

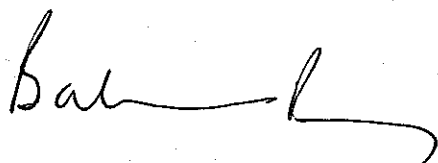
Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I, the Minister Assisting the Minister for Planning, approve the project referred to in Schedule 1, subject to the conditions of approval in the attached Schedule 2 and the Statement of Commitments in Schedule 3.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.



The Hon Barbara Perry MP
Minister Assisting the Minister for Planning

Sydney,

18 February 2010

SCHEDULE 1

PART A—TABLE

Application made by:	Marmong Point Marina Pty Ltd
Application made to:	Minister for Planning
Project Application Number:	MP07_0138
On land comprising:	Nos. 1-13 Nanda St, Marmong Point (Part Lot 401 DP823128, land below high water mark adjoining Lot 401 DP823128, and part of Crown Reserve 68035).
Local Government Area	Lake Macquarie
For the carrying out of:	Expansion of Marmong Point Marina
Type of development:	Project Application
Determination made on:	18 February 2010
Date approval is liable to lapse:	5 years from the date of determination

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 07_0138

Responsibility for other consents / agreements

The Proponent is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Appeals—Third Party

A third party right to appeal to this approval in the manner set out in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Legal notices

Any advice or notice to the approval authority shall be served on the Director-General.

PART C—DEFINITIONS

In this approval,

Act means the *Environmental Planning and Assessment Act 1979*.

Advisory Notes means advisory information relating to the approved development but do not form part of this approval.

AS3962-2001 means *Australian Standard 3962-2001 Guidelines for Design of Marinas*.

BCA means Building Code of Australia

Construction Certificate means a construction certificate for bulk earthworks or civil works unless specified otherwise.

Council means Lake Macquarie Council.

DECCW means the Department of Environment, Climate Change and Water.

Department means the Department of Planning or its successors.

Director-General means the Director-General of the Department.

Environmental Assessment means the Environmental Assessment prepared by Eastoe Consulting Pty Ltd dated August 2009, including all Appendices.

Minister means the Minister for Planning.

Project means the project as described in Condition A1 to this approval.

PCA means a Principal Certifying Authority and has the same meaning as in Part 4A of the Act.

Response to Submissions means the Response to Submissions prepared by Eastoe Consulting Pty Ltd, dated December 2009.

Proponent means Marmong Point Marina Pty Ltd or any party acting upon this approval.

Regulation means the *Environmental Planning and Assessment Regulation 2000*.

Subject Site has the same meaning as the land identified in Part A of this schedule.

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SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 07_0138

PART A—ADMINISTRATIVE CONDITIONS

A1 *Project Description*

Project approval is granted only to carrying out the project described in detail below:

Expansion of the Marmong Point Marina comprising development of the wet-based part of the marina, and associated land-based development for car parking, spill shed, and a public foreshore boardwalk, to create a 245 berth marina, as follows:

- 1) Demolish eastern marina arm;
- 2) New floating marina arms consisting of four arms for 155 berths extending east from existing marina structure;
- 3) Relinquish 10 affected commercial moorings;
- 4) Relocate affected recreational swing moorings adjacent to the marina;
- 5) Car parking for 30 cars, including one disabled space on the public foreshore reserve to replace informal, gravel parking area;
- 6) Sewer pump-out facility;
- 7) New spill shed to replace existing;
- 8) New public foreshore boardwalk, and seawall revetment; and
- 9) Dinghy storage rack adjoining spill shed.

A2 Project in Accordance with Plans

The project will be undertaken in accordance with the Environmental Assessment, the Response to Submissions and the following drawings:

Engineering Drawings prepared by Pacific Pontoon & Pier			
Drawing No.	Revision	Name of Plan	Date
MMPPP02	G	Marina Layout	23/07/09
MMPPP04	F	Services Arrangement	4/08/09
MMPPP05	F	Pile Layout	4/08/09
MMPPP035	A	Section Elevation	29/07/08
MMPPP07	G	Proposed Deck Detail & Elevation	5/08/09
MMPPP08	G	Gangway & Connection Details	5/08/09
Architectural (or Design) Drawings prepared by Schreiber Hamilton Architecture			
Drawing No.	Revision	Name of Plan	Date
MP23	c	Car Park + Spill Shed - Plan	20/11/09
MP24	c	Car Park + Spill Shed - Sections	20/11/09
Landscape Drawings prepared by Schreiber Hamilton Architecture			
Drawing No.	Revision	Name of Plan	Date
LA05	b	Car Park + Spill Shed - Detail	20/11/09
Survey Drawings prepared by Cashmere Marler & Cavanagh Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
13627 CMC Lease Plan Ver.2]		Marmong Point Marina Development Site Plan Proposed Lease Areas and Details of Proposed Marina Extensions	undated

A3 Project in Accordance with Documents

The project will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by Eastoe Consulting Pty Ltd on behalf of Marmong Point Marina, dated August 2009; and,
- (2) *Response to Submissions* prepared by Eastoe Consulting Pty Ltd on behalf of Marmong Point Marina, dated December 2009.

