



Shell Cove Boat Harbour / Marina

*Part 3A Section 75W
Modification Assessment
(DA 95/133 MOD 8)*

November 2019

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Glossary

Abbreviation	Definition
BMSF	Boat Maintenance and Storage Facility
Council	Shellharbour Council
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group of the Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEP	Local Environmental Plan
Minister	Minister for Planning and Public Spaces
Proponent	Frasers Property Australia
RMS	Roads and Maritime Services
RtS	Response to Submissions
Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SRtS	Supplementary Response to Submissions



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1. Background

1.1 Background

This report is an assessment of a request to modify the development consent (DA95/133) for the construction of the Shell Cove Boat Harbour and Marina.

The proposal seeks changes to the provision of outer harbour structures, such as a boat lift, refuelling and repair pontoons.

The request has been lodged by Frasers Property Australia (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Subject site

The Shell Cove Boat Harbour site is located approximately 17km south of Wollongong and 600m south of Shellharbour Village in the Shell Harbour Local Government Area. It adjoins Shellharbour South Beach to the east and emerging development known as the Shell Cove Boat Harbour Precinct to the north, south and west. The site location is shown in **Figure 1**.



Figure 1 | Site Location and layout (Base source: MOD 7 Approved Plans)

The boat harbour and marina are currently under construction. The modification request relates to part of the outer harbour area as shown in **Figure 1**.

1.3 Approval history

Boat Harbour / Marina

On 26 November 1996, the then Minister for Urban Affairs and Planning granted development consent for the construction and operation of a 350 berth harbour / marina at Shellharbour South Beach, comprising:

- construction of a boat harbour and associated facilities
- berthing of vessels up to 20m in length
- enhancement and enlargement of the wetland at Shadforth
- the realignment of the quarry haul road
- the placement of treated landfill in engineered cells adjacent to the realigned haul road providing access to the Bass Point quarry.

The approval included several structures at the junction between the outer and inner harbours including refuelling and pump-out facilities, a travel lift for hauling vessels from the water and a floating repair wharf. The layout of the structures, as originally approved is shown in red in **Figure 2**.

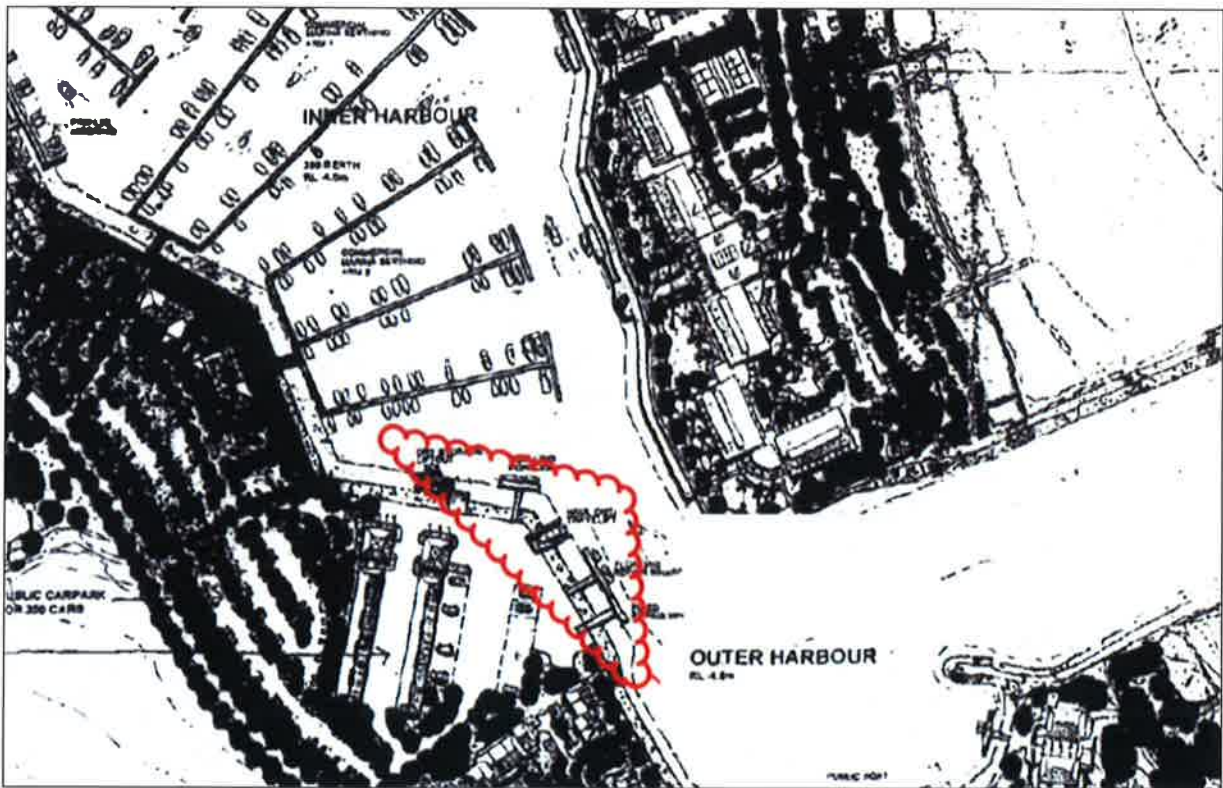


Figure 2 | Location of 'Outer Harbour Structures' as per original application (Base source: MOD 8 application documents)

