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Your Ref: PP-2021-6786

10 May 2022

Sally Munk
Principal Planning Officer
Industry Assessments
Department of Planning and Environment
Locked Bag 5022,
Parramatta NSW
2124

Attention: Sally Munk

RE: Bega Valley Shire Council response to request for the Secretary's Environmental Assessment Requirements (SEARs) from Auskelp Pty Ltd for the proposed Seaweed Aquaculture Lease, Disaster Bay - Eden 1.

Thankyou for providing Council the opportunity to provide input to this exciting and innovative project. Council's comments acknowledge that the Aquaculture Lease area and proposed Seaweed Farm are outside of the Shire boundary and are located in an area for which Council has no planning or approval responsibilities.

Should further onshore processing facilities be proposed at the industrial area adjacent to the Eden Chipmill / multipurpose wharf Council would appreciate engagement with the applicant to ensure an efficient planning and assessment process. Council identifies the following issues as needing consideration through the Secretary's SEAR's;

1) Wonboyn Lake Entrance

As acknowledged by the applicant the entrance to Wonboyn Lake is variable in nature and can fluctuate from a wide deep entrance, to a shallow heavily shoaled channel through to complete closure. Bega Valley Shire Council does not support any reliance on access through the entrance of Lake for formal construction, maintenance or operational requirements of the proposed development. As proposed by the applicant Council supports the primary access to the site being from Twofold Bay, Eden.

Council has an entrance management policy for Wonboyn Lake based on a natural hydrological regime, with minimal intervention. The policy only allows for entrance opening should the lake inundate foreshore infrastructure or for extreme water quality issues.

2) Marine Mammal Entanglement Prevention

This issue will hopefully be addressed by DPIE. The nature of the development and use of long ropes / lines makes this an issue of concern given increasing whale numbers moving along our coastline during their spring and autumn migrations.

3) Marine Pest Monitoring and Management

The proposed seaweed farm will be in effect a large new habitat created in Disaster Bay. Council is aware of existing marine pest issues in Twofold Bay as a result of historic shipping movements and ballast water disposal. Again this issue should be referenced by DPI Fisheries. Council highlights this issue out of an abundance of caution given the pristine coastal environments to the south of the lease area all the way to Mallacoota.

4) Waste Management

Council would request the applicant identify how they propose to monitor Wonboyn and Greenglades beaches for waste / debris that may break free from the development. Should there be a major failure of any of the infrastructure during a storm event the applicant needs to demonstrate how they will collect the damaged or dislodged materials from the ocean, beach and estuary entrance environments.

5) Emergency Access to Wonboyn Beach

Should the applicant require emergency access to Wonboyn or Greenglade Beaches, Council would suggest that a formal arrangement be entered into with the respective land owners – Eden Local Aboriginal Lands Council (Wonboyn Beach access track) and NPWS (Green Glades Access track). These agreements should identify access routes and any other management issues e.g. Archaeological Heritage and Threatened Shorebirds.

6) Visual amenity

The Disaster Bay area is effectively the start of the Nadgee Wilderness area, a long stretch of pristine coastline running south to the Victorian border. Council would suggest that a visual impact assessment be prepared by the applicant from the key vantage points – Wonboyn Beach, Greenslade Beach, Baycliff and lookouts along the Greencape Lighthouse access road.

NOTE: The project addresses key actions in Council's Climate Resilience Strategy 2050, that identifies Blue Carbon and Kelp farming activities as key actions to be supported as part of the implementation of the Resilience Strategy.

Thank you for taking the time to consider our response and we look forward to feedback on Council's planning proposal. Should you like to discuss this matter or have any questions, please don't hesitate to contact Derek van Bracht on 0428 265 995

Regards,

Derek van Bracht

Acting Manager Planning and Sustainability

Our ref: DOC22/373671

Your ref: SSD-41680467

Sally Munk
Principal Planning Officer
Industry Assessments
Department of Planning and Environment
sally.munk@planning.nsw.gov.au

13 May 2022

Dear Sally

Subject: Major Projects – New Request for Advice – Seaweed Aquaculture Lease, Disaster Bay Eden 1 (SSD-41680467)

I refer to your request for input into the Secretary's Environmental Assessment Requirements (SEARs) for the proposed Seaweed Aquaculture Lease. Our suggestions are provided in the following:

- Attachment 1 Coastal Processes and Hazards
- Attachment 2 Marine Wildlife Species
- Attachment 3 Requirements for the Environmental Impact Statement (EA) for the project
- Attachment 4 Lists the guidance material that will assist in the preparation of the EA

If you wish to discuss this matter further, please contact Nicola Hargraves, Senior Regional Biodiversity Conservation Officer, South East on Nicola.hargraves@environment.nsw.gov.au

Yours sincerely



MICHAEL SAXON
Director South East
Biodiversity and Conservation Division

Attachment 1 – Coastal Processes and Hazards

The proposed site within Disaster Bay is located within the Coastal Environment Area mapped under Chapter 2 (Coastal Management) of the *State Environmental Planning Policy (Resilience and Hazards) 2021*.

Bega Valley Shire Council is preparing a Scoping Study for their coast and estuaries as part of their development of a Coastal Management Program for the Shire. They also commissioned a Coastal Processes and Hazards Definition Study (2015). The study contains information relevant to the Wonboyn Lake and Disaster Bay area and should be referred to. Council should be consulted regarding the Coastal Management Program and whether it will have any implications to the project.

The AusKelp Scoping Report highlights issues requiring environmental assessment in an EA and provides a brief assessment of climate and ocean conditions. Coastal processes and hazards should be one of the key issues to be addressed in the EA.

The EA will need to demonstrate that the proposed development and associated infrastructure is adequately designed to withstand extreme wave fields, coincident tidal ranges and associated currents and potential seabed changes expected within Disaster Bay. If infrastructure is damaged or destroyed during an extreme ocean storm event, there will need to be provisions for appropriate clean-up and remediation of the site.