A4 Inconsistency between documents

In the event of any inconsistency between conditions of this approval, the Proponent's Statement of Commitments and the drawings/documents referred to in Conditions A3 and A4, the conditions of this approval prevail to the extent of the inconsistency.

A5 Building Code of Australia

All work must be carried out in accordance with the requirements of the *Building Code of Australia*.

A6 *Limits of Approval*

The Proponent shall not berth more than the following number of vessels at any one time:

- (a) 26 vessels at Arm A;
- (b) 36 vessels at Arm B;
- (c) 34 vessels at Arm C; and
- (d) 59 vessels at Arm D.

A7 *Commencement of the Use of the Land*

Commencement of the use of the land identified in this approval for the approved purposes shall not commence until all conditions of this approval have been complied with and an Interim Occupation Certificate has been issued.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

B1 Structural Adequacy

(1) The Proponent shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA, and Australian Standard AS 3962 - *Guidelines for Design of Marinas*.

Notes:

- Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.

(2) The proposal shall be designed to carry all documented and expected environmental and vessel loading associated with Marmong Cove.

Design Details and Changes

B2 Additional Details

The Proponent shall submit additional details for the following matters to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate:

- (1) Details of the repair and reinforcement of the foreshore revetment wall.
- (2) Written assurance from a qualified, professional with technical expertise in the area that the approved project will be constructed to best practice to a standard that withstands increased storm intensity and maximum sea level rise of 0.91 m for 100 years (to the year 2100).
- (3) A palette of light, neutral and non-reflective colours and finishes for the spill shed.

B3 Design Modifications

The following details/amendments shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate:

- (1) The internal fairway to new marina arm 'D' extension shall be a minimum width of 19.5m. This can be achieved by re-designating the two eastern and northern-most berths of the existing marina arm to 12.5m instead of 13m vessels.
- (2) The interior channels between arms 'A' and 'B' and between arms 'B' and 'C' shall be averaged to comply with the minimum requirements by reducing the 'B-C' interior channel by 65mm and allocating it to the 'A-B' interior channel (moving arm 'B' 65mm north).
- (3) Existing vessel sizes in the two, north-eastern most pens on the existing western marina arm shall be down-graded in size from 13m to 12.5m to comply with AS3962-2001.
- (4) The Proponent shall berth vessels in mooring pens only where there is sufficient water depth in accordance with AS3962-2001.
- (5) The proposed sewage pump-out and slops hopper shall be located on the northern end of the 'T' head at the eastern end of proposed marina arm 'A'. The siting of the pump-out shall be undertaken in consultation with NSW Maritime to

ensure it does not interfere with the proposed interior, entrance and navigation channels. The sewage pump-out and slops hopper can be located on the end of marina arm 'D' if permitted by NSW Maritime. In that case, NSW Maritime's 30m navigation channel must be measured from the outer extent of the beam of the largest vessel likely to berth at the proposed pump-out facility on arm 'D'. The NSW Department of Planning has determined that the largest vessel likely to berth at the pump-out facility is a twin hulled vessel of up to 8m in beam. Evidence of all consultation with NSW Maritime regarding the suitability of the final location of the pump-out facility shall be provided to the Certifying Authority.

- (6) Unless specifically reviewed and approved by NSW Maritime with evidence thereof being provided to the Certifying Authority, casual berthing is prohibited at all times for any reason to the eastern ends of marina arms 'B' and 'C'. Casual berthing on marina arm 'D' is limited to one casual vessel berth only, should the pump-out facility be located on the outer 'T' head of that arm, and a minimum 30m navigation channel is able to be provided from the outside of the 8m wide casual berth, when not in use by vessels accessing the proposed sewer pump-out. A maximum of one, casual berth only is permitted on marina arm 'A' for an 18m monohull vessel only and this shall be restricted to the northern end of the 'T' head to the eastern extent of that arm.
- (7) The proposed pile cut-off heights shall be reviewed to take into account global warming, the half wave height appropriate to the site, the 1:100 year lake surge, and the pontoon freeboard, and shall be a minimum of RL2.710AHD but preferably RL2.950AHD. If the proponent wishes to provide pile cut-off heights of RL2.710AHD, written confirmation from a suitably qualified professional that those heights are satisfactory shall be provided to the Certifying Authority prior to the issue of a Construction Certificate.
- (8) Marina arm 'B' shall be moved north by 65mm to ensure compliance with Australian Standards.
- (9) The entry access to the car park shall be located at the southern end of the car park; and be signposted to indicate 'entry only', and 'vehicles with trailers to use the trailer car park to the north'.
- (10) The proposed car park shall be 'one-way,' and signed by the use of pavement arrows and 'No Entry' signs at the northern end.
- (11) The Proponent must consider the installation of an anchoring mechanism other than 'dump weights' for all relocated swing moorings, in order to reduce the impacts on seagrasses and minimise the disturbance of contaminated sediment.
- (12) The spill shed shall be constructed to a floor level of 0.97mAHD.