The application has been subject to the following modification applications:

Table 1 – Modifications to the Approval

Reference	Description of Modification	Status
DA95/133 MOD 1	Construction of acoustic barriers along the quarry haul road instead of engineered land fill cells.	Approved 9 November 2001
DA95/133 MOD 2	The deposition of waste material extracted from the Shellharbour wetland to a single landfill cell, and disposal of acid sulfate soils (ASS) and potential acid sulfate soils (PASS) to an Environmental Protection Authority licensed landfill site.	Approved 6 September 2004
DA95/133 MOD 3	Reconfiguration of the marina layout Reconfiguration of the boat harbor to avoid the disturbance of ASS and PASS Reconfiguration of breakwater and deletion of southern breakwater	Approved 31 October 2006

	Reduction in the number of berths from 350 to 300 Removal of the stop-work provisions related to uncovering Aboriginal relics.	
DA95/133 MOD 4	Extension of the seaward boundary of the site to incorporate the inter-tidal area within the application area.	Approved 25 November 2008
DA95/133 MOD 5	Modification of Condition 18 to incorporate neutralization and re-use of ASS on-site in accordance with the Acid Sulfate Soil Management Plan.	Approved 20 August 2010
DA95/133 MOD 6	Excavation to create a beach and additional structures Construction of a timber boardwalk, jetty, lookout platform and concrete stepped walls Reconfiguration of the marina layout and reduction the number of berths to 270.	Approved 8 July 2015
DA95/133 MOD 7	Amendment of the marina configuration including two new access points Permit flexible berth sizes, allowing the total number of berths within each berth size to increase or reduce by up to 10%.	Approved 7 July 2017

Most relevantly to the current modification (MOD 8), MOD 3 approved the reconfiguration of the boat harbour and the marina layout. The modification included:

“relocating the fuelling facilities, sewage pump-out and bilge pump-out to the Outer Harbour near the proposed repair and maintenance facilities”.

While the plans associated with MOD 3 did not show the proposed structures, the Department considers that fuelling facilities, sewage pump-out and bilge pump-out are already approved in the general location at the Outer Harbour location based on the description of the modification application.

The current approved layout (MOD 7) of the Boat Harbour and Marina is shown in **Figure 3**. It should be noted that several of the Outer Harbour structures shown on the plans have been inadvertently included but were not approved in MOD 7 as it only related to the design of the Inner Harbour area.

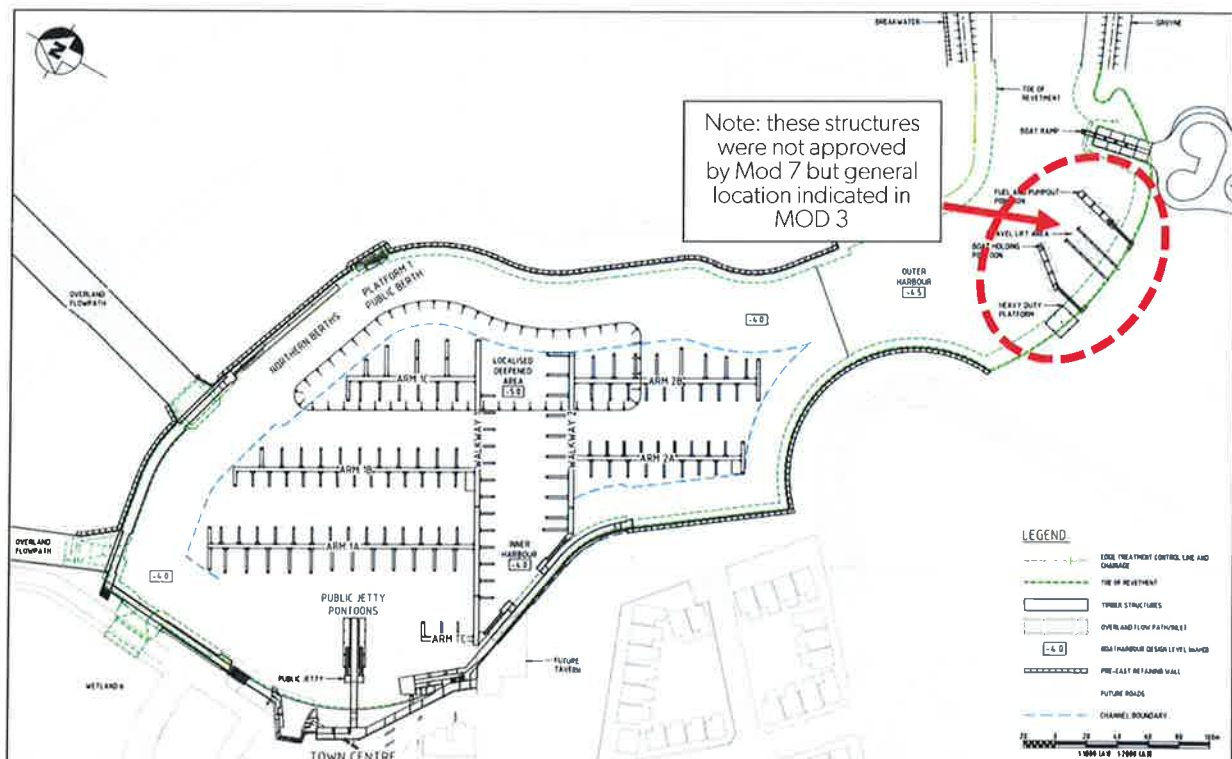


Figure 3 | Current Approved layout of Boat Harbour and Marina (Base source: MOD7 approved plans)

Shell Cove Boat Harbour Precinct Concept Plan

On 15 February 2011, the Department granted concept plan approval (MP 07_0027) for the Shell Cove Boat Harbour Precinct for the following purposes:

- up to 1,238 dwellings with a total gross floor area (GFA) of approximately 150,000 m² comprising single dwellings, medium density and apartments
- a business park with a maximum GFA of 30,000 m²
- retail / commercial / hotel / community development with a maximum GFA of 22,000m²
- public open space and wetlands
- associated drainage, stormwater infrastructure and roads.

