

**Attachment 1****Summary of issues raised in public submissions for MP05\_0032****Total number of public submissions received: 4 (4 in objection, 0 in support)**

Comment	Number of times issue raised
<b>1. Traffic</b>	
<ul style="list-style-type: none"><li>Increased traffic will degrade the area and compromise public safety.</li></ul>	2
<ul style="list-style-type: none"><li>Cattle Bay Road should be blocked to traffic at the resort – directing all traffic to the safest and most direct route to the Princes Highway instead of onto other streets.</li></ul>	1
<ul style="list-style-type: none"><li>Cattle Bay Road and surrounding roads are steep and dangerous.</li></ul>	3
<ul style="list-style-type: none"><li>Considerable traffic flows and associated noise already.</li></ul>	1
<ul style="list-style-type: none"><li>Ida Rodd Drive is not included in the traffic survey.</li></ul>	1
<ul style="list-style-type: none"><li>Further traffic increase on Ida Rodd Drive should be halted and an alternative route submitted.</li></ul>	1
<ul style="list-style-type: none"><li>Chandos Street Road Reserve could be a link between Bay and Chandos Streets. Other road reserves could also be used.</li></ul>	1
<b>2. Setbacks</b>	
<ul style="list-style-type: none"><li>Restaurant/conference facility does not comply with Coastal Design Guidelines' 50m foreshore setback.</li></ul>	1
<b>3. Pedestrian access/links</b>	
<ul style="list-style-type: none"><li>Pedestrian link to Snug Cove needs details as to how it will be achieved, for example, water's edge boardwalks or new pathways alongside existing roads.</li></ul>	1
<ul style="list-style-type: none"><li>Proposal will generate significant traffic; and lack of pedestrian facilities will result in reduced pedestrian safety. Consideration should be given to making Cattle Bay Road a cul-de-sac.</li></ul>	2
<ul style="list-style-type: none"><li>Any walkway should follow the contours from the site to Snug Cove, providing access to Eden's main commercial street.</li></ul>	1
<b>4. Visual impacts</b>	
<ul style="list-style-type: none"><li>Restaurant/conference facility will partially block view of Cattle Bay shoreline and surrounding bushland.</li></ul>	1
<ul style="list-style-type: none"><li>Construction of a building 20m from the existing MHWL will have a negative impact on the visual amenity from the water.</li></ul>	1
<ul style="list-style-type: none"><li>To clutter Cattle Bay with a marina and boat moorings would destroy its natural beauty.</li></ul>	1
<b>5. Height</b>	
<ul style="list-style-type: none"><li>Proposed 4 storey buildings do not comply with Bega Valley LEP's 3 storey height limit; and approval will set a precedent.</li></ul>	1

• Impact of building heights on bushland views has not been addressed.	1
• Impact of building heights on visual amenity from the water.	1
<b>6. Public access</b>	
• The proposed public access to water craft from the shore does not appear to cater for vehicular access to Cattle Bay.	2
• Free and unobstructed public access should be retained to the beach and jetty.	2
<b>7. Bushfire</b>	
• Area west of Ida Rodd Drive contains large amounts of bush and scrub vegetation which, in bush fire emergency, could result in traffic congestion and loss of life.	1
<b>8. Foreshore/Mean high water level</b>	
• Beach gradient will increase and the current mean high water level (MHWL) is artificially seaward.	1
<b>9. Screening</b>	
• Dispute proponent's statement that single residential dwellings are generally screened from the site due to existing vegetation.	1
<b>10. Noise</b>	
• Potential noise impacts from mechanical plant of restaurant/conference facility.	1
• Additional traffic noise will seriously affect a depleted lifestyle.	1
<b>11. Water craft</b>	
• Access, noise and speed should be restricted for jet skis and power boats.	1
• Dinghy storage at the beach.	1
<b>12. Consent authority</b>	
• Minister for Planning should be the consent authority for future DAs due to potential development impacts and the concept plan's lack of detail.	1
<b>13. Strategic Planning</b>	
• Restaurant/conference facility does not comply with <i>Coastal Design Guidelines</i> 50m foreshore setback.	1
• Proposal does not appear to be in keeping with Bega Valley Shire <i>Eden Foreshore Reserves Plan of Management 2007</i> .	1

## 4. CONSULTATION AND ISSUES RAISED

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### 4.1 PUBLIC EXHIBITION DETAILS

The major project application was exhibited from 7 December 2007 to 25 January 2008, and was published in the Eden Magnet and the Bega District News. The EA was made available to the public in the Department's Information Centre and the Southern Regional (Wollongong) Office, Bega Valley Shire, Eden Library and the Nature Conservation Council.