Note that seabed mapping is available for the study area and is available here: <https://datasets.seed.nsw.gov.au/dataset/nsw-seabed-landforms-derived-from-marine-lidar-data-2022>

The Scoping Report indicates main marine access will be via Twofold Bay but it is anticipated there will also be marine access via Wonboyn Lake Entrance for monitoring, maintenance and emergencies. We note that Wonboyn Lake is an intermittently closed and open lake or lagoon (ICOLL) and has been observed to close in recent drought times. As such the proponent should not rely on the entrance being open for access and alternative access during periods of entrance closure should identified.

Attachment 2 – comments regarding Marine Wildlife species

The impacts of the proposed project to marine wildlife must be considered according to the Initiatives of the *Marine Estate Management Strategy 2021-2028* (MEMS) and risks identified in the *NSW Marine Estate Statewide Threat and Risk Assessment 2017* (TARA).

Under MEMS, Initiatives 1-9 – and their impacts on marine wildlife - will need to be considered, including water quality, maintaining healthy marine habitats, climate change, Aboriginal cultural values, threatened and protected species, and ensuring sustainable aquaculture.

The TARA identifies aquaculture as a threat to seagrass beds in estuarine ecosystems and as a potential threat to marine wildlife through physical disturbance from people and/or vessels. Noise disturbance, marine debris and water pollution from small vessels are also identified as risks to marine wildlife. Underwater noise disturbance especially during construction phase is considered a key threat to marine species – particularly cetaceans. As suggested in the AusKelp Scoping Report, a comprehensive analysis of potential noise sources and modelling of associated impacts is required, and mitigation measures including altering timing of construction, presence of marine mammal observers and operational measures during active phase are necessary.

The TARA recognises there are knowledge gaps in the effects of aquaculture on threatened and protected marine mammals, seabirds and reptiles. It is important that a comprehensive benthic survey and assessment of marine wildlife present is completed as part of the EA, and an ongoing monitoring plan is developed to observe interactions with marine wildlife and identify any unforeseen threats that may emerge.

A key species of note is the Southern Right Whale which is listed as Endangered under the EPBC Act and NSW *Biodiversity Conservation Act* (BC Act). The South East Australian population of Southern Right Whales is estimated to be under 300 individuals with approximately 68 breeding females, and the population is considered to be genetically distinct and the population is not showing the signs of recovery seen in the South West Australian population. Twofold Bay is regarded as a historical high use area in the *National Conservation Management Plan for the Southern Right Whale 2011- 2021* and considered significant for recovery of the species. Southern Right Whales are highly vulnerable to disturbance from any source, so creating exclusion areas around visiting whales is important for their recovery. The importance of Disaster Bay is likely to have increased given the significant increase in infrastructure and marine traffic in Twofold Bay which may have rendered it less suitable for the species.

The entanglement of Southern Right Whales and Humpback Whales (listed as Vulnerable in the BC Act), amongst other protected and threatened marine wildlife, is considered a high risk of this project and needs to be managed accordingly. A detailed marine wildlife threat reduction plan needs to be developed which should consider all species identified in the SEARs (and include managing potential encounters and entanglements of Southern Right Whales). Considerations could include an observer program, emergency response

plan for marine wildlife incidents, oil spill and adverse weather response plan and monitoring and reporting requirements.

The EA should also consider the impacts from light pollution on marine species, particularly seabirds in the area. Light pollution may arise from vessels during construction phase and farm operation. There is extensive research showing the effects of artificial lights on the behaviour, reproduction and survival of marine invertebrates, amphibians, fish and birds. These effects arise from changes in orientation, disorientation, or misorientation and attraction or repulsion from altered light environments. Consideration needs to be given to minimising the amount of light that is released into the environment during the progression of this project.

Attachment 3 - BCD Environmental Assessment Requirements for the proposed Seaweed Aquaculture Lease, Disaster Bay Eden (SSD-41680467)

Biodiversity
1. The Proponent must assess terrestrial and aquatic biodiversity impacts in accordance with the current guidelines. The EA must address & provide information on the risks of entanglement and mitigation measures to reduce this risk for the species mentioned below. Impacts on movement and migration pathways will need to be investigated. 2. The proponent must identify whether the project as a whole, or any component of the project, would be classified as a Key Threatening Process (KTP) in accordance with the listings in the <i>Biodiversity Conservation Act 2016</i> (BC Act), <i>Fisheries Management Act 1994</i> (FM Act) and <i>Environmental Protection and Biodiversity Conservation Act 2000</i> (EPBC Act). 3. The EA must include consideration of light, noise and cumulative habitat sterilisation on Marine Wildlife, 4. The Proponent must assess construction and operational impacts on the following: a. Southern Right Whale; b. Humpback Whale; c. Blue Whale; d. Killer Whale; e. Bottlenose Dolphin; f. Common Dolphin; g. Australian Fur Seal; h. Fairy Penguins; i. Leatherback Turtles; j. Leopard Seal, k. Sperm Whale, l. New Zealand Fur Seal, and m. Phytoplankton. 5. The Proponent must assess any Terrestrial biodiversity impacts in accordance with the Biodiversity Assessment Method and documented in a Biodiversity Development Assessment

Report (BDAR). The BDAR must include information in the form detailed in the *Biodiversity Conservation Act 2016* (s6.12), *Biodiversity Conservation Regulation 2017* (s6.8) and [Biodiversity Assessment Method](#).

6. The BDAR must document the application of the avoid, minimise and offset framework including assessing all direct, indirect and prescribed impacts in accordance with the [Biodiversity Assessment Method](#).
7. The BDAR must include details of the measures proposed to address the offset obligation as follows;
 - The total number and classes of biodiversity credits required to be retired for the development/project;
 - The number and classes of like-for-like biodiversity credits proposed to be retired;
 - The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules;
 - Any proposal to fund a [biodiversity conservation action](#);
 - Any proposal to conduct ecological rehabilitation (if a mining project);
 - Any proposal to make a payment to the Biodiversity Conservation Fund.