The approval has been modified on one occasion. Modification 1, approved on 18 March 2019, included:

- increasing the maximum number of dwellings to 1566
- revising housing densities and typologies across the site
- removing the maximum residential GFA limit of 150,000m²
- reconfiguring the town centre layout
- increasing the maximum building heights in certain areas
- providing maximum building heights in meters
- adding 'serviced apartments' and 'residential accommodation' as permissible uses within the hotel building
- the addition of 8,280m² of land to the site area
- changes to the road pattern and layout
- providing acoustic walls in place of landscape mounds surrounding the marina commercial land use
- amendments to the Statement of Commitments.

The concept plan approval relates to the land surrounding the harbour. The indicative built form layout of the site is shown in **Figure 4**. Approved land uses adjacent to the Outer Harbour include "Marina Commercial" as well as some residential land uses. Development under the concept approval is currently under construction, with some precincts now completed and occupied.

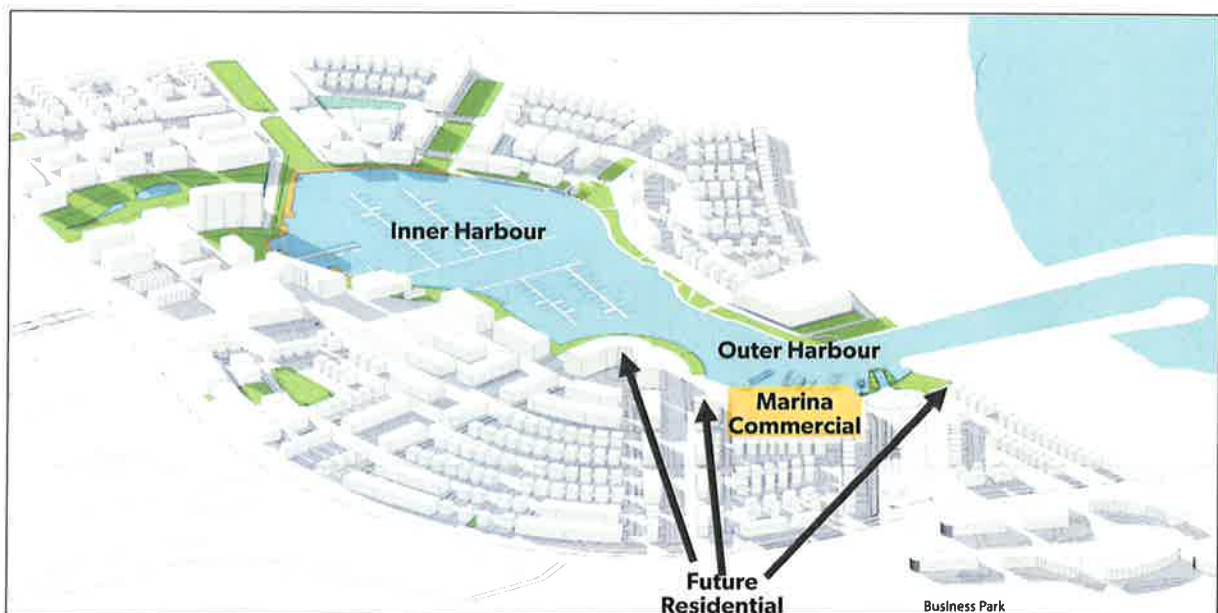


Figure 4 | Indicative future built forms surrounding the Harbour and land uses surrounding the Outer Harbour (Base source: MP07_0027 Mod 1)



2. Proposed Modification

The proposal (DA95/133 MOD 8) is described by the Proponent as “a relocation of outer harbour structures” on the basis that the original approval provided several similar facilities nearby (**Figure 2**).

The layout of the proposed Outer Harbour facilities is shown in **Figure 5**.