A Consolidated Response to Submissions was lodged on 6 June 2008. This incorporates the proponent's response to all submissions, including the Department's issues and requests for information/clarification raised at its meeting with the proponent, and subsequent requests for information/clarification. Those requests involved suitable riparian corridors, and a 20m setback of the conference building from the existing seawall.

### 4.2 SUBMISSIONS RECEIVED ON ENVIRONMENTAL ASSESSMENT

The Department received a total of 14 submissions, comprising 4 from the public, 9 from public authorities, and 1 from a non-government body following the public exhibition period. Public authority submissions were received from Bega Valley Shire Council, Department of Environment and Climate Change, Department of Primary Industries, Department of Water and Energy, Department of Lands, Roads and Traffic Authority, Rural Fire Service, NSW Maritime, and the Department of Planning Southern Regional Office. A non-government submission was received from the Nature Conservation Council.

The public authorities submissions included 2 (DECC and Maritime) where no interest/objection was raised. DECC advised that as the proposal does not trigger any statutory provisions of environmental legislation administered by it, it did not have an interest in the EA.

### 4.3 PUBLIC SUBMISSIONS

#### 4.3.1 Summary of issues raised in public submissions

The following issues were raised in the public submissions:

- Minister for Planning should be the consent authority for future DAs due to potential impact of proposal and lack of detail in EA.
- Restaurant/conference facility: proximity to shoreline, noise from and view of mechanical plant, interruption of views, visual amenity from water.
- Does not comply with Coastal Design Guidelines' 50m foreshore setback;
- Noise from mechanical plant, jet skis and power boats;
- Beach gradient is increased due to existing seawall;
- Visual impact;
- Height of hotel and serviced apartments;
- Pedestrian link to Snug Cove/Eden need resolving;
- Traffic and safety;
- Ida Rodd Drive is excluded from the traffic survey [Ida Rodd Drive is located approximately 400m west of the site's Cattle Bay Road frontage];
- Use existing road reserves created for future road construction for the proposal's road extensions.
- Concerns about public parking for beach access;
- Concerns about beach dinghy storage;
- Concerns about public access to Cattle Bay beach;
- Clutter of marina and boat moorings would destroy natural beauty of Cattle Bay;
- Access and speed should be reduced for jet skis and power boats;
- Bush fire risk; and

- Proposal does not appear to comply with Bega Valley Shire *Eden Foreshore Reserves Plan of Management 2007*.

It is considered that the above issues, where relevant have been addressed by the proponent (in the Response to Submissions) and in the conditions of approval, as documented in this report. Discussion of the key issues of the proposal is contained in section 5 of this report. A summary of all submissions received is at **Appendix C**. The Response to Submissions, including a revised Statement of Commitments, which address the submissions, is contained at (**Appendix E**).

With respect to community concern about reduced pedestrian safety due to existing road grades and sightlines, the Response to Submissions states that traffic generation will not result in any adverse safety outcomes, existing and proposed road gradients comply with engineering design, and there is no evidence of any danger or hazard. Condition of approval C3 addresses traffic and access to Council's requirements.

Some issues, for example, concern about marina/boat moorings, are not applicable to the proposal which does not include a marina. Bega Valley Shire *Eden Foreshore Reserves Plan of Management 2007 (PoM)* does not apply to the proposal which is not within the Eden Foreshore Reserves. Nonetheless the proposal is consistent with the PoM's management objectives to protect a range of values across the reserves system.

#### 4.4 SUBMISSIONS FROM PUBLIC AUTHORITIES

The following submissions were received from public authorities following the exhibition from 7 December 2007 to 25 January 2008:

##### 4.4.1 Bega Valley Shire Council (BVSC)

Key issues raised by Council include the following:

- Foreshore public access, seawall storm water infrastructure and ownership/maintenance responsibilities (see Sections 5.2 and 5.3);
- Roads construction standards, ownership and maintenance (see Section 5.5);
- Site contamination (see Section 3.8.6); and
- Sea level rise estimates should be reassessed in line with the current DECC Batemans Bay/Wooli Beach study (see **Appendix E**).

##### 4.4.2 Department of Environment and Climate Change (DECC)

DECC advised that the proposal does not trigger any statutory provisions of environmental legislation administered by it and accordingly it did not have an interest in the matter.