If seeking approval to use the variation rules, the BDAR must contain details of the [reasonable steps](#) that have been taken to obtain requisite like-for-like biodiversity credits.

8. The BDAR must be prepared by a person accredited in accordance with the Accreditation Scheme for the Application of the Biodiversity Assessment Method Order 2020 under s6.10 of the *Biodiversity Conservation Act 2016*.

Water and soils

9. The EA must map the following features relevant to water and soils including:
 - a. Rivers, streams, wetlands, estuaries (as described in s4.2 of the Biodiversity Assessment Method).
 - b. Wetlands as described in s4.2 of the Biodiversity Assessment Method. Coastal wetlands include all areas mapped as “Coastal Wetlands” under Chapter 2 (Coastal Management) of the State Environmental Planning Policy (Resilience and Hazards) 2021.
 - c. Groundwater.
 - d. Groundwater dependent ecosystems.
 - e. Proposed intake and discharge locations.
10. The EA must describe background conditions for any water resource likely to be affected by the Seaweed Aquaculture Lease, including:
 - a. Existing surface and groundwater.
 - b. Hydrology, including volume, frequency and quality of discharges at proposed intake and discharge locations.

c. Water Quality Objectives (as endorsed by the NSW Government http://www.environment.nsw.gov.au/ieo/index.htm) including groundwater as appropriate that represent the community's uses and values for the receiving waters. d. Indicators and trigger values/criteria for the environmental values identified at (c) in accordance with the ANZECC (2000) Guidelines for Fresh and Marine Water Quality and/or local objectives, criteria or targets endorsed by the NSW Government.
11. The EA must assess the impacts of the Seaweed Aquaculture Lease on water quality, including: a. The nature and degree of impact on receiving waters for both surface and groundwater, demonstrating how the Seaweed Aquaculture Lease protects the Water Quality Objectives where they are currently being achieved, and contributes towards achievement of the Water Quality Objectives over time where they are currently not being achieved. This should include an assessment of the mitigating effects of proposed stormwater and wastewater management during and after construction. b. Identification of proposed monitoring of water quality or required changes to existing monitoring programs. c. How the development meets the objectives of the Coastal Management Act 2016 and management objectives of relevant Coastal Management Areas defined under this Act. d. Consistency with any relevant certified Coastal Management Program (or Coastal Zone Management Plan)
12. The EA must assess the impact of the Seaweed Aquaculture Lease on hydrology, including: a. Water balance including quantity, quality and source. b. Effects to downstream rivers, wetlands, estuaries, marine waters and floodplain areas. c. Effects to downstream water-dependent fauna and flora including groundwater dependent ecosystems. d. Impacts to natural processes and functions within rivers, wetlands, estuaries and floodplains that affect river system and landscape health such as nutrient flow, aquatic connectivity and access to habitat for spawning and refuge (e.g. river benches). e. Changes to environmental water availability, both regulated/licensed and unregulated/rules-based sources of such water. f. Mitigating effects of proposed stormwater and wastewater management during and after construction on hydrological attributes such as volumes, flow rates, management methods and re-use options. g. Identification of proposed monitoring of hydrological attributes.
Flooding and Coastal Hazards
13. The EA must map the following features relevant to flooding as described in the Floodplain Development Manual 2005 (NSW Government 2005) including: a. Flood prone land.

b. Flood planning area, the area below the flood planning level. c. Hydraulic categorisation (floodways and flood storage areas).
14. The EA must describe flood assessment and modelling undertaken in determining the design flood levels for events, including a minimum of the 1 in 10 year, 1 in 100 year flood levels and the probable maximum flood, or an equivalent extreme event.
15. The EA must model the effect of the proposed Seaweed Aquaculture Lease (including fill) on the flood behaviour under the following scenarios: a. Current flood behaviour for a range of design events as identified in 11 above. This includes the 1 in 200 and 1 in 500 year flood events as proxies for assessing sensitivity to an increase in rainfall intensity of flood producing rainfall events due to climate change.
16. Modelling in the EA must consider and document: a. The impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood. b. Impacts of the development on flood behaviour resulting in detrimental changes in potential flood affection of other developments or land. This may include redirection of flow, flow velocities, flood levels, hazards and hydraulic categories. c. Relevant provisions of the NSW Floodplain Development Manual 2005.
17. The EA must assess the impacts on the proposed Seaweed Aquaculture Lease on flood behaviour, including: a. Whether there will be detrimental increases in the potential flood affectation of other properties, assets and infrastructure. b. Consistency with Council floodplain risk management plans. c. Compatibility with the flood hazard of the land. d. Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land. e. Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site. f. Whether there will be direct or indirect increase in erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses. g. Any impacts the development may have upon existing community emergency management arrangements for flooding. These matters are to be discussed with the SES and Council. h. Whether the proposal incorporates specific measures to manage risk to life from flood. These matters are to be discussed with the SES and Council. i. Emergency management, evacuation and access, and contingency measures for the development considering the full range of flood risk (based upon the probable maximum flood or an equivalent extreme flood event). These matters are to be discussed with and have the support of Council and the SES.

j.	Any impacts the development may have on the social and economic costs to the community as consequence of flooding.
18.	The EA must describe the potential effects of coastal processes and hazards (within the meaning of the <i>Coastal Management Act 2016</i>), including sea level rise and climate change: a. On the proposed development b. Arising from the proposed development.
19.	The EA must consider the effects of coastal processes and hazards (within the meaning of the <i>Coastal Management Act 2016</i>), impacting the site under the following scenarios: a. Current sea level. b. Projected future climate change (including sea level rise) scenarios that have been peer-reviewed and widely accepted by scientific opinion.
20.	The EA must have regard to and document: a. Consistency with any certified Coastal Management Program (or Coastal Zone Management Plan) and coastal zone emergency action subplans b. Consistency with management objectives of Coastal Management Areas described in the <i>Coastal Management Act 2016</i> and relevant development controls described in Chapter 2 (Coastal Management) of the State Environmental Planning Policy (Resilience and Hazards) 2021. c. Consistency with any existing entrance management policies or strategies for coastal lakes and lagoons