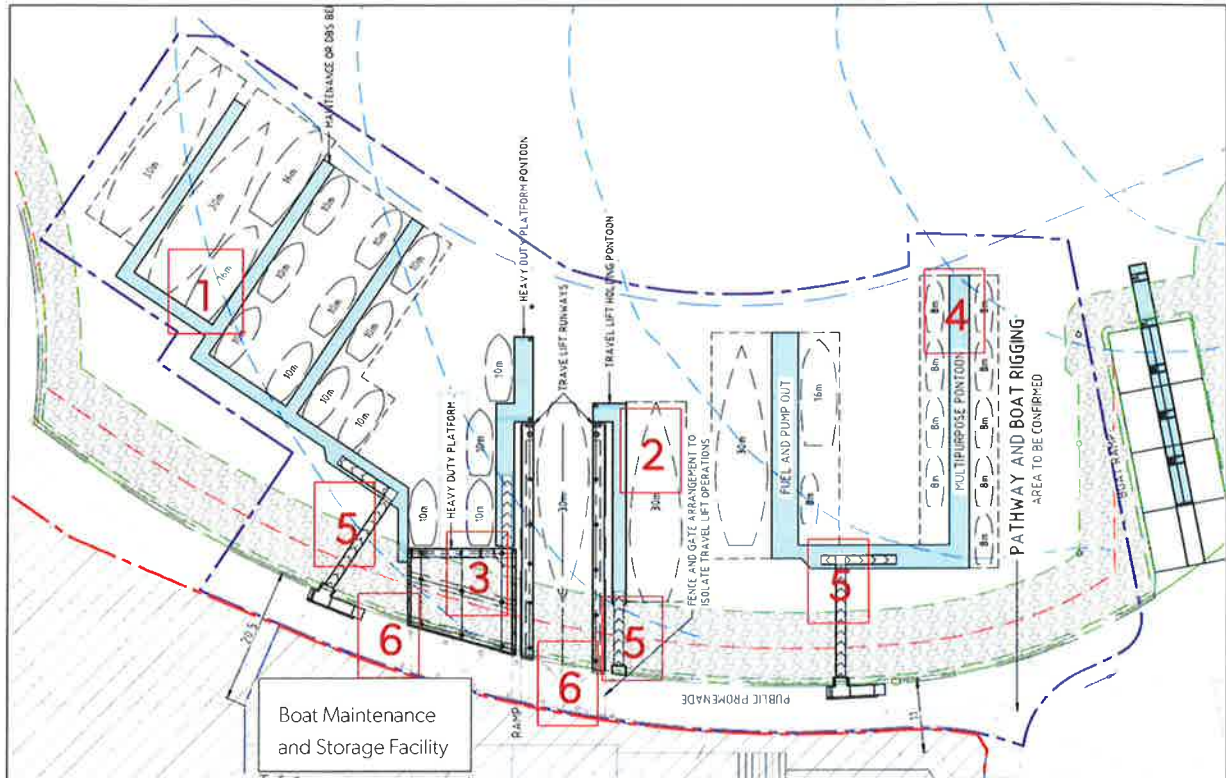


Figure 5 | Proposed Layout of Outer Harbour structures (Base source: MOD 8 SRIS)

As described above in **Section 1.3**, the Department considers the fuel and pump out facilities are approved in this general location in MOD 3, and this modification therefore merely confirms the design of the fuel and pump out pontoon and facilities (noting the design of the facilities was not shown in the MOD 3 plans).

The proposal also includes a relocation and expansion, or intensification, of other facilities shown in the original approval, noting the overall size and capacity of the proposed facilities is larger than the facilities shown in the original Environmental Impact Statement.

Proposed new / relocated / enlarged facilities include:

- on-water maintenance berths for minor repairs and holding area for boats (approximately 14 berths) (see annotation 1 in **Figure 5**)
- a travel lift for hauling vessels from the water with associated holding pontoon (see annotation 2 in **Figure 5**)
- a heavy-duty platform used to place and remove dry stored boats by forklift with associated holding pontoon (see annotation 3 in **Figure 5**)
- a multipurpose pontoon, to be used as a boat pick-up point (see annotation 4 in **Figure 5**)
- access gangways (see annotation 5 in **Figure 5**)
- fence and gate arrangements to temporarily isolate boat removal operations from pedestrian movements along the foreshore (see annotation 6 in **Figure 5**).

As shown in **Figure 5**, the facilities would have capacity to hold approximately 32 vessels at one time, depending on vessel size.

The modification request is sought to enable the facilities to be co-located with the future boat maintenance and storage facility (BMSF) on the adjoining land, approved as 'commercial marina' by Concept Plan MP07_0027, as well as the nearby public boat ramp and carpark (see **Figure 6**). The Proponent advises the co-location of facilities would improve the operation and functionality of the water and land-based facilities.