##### 4.4.3 Department of Water and Energy

Key issues raised by DWE include the following:

- The 3 drainage lines through the site are category 2 requiring a minimum 20m core riparian zone (CRZ) and 10m vegetated buffer on both sides (see Section 5.3);
- All development and Asset Protection Zones should be located outside the CRZ and vegetated buffers (see Section 5.3);

##### 4.4.4 Roads and Traffic Authority

Does not support the proposal in its original form. Key issues raised by the RTA included:

- Considers predicted traffic generation/adoption of traffic generation rates is conservative;
- Provide full details of traffic surveys referred to;
- Analysis should be based on 100% occupancy rate, not 82%;
- Traffic generation should include the conference centre;
- Revise the SIDRA modelling to reflect any changes in predicted traffic generation for Mitchell/Flinders/Cattle Bay Road, and Imlay/Cocora Street intersections, and identify any necessary junction upgrades.

The proponent addressed the above issues in its Response to Submissions and the RTA advised it was satisfied with the response. The issues are discussed in Section 5.6 of this report.

#### **4.4.5 Rural Fire Service (RFS)**

The RFS reviewed the proposed development under *Planning for Bushfire Protection 2006* and recommended appropriate conditions. These are reflected in the conditions of approval at **Tag A**.

#### **4.4.7 Department of Primary Industries (DPI)**

DPI raised no objections to concept approval subject to conditions to address matters including stormwater management, erosion and sediment controls, water quality and habitat monitoring, and construction management. The issues are discussed in Section 5.3 of this report.

#### **4.4.8 Department of Lands (DoL)**

DoL raised no objections to the construction of roads on Crown land (Bay Street) provided that council agrees to the transfer of the road to it prior to construction commencing. It also raised no objections to the development of Crown roads for constructed accessways and footpaths provided that the road is either, closed and developed by the proponent, or council agrees to the transfer of the road to it prior to construction commencing. DoL required that no APZs be located on Crown land. The issues are discussed in Section 5 of this report and addressed in the conditions of approval.

#### **4.4.9 NSW Maritime**

NSW Maritime raised no objection to the proposal provided that any lighting seen from the exterior does not have an impact on navigation.

#### **4.4.10 Department of Planning Southern Regional Office (DoP Regional Office)**

The DoP Regional Office raised concern about:

- water quality issues, particularly given the significance of Cattle Bay for marine based aquaculture (mussel farming), research and tourism (for example, whale watching) (see Sections 5.3 and 5.5);
- the importance of urban design issues given the increasing importance of tourism, combined with the need to protect foreshore areas whilst providing foreshore access (see Sections 5.5 and 5.2);
- the proximity of the site to Eden township and the importance of pedestrian access in and around the site (see Section 5.1);
- the significance of Aboriginal and non-indigenous heritage issues (see Section 5.11, Appendix B and conditions of approval).

The issues are discussed in Section 5 of this report.



5 November 2012.

Eden Resort Hotel Pty Ltd  
c/- Mr Stephen McMahon  
Inspire Urban Design & Planning  
PO Box 7277  
South Sydney Business Hub NSW 2015

Dear Sir,

**Pre-lodgement discussions with Councils Development Advisory Panel**

Further to our discussions at the Development Advisory Panel meeting of 1 November 2012 the following provides a summary of the key issues discussed at that meeting and may also include additional recommendations and commentary which may be useful in the preliminary planning process.

The information provided is advisory and a full assessment of your project will be undertaken upon lodgement of the Development Application.

Thank you for consulting with Councils Development Advisory Panel. I trust the discussion will be of benefit to your development application preparation. Please do not hesitate to contact me should you wish to discuss this matter further.

A fee of \$270.00 is payable for this service and a separate invoice will be forwarded to you shortly for payment.

Yours sincerely

Cecily Hancock

Planning Coordinator

On behalf of the DAP

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## Proposed Marina, Cattlebay Road Eden - Eden Resort Hotel Pty Ltd

Those in attendance: Cecily Hancock (Planning Coordinator BVSC), Derek van Bracht (Environmental Services Coordinator, BVSC), Daniel Murphy (Environmental Management Officer, BVSC), Jonathon Pyke (Building Services Coordinator, BVSC), James Murray (Development Engineer, BVSC), Stephen McMahon (Inspire Urban Design & Planning), Henrich Ruiz de Roxas (Eden Resort Hotel Pty Ltd), Greg Britten (for ERH P/L) and Michael Jarvin (for ERH P/L).

Stephen McMahon provided a summary of the proposal by Eden Resort Hotel P/L to develop a 154 berth recreational vessel marina connected to the existing jetty at Cattlebay Eden. The marina would complement the approved resort development which has Part 3A Concept Plan Approval from the Department of Planning & Infrastructure (MP05\_0032 MOD 2). It was noted that the marina development was not part of the previous Part 3A approval.