B4 Landscaping

Details of proposed landscaping in accordance with Drawing LA05 shall be submitted to the satisfaction of the Certifying Authority. The following elements shall be included:

- (1) Tall, clear trunked tree planting forming a continuation of the Nanda Street planting;
- (2) Generous, informal mass planting of local, native species to the southern, western and northern edges, and either sides of the car park entry; and
- (3) Informal and scattered planting of clear stemmed native trees to the north of the car park.

B5 Commercial Swing Moorings

The Proponent shall relinquish 10 commercial swing moorings generally as shown on Drawing 'Marmong Point Marina Proposed Marina Extension' prepared by NSW Maritime dated 7 December 2009. Documentation of compliance with this condition shall be provided to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B6 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the issue of a Construction Certificate a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

Remediation / Demolition / Earthworks**B7 Demolition**

The Proponent shall ensure that all demolition work is carried out in accordance with Australian Standard AS2601-2001: The Demolition of Structures, or its latest version.

B8 Pre-Construction Dilapidation Reports

The Proponent is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining buildings, infrastructure and roads. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to Council.

Construction Management**B9 Construction Management Plan**

Prior to the issue of a Construction Certificate, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. A copy of the approved plan shall be submitted to Council. The Plan shall address the following matters where relevant:

- a) hours of work;
- b) contact details of site manager;
- c) traffic and pedestrian management;
- d) noise and vibration management;
- e) construction waste management; and
- f) erosion and sediment control;

B10 Traffic & Pedestrian Management Plan

Prior to the issue of a Construction Certificate, a Traffic and Pedestrian Management Plan in accordance with AS1742 and RTA publication 'Traffic Control at Works Sites' Version 2 shall be prepared by an RTA accredited person, and shall be submitted to and approved by the Certifying Authority. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes, and
- (4) pedestrian and traffic management methods.

The Proponent shall submit a copy of the approved plan to Council.

B11 Groundwater

The Proponent shall undertake investigations to determine groundwater levels to the satisfaction of the Certifying Authority.

B12 Acid Sulfate Soil Management

- 1) The *Acid Sulfate Soil Management Plan* prepared by David Lane Associates, dated May 2008 shall be implemented to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.
- 2) All works undertaken on the site shall be in accordance with the *Acid Sulfate Soil Management Plan* prepared by David Lane Associates, dated May 2008.

B13 Sediment Contamination

- 1) A suitably qualified professional shall provide details of appropriate mitigation measures for the control of sediment contamination during the construction and operation of the project to the satisfaction of Council prior to the issue of a Construction Certificate. The measures shall address marine and terrestrial biota, particularly benthic invertebrates, and larval fish and further up the food chain to wading birds and seabirds, and include any appropriate mitigation measures to the satisfaction of Council.

Traffic & Parking

B14 Number of Car Spaces

The proponent shall provide a parking layout plan to the satisfaction of Council prior to the issue of a Construction Certificate verifying the provision of a total of 80 on-site car parking spaces.

B15 Car Park and Service Vehicle Layout

- (1) The layout of the car park shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked.
- (2) The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 1989 *Off Street Parking Part 2 – Commercial Vehicles Facilities*.
- (3) The proponent shall provide on-site bicycle racks adjacent to the car park.
- (4) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate.

Health**B16 Stormwater and Drainage Works Design**

- 1) A stormwater management plan prepared by a qualified practicing Civil Engineer and in accordance with Council's requirements shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate. The plan should incorporate erosion and sediment controls, and long-term sediment and nutrient controls.
- 2) The proposed foreshore car park shall be paved with materials to allow storm water infiltration to the substrate. Details demonstrating compliance shall be submitted to the Certifying Authority for approval with the Construction Certificate.
- 3) The stormwater management plan shall include plans and specifications for all foreshore works, including stormwater, scour protection, rock armouring, and raising of the seawall to incorporate the boardwalk.
- 4) The seawall revetment plans and specifications shall comply with the design principles and techniques of *Environmentally Friendly Seawall: A guide to Improving the Environmental Value of Seawalls and Seawall-lined Foreshores in Estuaries*, DECCW, June 2009. Details demonstrating compliance shall be submitted to the satisfaction of the Certifying Authority prior to issue of a Construction Certificate.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Notification Requirements

C1 *Notice to be Given Prior to Commencement / Excavation*

- 1) The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site for each stage of the project.
- 2) The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.