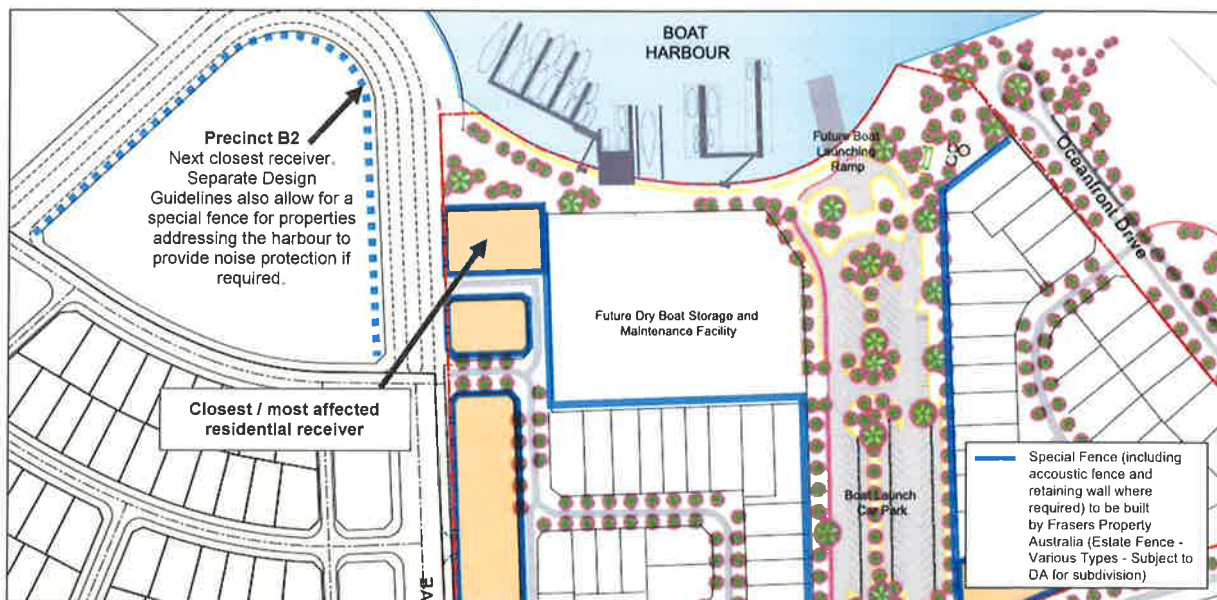


Figure 6 | Location of BMSF and Precinct A location of special fences (Base source: Precinct A Design Guidelines Medium Density Housing Precinct and Precinct A Design Guidelines Detached Housing)



3. Statutory Context

3.1 Modification of the Minister's approval

Clause 8J(8)(a) of Schedule 4 of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (STOP Regulation) states that for the purposes of modifications only, development consents granted by the Minister under section 101 of the EP&A Act, are taken to be approvals under Part 3A of the EP&A Act and that s75W of the EP&A Act applies to any modification of such a consent. As the original development consent was granted pursuant to section 101(8) of the EP&A Act, the consent taken to be an approval under Part 3A and may be modified under the former section 75W of the EP&A Act.

This means the project satisfies the definition of a 'transitional Part 3A project' under clause 2 of Schedule 2 to the STOP Regulation, which came into effect on 1 March 2018.

Under the STOP Regulation, the power to modify transitional Part 3A projects under section 75W of the EP&A Act, is being wound up. However, as the request for this modification (in the form of the request for Secretary's Environmental Assessment Requirements (SEARs)) was made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) of the STOP Regulation continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the carrying out of the project.

The Department of Planning Industry and Environment (Department) is satisfied the proposed changes are within the scope of section 75W of the EP&A Act, and do not constitute a new application.

3.2 Secretary's Environmental Assessment Requirements

On 28 February 2018, the Proponent requested that the Secretary provide SEARs for proposal and on 27 April 2018, the Department issued the SEARs for the modification request.

The Department has reviewed the EA against the SEARs and is satisfied that it adequately provides the information required in the SEARs to enable the assessment and determination of the request.

3.3 Approval authority

The Minister for Planning and Public Spaces is the approval authority for the modification request. In accordance with the Minister's delegation, the request may be determined by the Director, Regional Assessments as:

- the relevant local council has not made an objection
- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.



4. Engagement

4.1 Department's engagement

The Department notified the modification request for 15 days from 31 January to 14 February 2019. The request was made publicly available on the Department's website and notified to relevant State and local government agencies.

The Department received submissions from four government agencies and Council, all of which provided comments on the proposal as summarised in **Table 3**. No submissions were received from the public.

Table 3 | Summary of Agency Submissions

Shellharbour City Council (Council)

Council noted that it is a partner with the Proponent in the development of Shell Cove. It did not object to the modification, but made the following comments:

- an overall plan comparing the existing approved layout with that proposed layout should be submitted
- further detail is needed on potential impacts on and relationship to public domain, open space and pedestrian linkages, noting the Urban Design Guidelines for Precinct A require consideration of the conflict between the harbour perimeter pedestrian path and the boat related activities.

Environment Protection Authority (EPA)

EPA did not object to the modification but made the following comments:

- the proposal must comply with relevant legislation for underground storage of petroleum
- the EPA can vary the existing license on the site if required
- the proponent retains primary responsibility for the environmental performance of the project
- the Department should consider the relationship of the proposed modification to any approved masterplan for the precinct to ensure landuse conflicts do not arise (eg fuel odours or noise)
- a consolidated consent would assist in the management and regulation of the project.

Roads and Maritime Services (RMS)

RMS (Maritime) advised it has no objection to the proposal on the grounds of impact to navigation.

RMS (Roads) advised the modification would not have a significant impact on the State road network and therefore does not object to the application.

Environment, Energy and Science Group of the Department (EESG) (previously Office of Environment and Heritage)

EESG noted the proposal addresses matters of water quality and coastal processes / hazards and as such EESG has no further comment.

Sydney Water

Sydney Water advised it reviewed the application and has no further comment.

4.2 Response to submissions

Following the notification of the modification request, the Department placed copies of all submissions received on its website and requested the Proponent provide a response to the issues raised.

The Proponent submitted a Response to Submissions (RtS). It also provided a further Supplementary Response to Submissions (SRtS) which slightly amended the heavy-duty platform so that it did not encroach into the pedestrian promenade and added an additional fender pile with navigation light. Additional information was also provided in response to agency submissions.

The Department made the RtS publicly available on its website and re-notified Council and the EPA. Council advised that it had no further comments.

The EPA:

- reiterated that a key consideration is the prevention of noise and air (odour) related land use conflicts resulting from the proposed co-location of residential areas and various boat related activities
- suggested a number of general approaches to improve noise outcomes, and requested further information on whether existing noise management controls (approved through the concept approval) for the land adjoining the site remain adequate
- advised the Department may wish to include noise limits as an approval condition including a supporting validation requirement, as well as securing noise mitigation measures (acoustic wall) on the adjoining land prior to occupation
- recommended Sydney Water be consulted in relation to the design of the sewage dump point.