The following matters were discussed;

- Stephen McMahon advised that Eden Resort Hotel P/L has advice that the proposal would be considered as a Part 5 matter under the EP&A Act 1979. It is understood that lands below mean high watermark are not part of the Bega Valley Local Government Area and therefore the Department of Primary Industries (Catchments and Lands) would be the consent authority.
- The connection to the land was discussed as was the need for land based supporting infrastructure and construction operations. It was recommended that ERH P/L seek legal advice in relation to the appropriate assessment path for any Part 4 matters. Stephen McMahon advised that such legal advice would be provided to Council when available.
- ERH expect the conference centre, restaurant & marina to be constructed as the first stage of the development. It was noted that the development of a staging plan which conveys the proposed timing of the development would be beneficial for all parties.
- It was noted that public access to the main marina jetty/pontoon area would be provided. It is recommended that public access links, including carparking areas, should be noted on the staging plan to be provided to Council for consideration/information.
- It was noted that Director General's Requirements have been sought from the Department of Planning and Infrastructure in relation to the environmental impact assessment required for the proposed marina works. It was noted that BVSC have not received a request for input into the DGR's and C Hancock undertook to contact the Department for an update in relation to this process.
- Stephen McMahon advised that extensive consultation is currently being undertaken with all relevant parties in relation to the proposal. He noted that ERH P/L did not see this marina as being in competition with the proposed Port of Eden Marina.
- The construction method of the required wave attenuator is currently being explored. It could be a floating structure or a fixed panel design. D van Bracht advised that he would check Councils records of wave impact data for the Cattlebay area which may be relevant to the proposal. NSW Fisheries Officer, Allan Luggs from Huskinson, would also be an appropriate contact for fisheries matters.
- It was noted that no filling or dredging is proposed, which was supported by DAP. It was recommended that some geotechnical analysis would be required for the proposed pile drilling/construction phase.
- It was noted that no fuel supply would be proposed at the marina. Vessels would need to utilise the Snug Cove facilities for refuelling.

- Stephen McMahon noted that ERH understands that physical commencement has been achieved for the Part 3A development (through the registration of the plan of subdivision for the subject lands which included land dedication to Council in accordance with condition C7 of the MP approval). It would be appreciated if a copy of any correspondence issued by the Department acknowledging physical commencement could be provided to Council for its records.
- It was noted that the key aquatic environment impact assessment requirements would be nominated through the DGR's with direct input from the Office of Environment and Heritage.
- It was recommended that the Environmental Impact Assessment would need to address the following additional matters;
  - Impact on Cocora Beach and the general vicinity as a result of construction of the wave attenuator and marina structures
  - Impact on nearby aquaculture undertakings (eg mussel farms)
  - Detail and assess the proposed effluent collection and disposal systems (it was noted that a mobile pump-out unit would likely be utilised. No reticulation of the marina is proposed). The assessment should also detail arrangements for monitoring and managing salt content in any effluent from the marina activities and should detail the proposed 'dump point' for disposal.
  - Visual impact assessment of the marina and wave attenuator from all surrounding public areas and vantage points.
- It was noted that BVSC issued a letter in 2010 regarding the potential to utilise nearby Council land for the purpose of carparking ancillary to the marina on Lot 234 DP 856990, which contains a Council sewer pump station. Separate DA approval would be required for any such development as this land was not part of the Part 3A Approval.
- This matter was discussed in more detail after the DAP meeting with Stephen McMahon and Cecily Hancock. It was noted that the Lot 234 DP 856990 is classified as 'community land' for the purpose of the Local Government Act and is categorised as 'Natural Bushland Area' under the BVSC Generic Plan of Management. A copy of the PoM is available on Councils website [http://www.begavalley.nsw.gov.au/Planning\\_Development/planning\\_reports/reports.htm](http://www.begavalley.nsw.gov.au/Planning_Development/planning_reports/reports.htm) Council has also resolved to zone the land under RE 1 Public Recreation under draft LEP 2012 (which is considered to be imminent at the time of this meeting). Carparks are not a land use listed as permitted with consent and therefore by default would be prohibited as a stand-alone land use.
- It is therefore recommended that ERH P/L continue discussions with Councils Commercial Services Section in relation to the proposed use of the land. From a planning perspective, it is considered that the land would need to be rezoned and reclassified in order to achieve the said purpose, which would need separate consideration and resolution by Council. The appropriate contact person in this regard would be Ms Theresa Smith.
- An invoice in the amount of \$270 will be forwarded to the customer under separate cover, being the fee for service in relation to the pre-lodgement discussions.