Structural Works

C2 *Structural Details*

Prior to the commencement of construction, the Proponent shall submit to the satisfaction of the Principal Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant project approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

Pollution Control

C3 *Erosion and Sediment Control*

Prior to commencement of work on the site, all erosion and sedimentation control measures are to be installed and operational, including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

C4 *Water Quality*

Prior to the commencement of construction, the Proponent shall install and maintain a floating boom and silt curtain around construction areas. The floating boom and silt curtain shall be retained and suitably maintained until the proposed works have been completed and the water quality inside the silt curtain and boom is equal to the water quality of Marmong Cove.

Environmental Management

C5 *Environmental Management Strategy*

Prior to the commencement of construction, the Proponent shall prepare and implement an Environmental Management Strategy for the project to the satisfaction of Council. The strategy shall:

- (a) provide the strategic context for environmental management of the project;

-
- (b) identify the statutory requirements that apply to the project;
- (c) describe in general how the environmental performance of the project would be monitored and managed during construction and one year from commencement of operation. Compare the results of future monitoring to the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000* (ANZECC 2000);
- (d) describe the procedures that would be implemented to:
- keep the local community and relevant agencies informed about the operation and environmental performance of the project;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the project;
 - respond to any non-compliance;
 - manage cumulative impacts;
 - respond to emergencies; and
- (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the project.

Services

C6 Existing Services

The Proponent shall accurately locate and identify any existing sewer main, stormwater line or other underground infrastructure within or adjacent to the site and advise the Principal Certifying Authority of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

Contact Details

C7 Contact Telephone Number

Prior to the commencement of the works for each stage of the project, the Proponent shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

PART D—DURING CONSTRUCTION

Construction Management

D1 Sediment contamination

The marina shall be constructed by the driving of piles into the lake bed in order to create the least disturbance to the substrate. If, during construction, it is found that the lake bed is unsuitable for pile driving, other techniques shall be used in consultation with and to the satisfaction of the PCA.

D2 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating the conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D3 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details, including:

- 1) Details of the Builder, Principal Certifying Authority and Structural Engineer for all stages of the project;
- 2) The approved hours of work;
- 3) The name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaints; and
- 4) That unauthorised entry to the site is not permitted.

D4 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

D5 Protection of Trees – On-site Trees

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

Structural Works

D6 Geotechnical

- 1) Any site conditions noted during construction of the approved development that differ from those described in 'Geotechnical Engineers Report, Marine Piles Proposed Marina Extension for Marmong Point Marina at Nanda Street Marmong Point', prepared by CSG Engineers Pty Ltd, dated July 2008, shall be referred to the authors of that report for assessment to the satisfaction of the PCA.
- 2) The Proponent shall undertake further geotechnical consultation during construction, particularly during the initial pile driving operations on the site, in accordance with the conclusion of that report, to the satisfaction of the PCA.

D7 Setting Out of Structures

The buildings shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved project application.

Site Maintenance

D8 Erosion and Sediment Control

- 1) All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works, and until such time as

all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

- 2) During construction, the Proponent shall implement and maintain all erosion and sediment control measures in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction Volume 1, 4th Edition* (Landcom).

D9 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D10 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

D11 Hours of Work

(1) Impact piling shall be conducted between 8am and 5pm Mondays to Fridays only, with a 1 hour respite for every 3 hours of piling. No impact piling is permitted on weekends or public holidays.

(2) The Proponent can seek a variation to the hours in (1) above provided they demonstrate that there have been no complaints, and community consultation has occurred which shows that sensitive receivers would prefer longer periods of piling each day in return for having a shorter overall piling duration.

(3) All other construction work, including the delivery of materials to and from the site, shall occur only between the hours of:

- (a) 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (b) 8:00 am and 1:00 pm, Saturdays; with
- (c) no work on Sundays and public holidays.