5. Assessment

In assessing the merits of the proposal, the Department has considered:

- the modification request and associated documents
- the EA and conditions of approval for the original project
- all submissions received on the proposal and the Proponent's RtS and SRtS
- relevant environmental planning instruments, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issues associated with the proposal are:

- impacts to pedestrian movements and foreshore access
- acoustic impacts

All other assessment issues are considered in **Section 5.3**.

5.1 Pedestrian movements and foreshore access

The site includes a public promenade / pedestrian footpath along the foreshore. In conjunction with future adjoining open space (as approved under the Shell Cove Boat Harbour Precinct Concept Plan), the pathway forms part of a network of open space and pedestrian linkages throughout the Shell Cove Precinct.

Council requested further detail on impacts and relationship to public domain, open space and pedestrian linkages, noting the Urban Design Guidelines for Precinct A require consideration of the conflict between the harbour perimeter pedestrian path and boat related activities.

In accordance with the concept approval for the development of the adjoining Shell Cove Boat Harbour Precinct land, Design Guidelines have been developed for each precinct within the concept plan area. The Department notes the Precinct A Design Guidelines acknowledged potential for conflicts at this particular location:

There are areas where the harbour perimeter pedestrian path intersects with the boat launching facility and activities related to the boat storage/maintenance facility, such as the travel lift. These have the potential for conflict between users of the path and users of these facilities. In the design of these areas consideration must be given to the forecast frequency and times that:

- *boat related activities will intersect the pedestrian path; and*
- *the pedestrian path will be used.*

Design of this area must account for this forecast and ensure all user groups have safe and reasonable access to the respective facilities.

The Proponent has advised that the open space adjoining the marina remains outside the boundaries of the site and therefore will not be affected by the modification. Public access along the footpath/promenade inside the site and around the harbour foreshore will be maintained, however has the potential to be impacted when boats are transported from the marina to the BMSF.

The Department notes the original modification request included a number of encroachments into the pedestrian footpath, including a heavy-duty platform and two gangway ramps at irregular angles to the footpath (**Figure 7**), which have been removed in the SRtS (**Figure 5**).

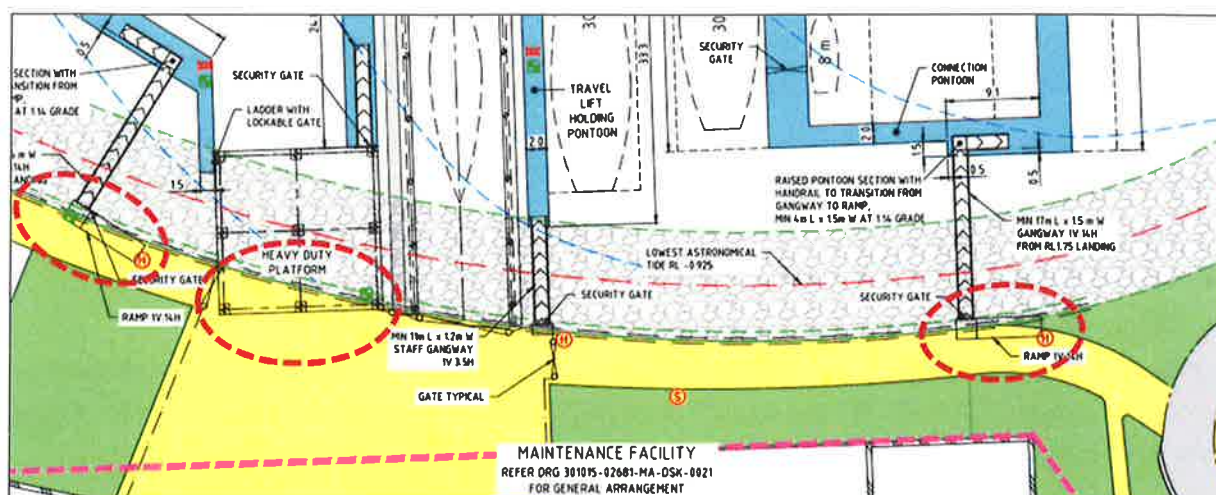


Figure 7 | Originally submitted proposed layout of the Outer Harbour structures with encroachments into pedestrian path circled (Base source: Application documents)

The amended plans provide a footpath within the site that is 4.5m wide at its narrowest point, which the Department considers is sufficient for pedestrian movements. The Department also notes that if Council considers it necessary, the footpaths could be made wider adjacent to the gangway ramps, as part of any future application incorporating the open space between the marina site and the BMSF.

To address conflicts between the use of this footpath and the operation of the boat lift in conjunction with the use of the BMSF, gates will be installed to temporarily stop pedestrian movements while boats are being moved between the water and the BMSF. The operation of the gates, including consideration of pedestrian impacts, will form part of the future BMSF development application, but will include the following principles:

- limits to the hours of operation
- opening of gates between each boat movement (no more than one boat movement in a row)
- monitoring by BMSF manager
- wayfinding signage for the public to move around the BMF and the foreshore.

The Department notes that potential pedestrian conflicts will only exist once the BMSF is operational as this is when boats will be moved from the boat lift to the BMSF. Therefore, the Department considers potential pedestrian conflicts will be considered and addressed in the future DA for operation of the BMSF. A condition is recommended to clarify that operations does not form part of this approval but are subject to separate assessment and approval as part of the development and operation of the BMSF.

