES
<p>Landscape Plans:</p> 	<p>RW2 - Retaining Wall 2 – 10.7m RL</p> <p>Linear sandstone seating - RL 2.8 – forms part of sandstone terracing on future stage but Stage 1 is not fully delineated on the landscape plan and appears inconsistent with the architectural drawings.</p>
<p>Services Assessment:</p> 	<p>Draft architectural plans lack significant details such as the retaining walls and treatment of the ground level to the north of the building.</p>

<p>Bulk Earthworks Plan:</p> 	<p>Bulk Earthworks Plan shows filling behind promenade wall up to 3m deep (dark blue shading). This is approximately xx m from the MHW.</p>
<p>Stormwater Management Study:</p> 	<p>Stormwater pits outside footprint of building</p>
<p>Soil and Water Management Plan:</p>	<p>Shows a number of works below MHW including earthbanks and an energy dissipator outside the Site and into the bay. Stormwater outlet with tidal gate.</p>

	
<p>Retaining Wall Plan:</p> 	<p>New retaining walls shown in red.</p>

Coastal Risk Assessment:

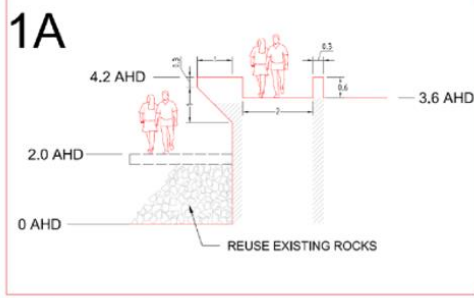


Figure 6-1. Preliminary Edge Treatment Sketch – Option 1A (based on Michael Reeves Concepts)

Refers to a preliminary Edge Treatment Sketch (Figure 6-1) that show reuse of existing rocks, a concrete seawall with overhang and pathways including one suspended, mostly in front of the future stages. Recommended works would be at approx. 5.5m AHD. Clear indication that works have been considered as part of “Stage 1” of the development and the principal function of the works is to limit shoreline erosion and recession.

Page 7.13 refers to 4 zones (however the extent of these are not mapped). Section 7.0 refers to revised architectural designs prepared by the architect with 4 seawall types (see Appendix F in the report) and refers to the works as “shoreline protection works” and reuse of rocks within the back-beach, albeit not as an engineered structure. Page 7.14 also refers to “the (pile) foundations for Stage 1 will need to be socketed into the bedrock – ELK to determine with J&K.”

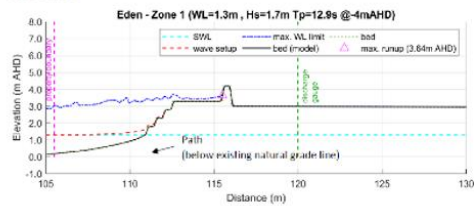
Coastal Risk Assessment – Appendix F:



Untitled photomontage shows part of the Northern boundary to the Bay (Between the Stage 1 line and Zone 4 line) will be subject to works as shown in Figure 1A above (or similar), noting that the final design depends on the architectural response – which does not appear to have been resolved.

The provided Sections (described as Stage 1 and Zone 1) indicate structures within 15m and 5.5m (respectively) of the “property limit”.

Zone 1- CASE B



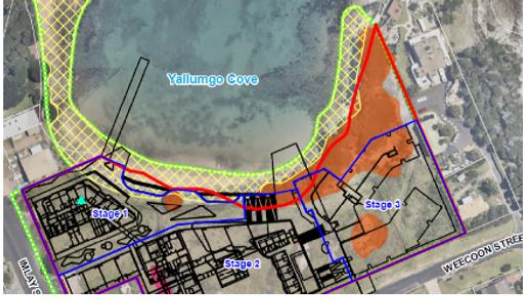
Civil Engineering Plan:

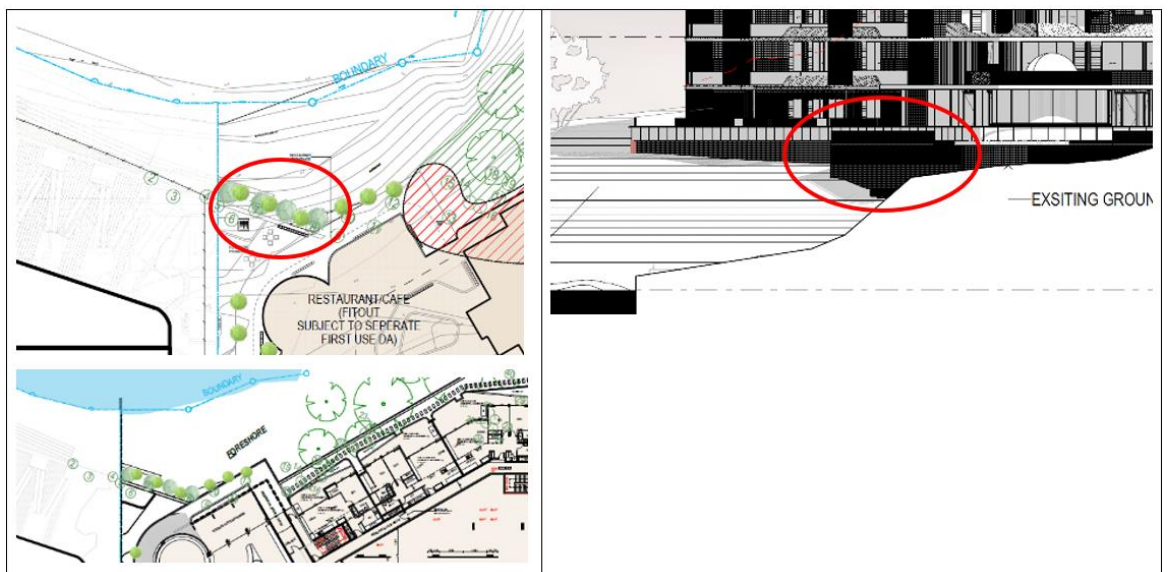


Shows a stormwater outlet with tidal gate at 0.6m AHD. MHW is at 0.38m AHD Works appear to be partly outside the Site and may extend below MHW.

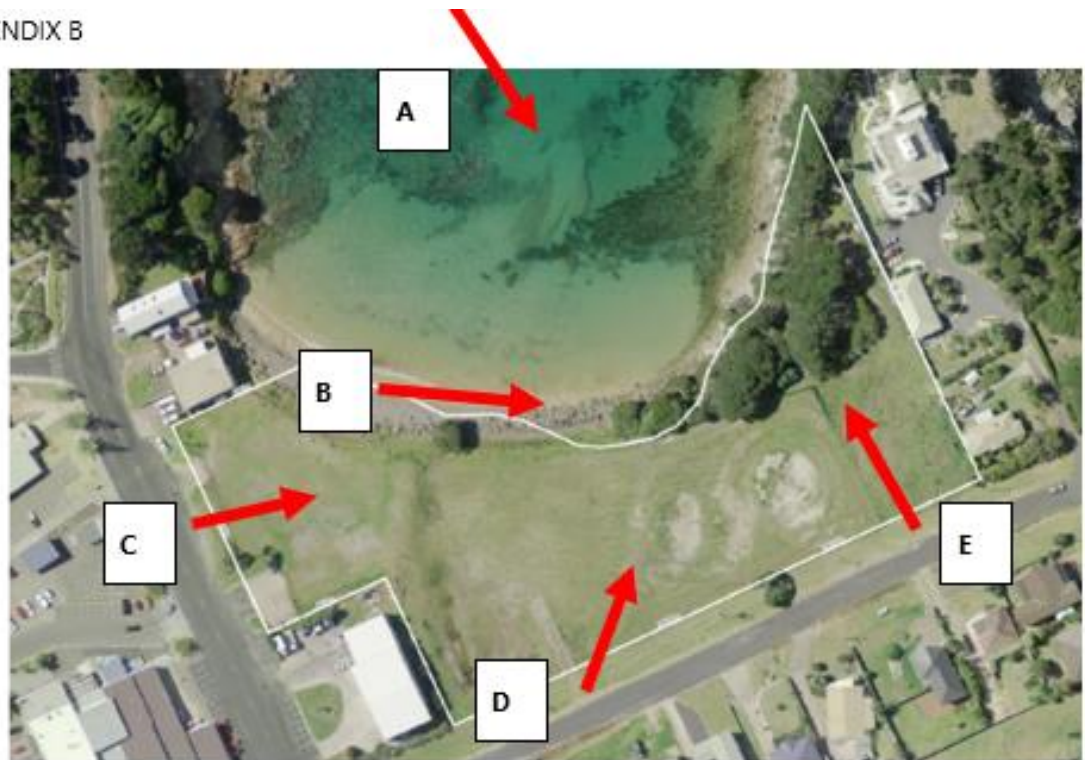
Flora and Fauna Report:

Indicates two structures projecting into the bay and different staging. Additionally, the blue staging boundary for Stage 3 appears to extend over

	<p>the Site's boundaries. Executive Summary describes proposed works as involving "A portion of the foreshore beach habitat would be impacted by the proposed foreshore promenade and the rear rocky habitat to the rear of the beach would be removed to recontour this area for the Proposal foundation works."</p>
<p>SEE:</p>	<p>Development description does not refer to any works on the foreshore but states:</p> <p><i>"A Coastal Risk Assessment prepared by Stantec has identified that for Stage 1 works, the proposed development levels, setback, and reduced exposure to the foreshore than across the remainder of the site, enable an impact free development subject to the implementation of appropriate foundations to structurally support the proposed built form."</i> The Stantec report does not make any such claims.</p>
<p>Architectural Plans:</p>	<p>Some form of structure within 7m of the northern property boundary – forms part of the restaurant promenade. Insufficient detail provided on architectural drawings.</p>



APPENDIX B



A = George Bass Park:



B = Foreshore:



C = Imlay Street:



D = Weecoon St (lower end)



E = Weecoon St (upper end)