D12 Construction Noise Objective

- 1) The construction noise objective for the project is to manage noise from construction activities (as measured by a L_{A10} (15minute) descriptor) so it does not exceed the background L_{A90} noise level by more than 5dB(A).
- 2) Background noise levels are those identified in the Environmental Assessment, Noise Impact Assessment or, otherwise identified in the approved Construction Management Plan. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
- 3) Any activities with the potential for noise emissions that exceed the construction noise objective must be identified and managed in accordance with the approved Construction Management Plan.
- 4) If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the *NSW Industrial Noise Policy*), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D13 Construction Noise Management

The Proponent shall prepare and implement a Construction Noise Management Plan in accordance with the *Interim Construction Noise Guidelines* (DECC, 2009) (available at: <http://www.environment.nsw.gov.au/noise/constructnoise.htm>) to the satisfaction of the PCA.

D14 Construction Noise Notification

Prior to the commencement of construction, the Proponent shall:

- 1) Notify the owner/occupier of all properties are predicted to be affected by construction noise levels. The notification shall:
 - (a) indicate that the property may be subjected to noise nuisance;
 - (b) state the reason for the noise nuisance; and
 - (c) provide the telephone number of a contact authorised to respond to complaints and to take appropriate steps to address residents' concerns; and
- 2) Provide evidence to the PCA or Council that such notification has occurred.

D15 Vibration Criteria

For all stages of the project, vibration resulting from construction must not exceed the evaluation criteria presented in *Environmental Noise Management – Assessing Vibration: A Technical Guide* (DEC, 2006).

D16 Construction Site Safety Fencing

Construction site safety fencing must be provided around the construction area to prevent unauthorised access to the construction site.

D17 Parking Areas & Access Ways

All parking areas and access ways shall be constructed, sealed and drained in accordance with the standards nominated in Lake Macquarie City Council's *Development Control Plan No. 1* and associated Engineering Guidelines.

D18 Site Amenities

The Proponent shall provide toilet facilities at or in the vicinity of the site on which work involving the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site for the duration of construction works on the site. Each toilet provided must be installed as follows:

- (i) in a sewered area, connect the temporary builder's service to the Hunter Water Corporation's sewerage system prior to commencing building operations in accordance with the Corporation's requirements.
- (ii) where the connection of the builder's toilet to the Hunter Water Corporation's sewer is impractical, an application to approve the use of a chemical closet is to be made to Council accompanied with the appropriate fee, and approval obtained before use of a chemical closet.

D19 Incident Reporting

(1) Within 24 hours of detecting an exceedance of the limits/performance criteria in this approval, or the occurrence of an incident that causes (or may cause) harm to the environment, the Proponent shall notify the Council and other relevant agencies of the exceedance/incident.

(2) Within 6 days of notifying the Council and other relevant agencies of an exceedance/incident, the Proponent shall provide Council and those agencies with a written report which:

- describes the date, time, and nature of the exceedance/incident;
- identifies the cause (or likely cause) of the exceedance/incident;
- describes what action has been taken to date; and
- describes the proposed measures to address the exceedance/incident.

Heritage

D20 Buffer zone

A five metre buffer zone shall be provided around the identified shell midden within which there shall be no development or excavation. Should excavation be required within the buffer zone, an Aboriginal Cultural Heritage Officer shall be present during excavation. The only development permitted to be carried out within the buffer zone is work to cater for the preservation of the shell midden but not impact upon it, for example, the approved boardwalk. Burying of the midden area with sand prior to construction of the boardwalk may be undertaken as an alternative to the buffer zone, subject to consultation between the Proponent and the relevant Local Aboriginal Land Councils (LALC).

D21 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Objects

If any archaeological relics are uncovered during the course of the work in any stage of the project, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW *Heritage Act 1977* may be required before further works can continue in that area.

D22 Impact of Below Ground (Sub-surface) Works – Aboriginal Objects

In the event that future works during any stage of the project disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing

must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Department of Environment, Climate Change and Water, the relevant Local Aboriginal Land Councils and the relevant Aboriginal community must be informed. Those groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the Department of Environment, Climate Change and Water, the relevant LALC and the relevant Aboriginal community.

PART E—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

Geotechnical

E1 Dilapidation Report

A second dilapidation report is to be prepared by a suitably qualified engineer at the completion of works to ascertain whether any structural damage has occurred to adjoining and adjacent buildings, infrastructure and roads. The report is to be compared with the first dilapidation report and recommend a course of action to carry out repairs if required. The report is to be submitted to the satisfaction of the PCA.

Swing Moorings

E2 Relocated Swing Moorings

The Proponent shall relocate the swing moorings identified for relocation in accordance and in consultation with the requirements of NSW Maritime.

Navigation

E3 Navigation Markers

The Proponent shall place navigation markers as required by NSW Maritime to delineate the proposed entrance channels. The Proponent shall pay all costs associated with NSW Maritime defining, locating and marking all navigation channels associated with the proposal.

E4 Speed limit

The Proponent shall place signage adjacent to the navigation channel as required by NSW Maritime advising of a 'no wash' 4 knot speed zone.