On this basis the Department is satisfied that the proposal will adequately cater for pedestrian foreshore movements and linkages as envisaged by the concept plan approval.

5.2 Acoustic Impacts

The EPA noted that a key consideration in the assessment of this proposal is to prevent noise related land use conflicts resulting from the proposed co-location of residential areas and various boat related activities. It advised that consideration be given to whether existing controls for the management of noise (as part of the approved Concept Plan for the land adjoining the site) remain adequate for the proposed modification. It also suggested the Department include noise limits as a condition, including a supporting validation requirement and noise mitigation measures (acoustic wall) on the adjoining land prior to occupation.

The EPA also provided general advice on possible approaches to manage noise outcomes such as:

- adhering to best practice design and operation
- communication to inform residents of noise impacts
- consideration of impacts to all levels of multistory residential buildings
- acoustic design input into future subdivision and residential development approvals.

The modification request included a noise assessment of the likely impacts of the proposed water-based facilities.

The assessment notes nearby residences will not be developed or occupied before the construction of the outer harbour facilities, and therefore there would be no adverse noise impacts during the construction phase.

During the operational phase, the assessment found that noise impacts would be related to:

- boat lifting operations through use of forklifts for moving boats to and from the boat lift to the BMSF
- boats arriving and departing the site to use the facilities.

Of these, only boat lifting operations are expected to have a material acoustic impact on nearby future residential properties, exceeding the 47dBA noise criterion by up to 17dBA during both day and night at the worst affected future residential receivers immediately to the west of the site.

To address this issue, the Proponent noted the concept approval for development of the adjoining land includes provisions to manage noise impacts between the BMSF and the nearby residential land uses. In particular, the approved Design Guidelines for Precinct A (being the land immediately adjoining the proposed outer harbour facilities) include guidance on acoustic mitigation measures for lots in the vicinity of the BMSF. The guidelines recommend:

- a 7-metre-tall noise fence to the southern and western sides of the boat maintenance facility
- the provision of special acoustic fencing for lots facing the boat maintenance and outer harbour facilities,
- the incorporation of glazing to windows and mechanical ventilation to ensure compliance with relevant noise standards.

The noise assessment submitted with the modification request notes that subject to provision of the 7-metre-high fence to the BMSF, noise from boat lifting movements at the nearest affected receivers to the west would be reduced to 49dBA (within 2dBA of the 47dBA noise criterion). With appropriate glazing and provision of air-conditioning to these units, internal noise levels would comply with acceptable standards.

The Proponent also demonstrated that development applications prepared to date for subdivision of land within Precinct A incorporated measures consistent with the recommendations of the Design Guidelines. Further, a noise assessment for the development of apartments in Precinct B2, also adjoining the site, incorporated construction criteria to ensure internal acoustic amenity levels are achieved for units facing the harbour.

The Department has considered the noise assessment provided by the Proponent. The Department acknowledges there is potential for noise related land use conflicts to arise between the facilities and the nearby future residential premises. However, the proposed relocation of the water-based facilities immediately adjacent to the land-based maintenance facility, would ensure impacts are minimised, compared to locating boatlifting operations in the previously approved position, immediately adjacent to residential land uses.

Further, the concept approval and associated Design Guidelines are considered to include appropriate mitigation measures and guidance to assist with managing impacts. These include:

- condition 3 of schedule 3 of the concept plan approval which requires that future applications to Council are to include acoustic treatments to dwelling facades to provide satisfactory indoor noise levels and details of mitigation measures (the use of acoustic walls and landscape buffers) to ensure surrounding residential land uses are not affected by noise from the marina / commercial land use
- incorporation of specific measures in Precinct A Design Guidelines (acoustic walls / fencing, glazing and air conditioning) to minimise noise impacts. The location of the recommended walls / fencing is shown in **Figure 6**.
- Precinct B2 Design Guidelines allow for a special fence with noise protection if required.

The Proponent has also demonstrated that with appropriate building design (acoustic glazing and provision of air-conditioning) acceptable internal amenity can be achieved if windows are closed.

Further, the proposed location of the BMSF and on-water facilities and structures are already indicated on the developer’s website and sales material, so that buyers would have knowledge and expectations with respect to the likely future noise environment.

However, the Department also notes the Design Guidelines require that the acoustic measures for the nearby properties be developed to ensure compliance with relevant noise standards and criteria only on the basis of the maintenance facility operating within the hours of 6.00 am to 9.00 pm seven days a week. The modification request does not specify any operating hours for use of the water-based facilities, including boat lifting operations or other noise generating activities. As there is no requirement for acoustic measures on adjoining sites to protect against late night activities, the Department recommends that boat lifting operations and the use of any other machinery or power tools be restricted to the hours of 6.00 am to 9.00 pm Monday to Saturday and 8.00am to 9.00pm on Sundays. This would also give nearby residential receivers the option to open windows to enjoy fresh air without significant adverse impacts such as sleep disruption during the night-time period.

The Department also notes that as the area is developing, there may be a material change in the acoustic environment compared to the background noise levels used in the acoustic assessment. To further ensure the use of the facilities do not result in unexpected noise impacts, conditions are recommended requiring validation that noise impacts at the nearest residential receiver do not exceed those outlined in the noise assessment.