Attachment 4 - Guidance Material

Title	Web address
<u>Relevant Legislation</u>	
<i>Biodiversity Conservation Act 2016</i>	https://www.legislation.nsw.gov.au/#/view/act/2016/63/full
<i>Coastal Management Act 2016</i>	https://www.legislation.nsw.gov.au/#/view/act/2016/20/ful
<i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>	State Environmental Planning Policy (Resilience and Hazards) 2021 No 730State Environmental Planning Policy (Resilience and Hazards) 2021 - NSW Legislation
<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>	http://www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/
<i>Environmental Planning and Assessment Act 1979</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N
<i>Fisheries Management Act 1994</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+38+1994+cd+0+N
<i>Marine Parks Act 1997</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+64+1997+cd+0+N
<i>National Parks and Wildlife Act 1974</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+80+1974+cd+0+N
<i>Protection of the Environment Operations Act 1997</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N
<i>Water Management Act 2000</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+92+2000+cd+0+N
<i>Wilderness Act 1987</i>	http://www.legislation.nsw.gov.au/viewtop/inforce/act+196+1987+FIRST+0+N
<u>Biodiversity</u>	
Biodiversity Assessment Method (OEH, 2017)	http://www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf
Biodiversity Development Assessment Report	https://www.legislation.nsw.gov.au/#/view/act/2016/63/part6/div3/sec6.12
Guidance and Criteria to assist a decision maker to determine a serious and irreversible impact (OEH, 2017)	http://www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf
Accreditation Scheme for Application of the Biodiversity Assessment Metho Order 2017	https://www.legislation.nsw.gov.au/regulations/2017-471.pdf
Biodiversity conservation actions	www.environment.nsw.gov.au/resources/bcact/ancillary-rules-biodiversity-actions-170496.pdf

Title	Web address
Reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules	www.environment.nsw.gov.au/resources/bcact/ancillary-rules-reasonable-steps-170498.pdf
OEH Threatened Species Website	www.environment.nsw.gov.au/threatenedspecies/
NSW BioNet (Atlas of NSW Wildlife)	www.bionet.nsw.gov.au/
NSW guide to surveying threatened plants (OEH 2016)	www.environment.nsw.gov.au/resources/threatenedspecies/160129-threatened-plants-survey-guide.pdf
OEH threatened species survey and assessment guideline information	www.environment.nsw.gov.au/threatenedspecies/surveyassessmentguidelines.htm
BioNet Vegetation Classification - NSW Plant Community Type (PCT) database	www.environment.nsw.gov.au/research/Vegetationinformationsystem.htm
OEH Data Portal (access to online spatial data)	http://data.environment.nsw.gov.au/
Fisheries NSW policies and guidelines	http://www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation
Marine Estate Management Strategy (MEMS)	https://www.marine.nsw.gov.au/__data/assets/pdf_file/0005/1352831/Marine-Estate-Management-Strategy-2018-2028.pdf
NSW Marine Estate Statewide Threat and Risk Assessment (TARA)	https://www.marine.nsw.gov.au/__data/assets/pdf_file/0011/1352666/NSW-Marine-Estate-Threat-and-Risk-Assessment-Final-Report.pdf
List of national parks	http://www.environment.nsw.gov.au/NationalParks/parksearchatoz.aspx
Revocation, recategorisation and road adjustment policy (OEH, 2012)	http://www.environment.nsw.gov.au/policies/RevocationOfLandPolicy.htm
Guidelines for developments adjoining land managed by the Office of Environment and Heritage (OEH 2013)	http://www.environment.nsw.gov.au/resources/protectedareas/development-land-adjoining-130122.pdf
National Light Pollution Guidelines for Wildlife	https://www.awe.gov.au/sites/default/files/documents/national-light-pollution-guidelines-wildlife.pdf
Water and Soils	
Flooding and Coastal Erosion	
Floodplain development manual	http://www.environment.nsw.gov.au/floodplains/manual.htm
NSW Climate Impact Profile	http://climatechange.environment.nsw.gov.au/
Climate Change Impacts and Risk Management	Climate Change Impacts and Risk Management: A Guide for Business and Government, AGIC Guidelines for Climate Change Adaptation
Water	
Water Quality Objectives	http://www.environment.nsw.gov.au/ieo/index.htm

Title	Web address
ANZECC (2000) Guidelines for Fresh and Marine Water Quality	www.environment.gov.au/water/publications/quality/australian-and-new-zealand-guidelines-fresh-marine-water-quality-volume-1
Applying Goals for Ambient Water Quality Guidance for Operations Officers – Mixing Zones	http://deccnet/water/resources/AWQGuidance7.pdf
Approved Methods for the Sampling and Analysis of Water Pollutant in NSW (2004)	http://www.environment.nsw.gov.au/resources/legislation/approvedmethods-water.pdf

12 May 2022

Sally Munk
Department of Planning and Environment
Emailed to: sally.munk@planning.nsw.gov.au

Dear Sally,

Subject: Proposed Marine Seaweed Farm – Disaster Bay

In response to your correspondence dated 27 April 2022 on the subject proposal, I wish to confirm that the NSW Maritime Branch of Transport for NSW (Maritime) has **no objections** to this proposal, assessed on the grounds of impact to safe navigation, however I do have some points to raise as outlined below;

I note that on page 27 of the Scoping Report it states, "Navigation buoys will be positioned at least on the four corners of the lease area in accordance with NSW Maritime Authority requirements." And further on page 42, "The proponent will work with NSW Maritime to identify appropriate navigation aids and markers for the farm which will be included in further environmental assessment."

Recognition of the above points is appreciated; however, it is not clear at this stage whether the intention will be for all vessels to be excluded (prohibited) from entering the lease area or not. From the project infrastructure and design outlined on page 27, I do believe that there is a strong likelihood that this will need to be the case. The system described, only being submerged 0.5 metres below the water's surface, does not provide adequate safe water depth for power-driven vessels to navigate over without the risk of entanglement to the vessel and subsequent damage to the infrastructure below.