Compliance

E5 Pre-Operation Compliance Audit

(1) Prior to the commencement of operations, the Proponent shall submit work-as-executed plans to the Department for all development associated with the project. The plans must be prepared by a suitably qualified and experienced expert, and include plans showing the work-as-executed plans laid over the approved plans to demonstrate that the development has been carried out in accordance with the approved plans.

(2) The Director-General may require an update on compliance with all, or any part, of the conditions of this approval. Any such update shall meet the reasonable requirements of the Director-General and be submitted within such period as the Director-General may agree.

Engineering

E6 *Fire Safety Certificate*

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of any Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the approval authority and Council by the PCA.

E7 *Annual Fire Safety Statement*

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the approval authority initial Fire Safety Certificate is received.

E8 *Structural Inspection Certificate*

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- (1) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

E9 *Road Damage*

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Proponent/developer prior to the issue of any Occupation Certificate.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount, a separate invoice will be issued.

Maritime Engineering Standards

E10 *Disabled Access*

The Proponent shall provide evidence to the PCA confirming that the tidal range is such that any access ramp will not have a slope greater than 1 in 14 at the worst tide over a maximum 9m length. This is to ensure that structures accessible to the public are designed in accordance with AS1428 and the *Disability Standards for Accessible Public Transport Guidelines 2001* (Commonwealth Government).

Landscaping

E11 Landscape details

- 1) The Proponent shall provide evidence to the PCA confirming that the landscaping has been completed in accordance with Condition B5. All disturbed ground shall be rendered erosion-resistant.
- 2) Upon completion of landscape works for Category 3 Landscaping, the Proponent's landscape consultant shall submit a Landscape Completion Report to Council. The Report shall document satisfactory completion of the approved landscaping works.
- 3) All landscape works for Category 3 shall be undertaken by members of the Landscape Contractors' Association of Australia and implemented under the supervision of the responsible landscape consultant. The consultant must be employed for the duration of the landscape works and until the final landscape

Signage

E12 Advertising Signage

Details of any proposed signage shall be submitted to the satisfaction of Council prior to commencement of the approved use.

E13 Car parking

A give-way sign and line marking to be provided where the proposed car park joins the two-way access into the current car park.

E14 Interpretive Signage

The Proponent shall erect interpretive signage along the boardwalk regarding local Aboriginal cultural heritage, in consultation with the relevant LALCs. Details of any proposed signage shall be submitted to the satisfaction of Council prior to commencement of the approved use.

Lighting

E15 External lighting

The Proponent must ensure that all external lighting associated with the development:

- (a) complies with *Australian Standard AS4282 1997- Control of Obtrusive Effects of Outdoor Lighting*, and
- (b) is mounted, screened, and directed in such a manner so as not to create a nuisance to surrounding properties or roadways.

Education

E16 Marine turtles

The Proponent shall prepare a plan prior to commencement of the approved use addressing measures for awareness raising and educative activities with boat users concerning Endangered and Vulnerable turtles in Lake Macquarie, including the Green Turtle, the Loggerhead Turtle and the Flatback Turtle. The plan shall address measures relating to

speed restrictions and prevention of garbage discharge from all vessels to the satisfaction of Council. The plan shall be implemented during the operation of the approved use.

PART F—POST OCCUPATION

F1 Commercial Swing Moorings

The Proponent shall relocate 13 commercial swing moorings in accordance and in consultation with the requirements of NSW Maritime.

Fire Safety

F2 Annual Fire Safety Certification

The Proponent shall certify to Council every year that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Traffic and Parking

F3 Loading and Unloading

All loading and unloading of service vehicles in connection with the use of the premises shall be carried out wholly within the site at all times.

F4 Unobstructed Driveways and Parking Areas

All driveways (other than those which are obsolete) and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

Noise

F5 Noise Control – Plant and Machinery

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

F6 Noise Monitoring

The Proponent shall undertake a noise monitoring program for a minimum period of twelve months following the commencement of operations on the site. The monitoring program shall be undertaken in accordance with the *Noise Impact Assessment Marmong Point Marina Upgrade* prepared by Advitech dated 3 April 2009, by an appropriately qualified person and monitoring reports shall be submitted to the Council at six monthly intervals.

Acid Sulfate Soils

F7 *Acid Sulfate Soils Monitoring*

The Proponent shall implement a monitoring program for the management of acid sulphate soils in accordance with the *Acid Sulfate Soil Management Plan* prepared by David Lane Associates, dated May 2008.

Water Quality

F8 *Discharges*

The Proponent shall ensure that all bilge water is treated and disposed of in accordance with a Trade Waste Permit/Agreement with Hunter Water Corporation.