Subject to these conditions, and in conjunction with the mitigation measures required on adjoining land, the Department is satisfied the proposed relocation of the boat harbour facilities is appropriate and would not result in unacceptable or unexpected noise impacts to adjoining land.

5.3 Other Assessment Issues

Table 4 | Summary of other issues

Issue	Findings	Recommendation
Consistency with concept approval for adjoining land	<ul style="list-style-type: none"> As described in Sections 1 and 2, since the boat harbour/marina consent was approved in 1996, the concept approval for the development of the surrounding land was approved (in 2011) which locates the BMSF in Precinct A adjacent to the outer harbour. The proposed modification responds to the land uses approved under the concept plan. By relocating the harbour-based structures and facilities to be adjacent to the BMSF, the modification would facilitate the development of the BMSF in accordance with concept plan approval. The Department also notes that the design, layout and overall size of the water-based facilities is consistent with that shown in the Precinct A Design Guidelines approved in accordance with the concept plan (as seen in Figure 6). The Department is therefore satisfied the proposed modification would facilitate development as envisaged by the concept plan approval and is consistent with the desired future character for the area. 	No additional conditions or amendments necessary to existing conditions
Fuel Storage, Refueling Arrangements and Fuel Odour Impacts	<ul style="list-style-type: none"> The EPA noted the proposal must comply with the relevant legislation for underground storage of petroleum. It also advised the Department to consider the potential for land use conflicts in relation to fuel odour impacts to residential premises. In relation to fuel storage, the Department notes petroleum is not proposed to be stored on the subject site, as it will be stored in an underground tank on the adjoining BMSF land and therefore subject to a separate approval. It will be connected to the fuel pontoon by fuel pipes. The Proponent has advised that fueling facilities on the outer harbour structures have been designed to be capable of compliance with relevant regulations and that the marina will continue to operate in accordance with its existing environmental license and operational environmental management plan. 	New conditions are recommended requiring any dangerous goods handled onsite are dealt with in accordance with applicable guidelines.

Issue	Findings	Recommendation
Environmental Impacts	<ul style="list-style-type: none"> The Department notes that fueling facilities have already been approved in this general location (as discussed in Sections 1 and 2). As there is no change required to the approval in relation to the provision of fueling facilities, there will be no change to fuel storage, management or odour impacts. Nevertheless, the Department has recommended that any dangerous goods, such as fuel, on site must be handled in accordance with relevant guidelines. EESG reviewed the application and advised that it had adequately addressed matters of water quality and coastal processes / hazards. The EPA advised that the Proponent retains primary responsibility for the environmental performance of the project and its activities, including the preparation of acceptable management plans. In response, the Proponent advised that the modification will not impact on its environmental performance responsibilities as outlined in the approved construction environmental management plan and operational environmental management plan. The Department notes that the approval incorporates numerous conditions to protect the surrounding environment, such as requirements to undertake construction works in accordance with approved water quality management plans, acid sulphate soil management plans and erosion and sediment control plans. The Department considers the modification to relocate and enlarge the outer harbour water based facilities is unlikely to result in any additional significant environmental impacts beyond those already assessed and approved, noting the harbour is man-made and has been designed to incorporate the relocated facilities. 	No additional conditions or amendments necessary to existing conditions
Navigation	<ul style="list-style-type: none"> The design of the outer harbour facilities has been assessed in relation to the safe navigation of vessels. A safe navigation statement submitted with the proposal concluded the proposal complies with relevant Australian standards and will provide for safe navigation of vessels up to 30 metres in length. The additional fender pile with navigation light is also located outside of the harbour navigation channel. RMS advised it has no objection to the proposal, assessed on the grounds of impacts to navigation. The Department is satisfied the proposed marina layout would not result in any navigation safety impacts. 	No additional conditions or amendments necessary to existing conditions



6. Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposal is acceptable as:

- the proposal responds to the land uses approved under the adjoining concept plan. By relocating the harbour-based structures and facilities to be adjacent to the dry boat storage and boat maintenance facility, the modification would facilitate the development of the boat storage and maintenance facility in accordance with concept plan approval and would be consistent with the desired future character for the area
- the proposal would not result in any unacceptable impacts to pedestrian movements and foreshore access, and is capable of adequately mitigating conflicts between pedestrians and the BMSF operations
- subject to conditions, and in conjunction with the controls applicable to adjoining land, the relocation of the boat harbour facilities would not result in unacceptable or unexpected noise impacts to future adjoining residential premises
- as the proposal is predominantly a relocation of structures and facilities already approved within the harbour (to an area generally contemplated in MOD 3), it is not expected to result in any material amenity or environmental impacts beyond those previously assessed and approved.

The Department's assessment therefore concludes the modification request is approvable, subject to conditions (outlined in **Appendix C**). This assessment report is hereby presented to the Acting Director Regional Assessments for determination.

Recommended by:

Recommended by:

Michelle Niles

Senior Planner

Regional Assessments

Silvio Falato

Team Leader

Regional Assessments



7. Determination

The recommendation is: **Adopted** by:

 20/11/2019

Brendon Roberts

Acting Director

Regional Assessments

as delegate of the Minister for Planning.



Appendices

Appendix A – Relevant Supporting Information

The following supporting documents and supporting information to this assessment report can be found on the Department's website at:

1. Modification request
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9587
2. Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9587
3. Response to Submissions
http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9587

Appendix B – Notice of Modification

A copy of the notice of modification can be found on the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9587