If all vessels are to be excluded, or at least power-driven vessels, the buoyage and signage requirements on the proponent will be far greater. The entire perimeter of the lease area will need to be clearly delineated to ensure power-driven vessels do not inadvertently enter. The potential for the lease area to be a vessel exclusion zone should be included in the community and stakeholder engagement.

It is important to note that the proponent, or any entity or contractor acting on their behalf, are not exempt from the provisions of the *Marine Safety Act 1998*, or any other relevant legislation, and all parties must comply with any direction given by NSW Maritime Authorised officers with regard to safe navigation or the prevention of pollution.

Should you have any queries in relation to this matter please contact Boating Safety Officer Adam Russell on 0491 212 790, and please forward a copy of the Determination of Consent for our information to NavSouth@transport.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink that reads "N. Jacobs".

Nathaniel Jacobs
Manager Waterways Operations South
NSW Maritime

[Publish Date]

Record Number: 22/00069#58

Planning Number: SSD-41680467

Seaweed Aquaculture Lease, Disaster Bay

The Department of Planning and Environment – Crown Lands has reviewed the Eden 1 Scoping Report Pre-Development Application PDA-23376549 (Scoping Report). I.

The project footprint is within a Crown waterway.

The *Environmental Planning and Assessment Act 1979* requires any person seeking to carry out specified development to obtain the consent of the landowner. The development application will require Landowners consent at the time the consent authority determines whether to grant development consent. Crown Lands has the authority to grant minister's consent as landowner under the *Crown Land Management Act 2016* to the lodging of:

- development applications, Complying Development Certificate applications, and major project applications under the *Environmental Planning and Assessment Act 1979*
- development applications under the *Native Vegetation Act 2003*
- applications required under other applicable legislation.

Landowner's consent will only be given if it is determined that the proposal is consistent with the management of Crown land under the *Crown Land Management Act 2016*. Crown land includes waterway areas. Landowners consent application form is at https://www.industry.nsw.gov.au/__data/assets/pdf_file/0003/144345/landowners-consent-application-form.pdf.

The proponent states in the Scoping Report (see Section 4.1) that an aquaculture lease has been issued under Section 163 of the *Fisheries Management Act 1994* Act has been obtained conditional upon SSDA. In addition, an aquaculture permit issued under Section 144(1) of the *Fisheries Management Act* has been obtained. No additional Crown Land tenure will be required.

No other Crown lands, including roads are contained within the project footprint or adjacent to the project footprint.

Native Title

Section 4.1 of the Scoping Report states – '*Disaster Bay does not fall within the "Determined area" Native Title (NSW) Act 1994 boundaries of Native Title defined by National Native Title Tribunal as of 30 June 2021. While Native Title claims in Disaster Bay have not been found, further investigation of indigenous use of Disaster Bay will completed as part of the EIS.*

The project area may not be within the 'determined area' for the South Coast Peoples Native Title claim, but this does not mean that native title does not exist or is extinguished. Dealings in land or water that affect (impair or extinguish) native title are referred to as 'future acts' and these acts must be done in compliance with the *Native Title Act*. The *Native Title Act* specifies procedures that must be followed before future acts can be undertaken legally. Information regarding Native Title can be found at the below link:

<https://www.industry.nsw.gov.au/lands/what-we-do/our-work/native-title>

If the proponent requires further information, or has any questions, please contact Kirsti Sampson, Group Leader South East in Crown Lands, on 0473 184 322 or at Kirsti.Sampson@crownland.nsw.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K.A. Sampson', with a stylized flourish at the end.

Group Leader – South East Region

Our Ref: C22/273

5 May 2022

Sally Munk
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124
c/o: lodged via planning portal

Dear Ms Munk,

Re: DPI Fisheries response to request for Secretary's Environmental Assessment Requirements (SEARs) for Marine Seaweed Farm – Disaster Bay (SSD-41680467)

In response to your email dated 27 April 2022 seeking input into the Secretary's Environmental Assessment Requirements (SEARs) for a proposal by AusKelp Pty Ltd to establish a Seaweed Aquaculture Lease in Disaster Bay near Eden.

DPI Fisheries advises that the requirements of the NSW Marine Waters Aquaculture Sustainable Strategy (MWSAS) established as an Aquaculture Industry Development Plan under the *Fisheries Management Act 1994* must be adequately addressed in any prepared EIS.

Chapter 3 of the MWSAS outlines constraint and assessment requirements of potential risk matters which must be considered.

The constraints outlined in section 3.1 of the MWSAS must be addressed to demonstrate that the proposal is permissible in the subject location. It is noted that the land based activity area within the scoping document appears to be potentially within a naval restriction area and will require consultation with the Department of Defence.

Section 3.2 of the MWSAS outlines a number of environmental assessment requirements that must be addressed in an EIS for a proposed marine aquaculture development. This would involve: a description of the respective 22 items listed; assessment of environmental impact; addressing how impacts would be mitigated and managed; and a description of associated monitoring and reporting that would be undertaken. DPI Fisheries requests that the SEARs for this proposal includes assessment of all items listed under Section 3.2 of the MWSAS.

Section 3.2.12 of the MWSAS deals with commercial, recreational and Aboriginal cultural fishing, recreational boating and tourism. It is recommended the proponent contacts relevant industry/cultural bodies to understand the level of effort in this area. DPI Fisheries also recommends that local fishers or local fisheries managers are also contacted to understand both the level of fishing and fishing access rights in the area, so that impacts on fishing activities can be accurately assessed.

Section 5.8 of the MWSAS details additional assessments and approvals that must be considered in an EIS. In addition to the proposed development being classified as a State Significant Development under the *Environmental Planning and Assessment Act 1979*, the proposal may also require a separate approval under *Commonwealth Environment Protection Biodiversity Conservation Act 1999*.