Plant and Equipment

F9 *Operation of Plant and Equipment*

The Proponent shall ensure that all plant and equipment use on site is:

- (a) maintained in a proper and efficient condition; and
- (b) operated in a proper and efficient manner.

Air Quality

F10 *Air Quality*

The Proponent shall carry out all reasonable and feasible measures during the construction and operation of the project to prevent air pollution (including odour) in accordance with sections 124, 125, 126 and 128 of the *Protection of the Environment Operations Act 1997* (NSW).

Hazardous Materials and Waste Disposal

F11 *Storage of Hazardous or Toxic Material*

- (1) Any hazardous or toxic materials must be stored in accordance with WorkCover NSW requirements and all tanks, drums and containers of toxic and hazardous materials shall be stored in a bunded area. The bund walls and floors shall be constructed of impervious materials and shall be of sufficient size to contain 110% of the volume of the largest tank plus the volume displaced by any additional tanks within the bunded area. The bund(s) shall be designed and installed in accordance with the:
 - (a) requirements of all relevant Australian Standards; and
 - (b) DECCW's *Storing and Handling Liquids: Environmental Protection* manual.
- (3) The Proponent shall ensure that spillage control equipment, such as absorbent pads and absorbent booms, are available at all times, and stored in a location where they can be employed quickly if spills occur.
- 4) Whilst private vessels are being worked on within the wet berth area, temporary spill containment pallets shall be used to store chemicals being used on the vessel. Each pallet should be capable of capturing the contents of the largest container plus 10% if there is a leak.

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- 5) If the spill containment pallets are to be used, the drums must be stored in a level area (to ensure full spill storage capacity), and they must be covered so that the pallets do not fill with rainwater.
 - 6) Spill clean-up kits are to be placed on each arm of the marina.

F12 Hazards and Risks

Within 3 months of this approval, the Proponent shall revise the Environmental Action Plan (Appendix 3.1 of Environmental Assessment) to include an Emergency Management Plan and shall implement that plan. The plan shall:

(a) be first submitted to the Director-General for approval;

(b) include:

- procedures for staff training in response to emergencies;
- control measures to prevent spills, accidents and other emergencies;
- details of the location of spillage control equipment; and
- notification procedures in an event of a spill or emergency including emergency contact detail.

F13 Annual Report

Within 12 months of the commencement of operations, and annually thereafter, the Proponent shall submit an annual environmental management/monitoring report to the Council and relevant agencies. The report must:

- (a) identify the standards and performance measures that apply to the project;
- (b) describe the works carried out in the previous 12 months and the works that will be carried out in the following 12 months;
- (c) include a summary of all complaints received during the previous year, and compare this with the complaints received in previous years;
- (d) identify any non-compliance during the previous year; and
- (e) describe what actions were, or are being, taken to ensure compliance.

F14 Independent Environmental Audit

- 1) Within 2 years of the commencement of the approved operations, and every 3 years thereafter, unless the Director-General directs otherwise, the Proponent shall commission and pay the full cost of an Independent Environmental Audit of the project. The audit must:
 - (a) be conducted by a suitably qualified, experienced, and independent expert whose appointment has been endorsed by Council;
 - (b) assess the environmental performance of the project, and its effects on the surrounding environment;
 - (c) assess whether the project is complying with the relevant standards, performance measures, and statutory requirements;
 - (d) review the adequacy of any strategy/plan/program required under this approval; and, if necessary,
 - (e) recommend measures or actions to improve the environmental performance of the project, and/or any strategy/plan/program required under this approval.

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- 2) Within 3 months of submitting the audit to the Council, the Proponent shall review and if necessary revise the strategies/plans/programs required under this approval, to the satisfaction of the

F15 Waste Management

- 1) The Proponent shall ensure that any waste generated on the site during operation of the project is classified in accordance with the DECC's *Waste Classification Guidelines* and disposed of to a facility that can lawfully accept the waste.
- 2) The Proponent shall ensure that the design of waste management infrastructure on the site is in accordance with Council's and DECC's relevant requirements.

Public Access

F16 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

F17 Foreshore Access

All public accessways and pathways along the Nanda Street foreshore shall remain accessible to the public at all times and not be impeded by any activities associated with the use of the site.

F18 Sewage Pump-Out

The sewage pump-out facility shall be provided free of charge and be publicly accessible at all times.

F19 Dinghy Storage

- 1) The Proponent shall provide a dinghy storage rack for twenty dinghies on the Nanda Street foreshore located in accordance with approved Landscape Plan LA05.
- 2) The Proponent shall provide a tethering mechanism for ten dinghies on Booragul Reserve in consultation with Council.