Appendix 2 of the MWSAS lists templates of Environmental Management Plans which may aid the proponent develop plans for the project.

Wonboyn Lake is an ICOLL system that at this point in time tends to close mostly during drought periods where it can close for extended periods of time. This project should be developed so that is not reliant on an open entrance at Wonboyn Lake for access to the site, and access to the site primarily occurs from other locations with direct ongoing oceanic access. ICOLL entrance management is a specialised long-established practice. In NSW ICOLL entrance management is guided by NSW Government policy and is regulated via the issue for State Government licenses for this activity. These policies and practices do not directly manage ICOLL openings for the purpose of access to the ocean.

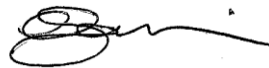
Contact details within DPI Fisheries regarding this proposal follow:

- Ian Lyall, Program Leader Aquaculture: ian.lyall@dpi.nsw.gov.au
- Carla Ganassin, Senior Fisheries Manager Coastal Systems:
carla.ganassin@dpi.nsw.gov.au
- Melinda Coleman, Principal Research Scientist (algae): melinda.coleman@dpi.nsw.gov.au

Yours sincerely,



Ian Lyall
Program Leader Aquaculture



Carla Ganassin
Senior Fisheries Manager, Coastal Systems

Sally Munk

From: Carla Ganassin
Sent: Monday, 9 May 2022 11:43 AM
To: Sally Munk
Cc: Graeme Bowley; Ian Lyall; Matthew Proctor
Subject: DPI Fisheries - additions to SEARs comment - Eden Kelp Farm

Dear Sally,

DPI Fisheries wishes to provide the following additions to our SEARs response on the Marine Seaweed Farm at Disaster Bay (Our ref: C22/273, dated 5 May 2022).

- 1) To discuss local fishing operations in the area, please contact Matthew Proctor, District Fisheries Officer Eden: matthew.proctor@dpi.nsw.gov.au
- 2) DPI Fisheries has noted a couple of inaccuracies in the scoping study report:
 - (a) The mapping showing reef areas has not detected local inshore rocky reefs off Wonboyn Beach.
 - (b) Commercial trawling activity is also permissible in the Disaster Bay area.
- 3) The assessment of impacts to threatened species under the *Fisheries Management Act* needs to also include impacts to protected species under this Act e.g. Sygnathids. This needs to consider impacts from the deployment and operation of this facility.
- 4) The EIS should also assess, mitigate and manage the potential for marine debris from damaged or failed kelp farm infrastructure and potential for associated pollutant inputs into the waterway.

Could you please ensure this amendment is uploaded onto the Planning Portal and provided to the proponent along with our initial comments on the SEARs.

Regards,

Carla Ganassin | Senior Fisheries Manager - South | Coastal Systems
NSW Department of Primary Industries | Fisheries
Block E Level 3, 84 Crown Street (PO Box 5106), Wollongong NSW 2520
T: (02) 4222 8342 | M: 0447 644 357 | E: carla.ganassin@dpi.nsw.gov.au

The Secretary
Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

Attention: Sally Munk

Dear Sally,

State Significant Development (SSD-41680467) – Seaweed Aquaculture Lease, Disaster Bay – Eden 1

Thank you for providing Port Authority of New South Wales (Port Authority) with the opportunity to provide input into the Secretary's Environmental Assessment Requirement (SEARs) for State Significant Development application Seaweed Aquaculture Lease (SSD-41680467).

Port Authority manages the navigation, security, and operational safety needs of commercial shipping in Sydney Harbour, Port Botany, Newcastle Harbour, Port Kembla, Eden and Yamba. This includes safe navigation of shipping movements within the ports, the role of Harbour Master, pilotage, emergency response including marine oil and chemical spill response, and dangerous goods.

Port Authority also owns William Allen Drive (Lots 3-10 DP1066187), water-land Lots 1 and 2 DP1045865 (the location of the Multi-purpose Wharf at East Boyd Bay) and land at Snug Cove, including the Eden Cruise Wharf and Breakwater Wharf.

Port Authority has reviewed the Scoping Report for SSD-41680467 and makes the following comments and matters to be included in the SEARs.

Navigation Impacts

The proposal notes that the primary routes for accessing the Eden 1 Lease site at Disaster Bay (construction and operations, including harvesting and maintenance) will be by boat from the Port of Eden and Eden Multi-purpose Wharf.

Port Authority requests that the SEARs require the preparation of a navigation risk and impact assessment to assess potential impacts from the project on port operations and commercial and recreational shipping movements in Eden and detail how vessel movements associated with SSD-41680467 will be managed to minimise risk and avoid impacts on those movements. Port Authority requests that the scope of this assessment is discussed and agreed with the Harbour Master.

Consultation

The proposal notes that construction components are to be transported by truck to the wharf/port where they will then be transported by vessel to the Eden 1 Lease site. During operations, seaweed seedstock and mature harvested seaweed will be transported between Edrom and the Eden 1 Lease site, and routine ocean farm maintenance and monitoring of equipment will also be conducted via the same route.

YAMBA

PO Box 143
Yamba NSW 2464
T: 61 2 6646 2002

NEWCASTLE

PO Box 663
Newcastle NSW 2300
T: 61 2 4985 8222

SYDNEY

PO Box 25
Millers Point NSW 2000
T: 61 2 9296 4999

PORT KEMBLA

PO Box 89
Port Kembla NSW 2505
T: 61 2 4275 0100

EDEN

PO Box 137
Eden NSW 2551
T: 61 2 66461596

Given:

- Port Authority's ownership of land at East Boyd Bay, including William Allen Drive and the Multi-purpose Wharf, and land and wharf facilities at Snug Cove; and
- Port Authority's role of Harbour Master for the Port of Eden

Port Authority requests that the SEARs require consultation with Port Authority and the Harbour Master on:

- the proposed use of Port Authority land and wharf structures and the assessment of the impacts of that use;
- navigation impacts and vessel management (as noted above).

Harbour Master Approval

Please note that written approval of the Harbour Master (Approval under Section 110 of the *Ports and Maritime Administration Regulation 2021*) is required should the proposal include any proposed works that would disturb the bed of the Port of Eden.

Please do not hesitate to contact Ricardo Prieto-Curiel, Senior Environmental Planner, at rprieto-curiel@portauthoritiesnsw.com.au or 0439 309 614 should you have any questions.

Yours sincerely,



Ryan Bennett

Senior Manager, Planning and Sustainability

6 May 2022

12 May 2022

Our Ref: STH22/00089/02

Your Ref: SSD-41680467

Sally Munk

Department of Planning and Environment

BY EMAIL: sally.munk@planning.nsw.gov.au

**REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (SEARS)
- SEAWEED AQUACULTURE LEASE - DISASTER BAY, EDEN (SSD-41680467)**

I refer to the abovementioned request for input into the SEARs referred to Transport for NSW (TfNSW) on 27 April 2022.

TfNSW has completed a review of the information provided (report with reference Eden 1 Scoping Report Pre- Development Application PDA-23376549, Version 2.5 dated 27 March 2022 prepared by AusKelp) and notes:

- the development is a State Significant Development under the *Environmental Planning and Assessment Act 1979*;
- the key state classified road is the Princes Highway to which the development has access via the Council managed road network;
- as the works will affect navigable waters, NSW Maritime will be providing comments separately;
- the development would generate additional traffic. The impact of this traffic, specifically in relation to impacts upon the state classified road network, needs to be considered and if required adequately mitigated; and
- the associated land-based activities are not part of this current SEAR's request.

Having regard to the above, TfNSW requests the matters outlined in **Attachment 1** be included in any SEAR's issued and subsequently addressed by the applicant in the Environmental Impact Statement (EIS) prepared for the development.

Should you require further information concerning the above please contact me on 0418 962 703.

Yours sincerely



Andrew Lissenden

A/Team Leader, Development Services, South Region

OFFICIAL

While noting the application is not seeking any approval for land-based facilities that are associated with the growing of seaweed, TfNSW believes that the vehicle related impacts of this proposal need to be considered holistically (i.e. vehicle movements generated by both the land based and water-based activities). In this regard, the following is required:

1. Traffic Impact Study (TIS): A TIS is required to examine any potential transport related implications of the development that considers the traffic/vehicle movements for both the land-based and water-based activities. As a guide Table 2.1 of the RTA's Guide to Traffic Generating Developments outlines the key issues that should be considered in preparing a TIS. In addition, regard should be had for the Austroads publications, particularly the *Austroads Guide to Traffic Management Part 12: Integrated Transport Assessments for Developments* and *Part 3: Traffic Studies and Analysis Methods*.

Noting the above, the TIS should:

- a) consider that the traffic related issues relevant to the development for the land and water-based components in 2 distinct phases as follows:
 - i. *Construction phase* – The transport of materials and equipment/components for the establishment of the facility, ancillary infrastructure and the movement and parking of construction related vehicles including workers vehicles; and
 - ii. *Operational phase* – The ongoing traffic generation due to the operation, maintenance and servicing of the various elements of the project (e.g. how is the material required and the end product transported to and from the sites, etc).
- b) for each of the above stages the following need to be addressed:
 - i. a plan that clearly illustrated the transport route that will be taken to access both the land and water-based activities (i.e. from the Princes Highway to the sites).
 - ii. details of all traffic types (both heavy and light vehicles) and volumes, for each, likely to be generated including a description of vehicle types;
 - iii. daily inbound and outbound traffic profile by time of day and day of week broken down per vehicle type and the additional movements that the works will generate. This includes a summary of the additional peak hour movements and maximum daily movements for both heavy and light vehicles;
 - iv. intersection performance impacts for times of peak activity. This includes an assessment of the suitability of the local road connections with the state road network at each access point to be used as well as details on any works required;
 - v. provide details on any oversize and/or over mass vehicle (OSOM) movements associated with the proposal as well as any changes to the road network required to cater for OSOM movements.

Please note the above relates only to potential impacts on the state road network. Discussions should be had with Bega Valley Shire Council about the information they may require to be included in the TIS concerning local road impacts.

From: [Nicole Davis](#)
To: [Sally Munk](#)
Subject: Heritage NSW - ACH - Advice of SEARs - Major Projects – New Request for Advice - Seaweed Aquaculture Lease, Disaster Bay - Eden 1 (SSD-41680467) (Bega Valley Shire)
Date: Tuesday, 3 May 2022 9:51:00 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image009.png](#)

Hi Sally,

Heritage NSW recommends that the following SEAR be included with respect to Aboriginal cultural heritage (ACH).

Aboriginal Cultural Heritage

- Provide an Aboriginal Cultural Heritage Assessment Report (ACHAR), prepared in accordance with relevant guidelines, identifying, describing and assessing any impacts to Aboriginal cultural heritage sites or values associated with the site.

I shall upload this email to the MPP. If you require any further information please contact me directly.

Kind Regards
Nicole Davis

Nicole Davis

Manager Assessments
Heritage NSW

Department of Planning and Environment

T 02 4927 3156 **M** 0409 394 343 **E** nicole.davis@environment.nsw.gov.au

Locked Bag 5020 Parramatta 2124

Working Days Monday to Friday



I acknowledge the traditional custodians of the land and pay respects to Elders past and present. I also acknowledge all the Aboriginal and Torres Strait Islander staff working with NSW Government at this time.

From: no-reply@majorprojects.planning.nsw.gov.au <no-reply@majorprojects.planning.nsw.gov.au>

Sent: Wednesday, 27 April 2022 2:00 PM

To: OEH HD Heritage Mailbox <HERITAGEMailbox@environment.nsw.gov.au>; Erin McWhirter <Erin.McWhirter@environment.nsw.gov.au>; Andre Quinon <andre.quinon@environment.nsw.gov.au>; Sirena Larsson

<sirena.larsson@environment.nsw.gov.au>

Cc: Sally Munk <Sally.Munk@planning.nsw.gov.au>

Subject: Major Projects – New Request for Advice - Seaweed Aquaculture Lease, Disaster Bay - Eden 1 (SSD-41680467) (Bega Valley Shire)

The Department has sent you a request for advice in relation to the Seaweed Aquaculture Lease, Disaster Bay - Eden 1. The due date for this request is 10/05/22.

Please sign in to your account to view the details of this request and to upload your advice.

If you have any enquiries, please contact Sally Munk at sally.munk@planning.nsw.gov.au.

To sign in to your account click [here](#) or visit the [Major Projects Website](#).

Please do not reply to this email.

Kind regards

The Department of Planning and Environment



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Heritage NSW

Our ref: HMS ID 1058

Sally Munk
Planner
Department of Planning and Environment
PO BOX 404, PARRAMATTA NSW 2124

By email: sally.munk@planning.nsw.gov.au

Dear Ms Munk

**Request for Secretary's Environmental Assessment Requirements (SEARS) for
Seaweed Aquaculture Lease, Disaster Bay - Eden 1 (SSD-41680467)**

Thank you for your referral dated 27 April 2022 inviting SEARS input from the Heritage Council of NSW on the above State Significant Development (SSD) proposal.

The subject site is not listed on the State Heritage Register (SHR), nor is it in the immediate vicinity of any SHR items. Further, the site does not contain any known historical archaeological relics. Therefore, no heritage comments are required. The Department does not need to refer subsequent stages of this proposal to the Heritage Council of NSW.

If you have any questions regarding the above advice, please contact Sirena Larsson, Manager Customer Concierge at Heritage NSW at sirena.larsson@environment.nsw.gov.au.

Yours sincerely

Tim Smith OAM
Director Assessments
Heritage NSW
Department of Planning & Environment
As Delegate of the Heritage Council of NSW
28 April 2022



DOC22/346695-3

5 May 2022

Sally Munk
Principal Planning Officer
Energy Resource Industry Assessments

(via Major Projects Portal)

Dear Ms Munk

Seaweed Aquaculture Lease, Disaster Bay – Eden 1 (SSD 41680467)
EPA response to request for advice on SEARs

I am writing to you in reply to your invitation to the NSW Environment Protection Authority (EPA) to provide input into the Secretary's Environmental Assessment Requirements (SEARs) for the above proposal.

The EPA understands that the proposal seeks to develop a 200 hectare seaweed aquaculture marine farm located approximately 4 km east-south-east of the village of Wonboyn and 23 km south of Eden.

Based on the information provided, the proposal does not appear to be a development that will require an environment protection licence under the *Protection of the Environment Operations Act 1997*. The EPA also understands that the proposal is unlikely to be a development that will be undertaken by or on behalf of a NSW Public Authority, nor will it be other activities for which the EPA is the appropriate regulatory authority.

In view of these factors, the EPA has no comments to provide on this project and no follow-up consultation is required.

Should you require clarification of any of the above please contact Anna Timbrell on 9274 6345 or email environmentprotection.planning@epa.nsw.gov.au

Yours sincerely

MITCHELL BENNETT
Unit Head - Statutory Planning



Department of Primary Industries

OUT22/5804

Sally Munk
Principal Planning Officer
Industry Assessments
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124
sally.munk@planning.nsw.gov.au

Dear Ms Munk,

SEARs Request - Proposed Marine Seaweed Aquaculture Farm, Disaster Bay

Thank you for the opportunity to provide input to the environmental assessment requirements for the above proposal as per your correspondence dated 27 April 2022. The NSW Department of Primary Industries (NSW DPI) Agriculture provides advice to consent authorities about the protection and growth of agricultural industries and the resources upon which these industries depend.

It is understood that Auskelp Pty Ltd is seeking approval for the development of a 200-hectare seaweed aquaculture marine farm on aquaculture lease AL21/004 within Disaster Bay.

Given the nature and siting of the proposal, DPI Agriculture does not require any specific assessment requirements.

It is understood that the proposal has been sent to other branches within NSW DPI that will have more relevance to the proposal and will provide a separate response.

Should you wish to discuss the matter further, please contact Agricultural Land Use Planner, Wendy Goodburn, on 0402 069 605.

Yours sincerely

Selina Stillman **10/05/22**
Agricultural Land Use Planning Officer

Department of Planning and Environment

Our ref: OUT22/5133

Sally Munk

Planning and Assessment Group
NSW Department of Planning and Environment

Email: sally.munk@planning.nsw.gov.au

27 April 2022

Subject: **Seaweed Aquaculture Lease, Disaster Bay – Eden 1 (SSD-41680467)**
Comment on the Secretary's Environmental Assessment Requirements (SEARs)

Dear Ms Munk

The following recommendations are provided by DPE Water.

The SEARS should include:

- The identification of an adequate and secure water supply for the life of the project. This includes confirmation that water can be sourced from an appropriately authorised and reliable supply. This is also to include an assessment of the current market depth where water entitlement is required to be purchased.
- A detailed and consolidated site water balance.
- Assessment of impacts on surface and ground water sources (both quality and quantity), related infrastructure, adjacent licensed water users, basic landholder rights, watercourses, riparian land, and groundwater dependent ecosystems, and measures proposed to reduce and mitigate these impacts.
- Proposed surface and groundwater monitoring activities and methodologies.
- Consideration of relevant legislation, policies and guidelines, including the NSW Aquifer Interference Policy (2012), the Guidelines for Controlled Activities on Waterfront Land (2018) and the relevant Water Sharing Plans (available at <https://water.dpie.nsw.gov.au/home>).

Should you have any further queries in relation to this submission please do not hesitate to contact DPE Water Assessments at water.assessments@dpie.nsw.gov.au, or to the following coordinating officer within DPE Water:

Alistair Drew, Project Officer, E: Alistair.drew@dpie.nsw.gov.au

Yours sincerely



Simon Francis
Senior Project Officer, Assessments, Knowledge Division
Department of Planning and Environment: Water