ADVISORY NOTES

AN1 *Compliance Certificate, Water Supply Authority Act, 2000*

Prior to issuing a Subdivision Certificate, a Compliance Certificate shall be provided to the approval authority showing that the project has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the approval authority before the release of the Subdivision Certificate, and
- (3) the principal certifying authority prior to occupation.

AN2 *Requirements of Public Authorities for Connection to Services*

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

AN3 *Compliance with Building Code of Australia*

The Proponent is advised to consult with the Certifying Authority about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN4 *Mine Subsidence Board*

The Proponent is advised to seek the approval of the Mine Subsidence Board for the erection of any structures associated with the approved project.

AN5 *Hunter Water Corporation*

The Proponent is required to consult with Hunter Water Corporation regarding:

- 1) the Nanda Street water main along and any developer-funded upgrade required.
- 2) a more detailed assessment of the system performance of the wastewater pumping station to determine capacity, and any developer-funded upgrade required.

AN6 *Groundwater*

Any excavation which involve temporary dewatering will require a bore licence under Part 5 of the *Water Act 1912* (NSW) and consideration of the objects and water management principles of the *Water Management Act 2000* (NSW). Bore licence application enquiries should be directed to Bruce Westbrook, Licensing Officer, Licensing North Branch, NSW Office of Water, telephone 4904 2578.

Any discharge of extracted groundwater from dewatering is required to be in accordance with the conditions of approval under the *Protection of the Environment Operations Act 1997* (NSW).

AN7 Structural Capability for Existing Structures

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN8 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN9 Stormwater drainage works or effluent systems

A Construction Certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
- (2) management of waste.

as defined by section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under section 68 of that Act. Applications for these works must be submitted on Council's standard section 68 application form accompanied by the required attachments and the prescribed fees.

AN10 Construction Certificate

A Construction Certificate is obtained by completing and submitting the approved form to Council or an accredited certifying authority for approval. If the application form is approved by a certifying authority other than Council, the Proponent is required to lodge the Construction Certificate and other approved documents with Council a minimum two days prior to the commencement of work.

AN11 Occupation Certificate

- 1) Prior to the occupation and/or use of a new or altered building, an Occupation Certificate must be issued by the accredited certifier. Where Council is the accredited certifier, an Occupation Certificate will be produced after a satisfactory completion inspection using the information:
 - (a) contained in the application for Construction Certificate; and,

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- (b) required in accordance with clause 149 of the *Environmental Planning & Assessment Regulation 2000* (NSW).
- 2) Where the Occupation Certificate has been issued by a certifying authority other than Council, a copy of the Occupation Certificate and supporting documentation is to be submitted to Council within 2 days after the date of determination of the Occupation Certificate together with the document registration fee (in Council's pricing policy).

AN12 Temporary Structures

An approval under Section 68 of the *Local Government Act 1993* must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the *Local Government Act 1993* to certify the structural adequacy of the design of the temporary structures.

AN13 Signage

The Proponent should liaise with Council regarding the erection of signs adjacent to the Nanda Street foreshore directing people to swim only in the passive recreation zone adjacent to the foreshore and advising of water safety generally.

AN14 NSW Maritime Better Boating Program

The Proponent is advised that they may be eligible to apply for 50% funding for the provision of a sewer pump-out and a tethered mooring mechanism (on Booragul Reserve) through the NSW Maritime Better Boating Program.

AN15 Disability Discrimination Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

AN16 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth Environment Protection and Biodiversity Conservation Act 1999 provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales Environmental Planning & Assessment Act, 1979. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Proponents responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

MP07_0138

EXPANSION OF MARMONG POINT MARINA

**NOS. 1-13 NANDA ST, MARMONG POINT (PART LOT 401 DP823128, LAND
BELOW HIGH WATER MARK ADJOINING LOT 401 DP823128, AND PART OF
CROWN RESERVE 68035)**

STATEMENT OF COMMITMENTS

(SOURCE: RESPONSE TO SUBMISSIONS)

Statement of Commitments
Marmong Point Marina
MP 07_0138

Preamble

The Proponent is committed to continuance of the historic accessibility by its marina community to a comprehensive 4-Star Working Marina Service at the northern end of Lake Macquarie. Marmong Point Marina is committed to continuing the important but unusual opportunity for the boating public to "work" on boats on the Proponent's large parcel of freehold land separated from the foreshore by approved Water Cycle Management infrastructure.

The subject proposal concerns the \$3.2 million refurbishment and expansion of the wet berth component of a marina to service an extra 85 boats, to provide parking in excess of consequent requirements, to renew the emergency spill shed, to conserve a potential Aboriginal midden and to improve public access along the shoreline by construction of an integrated boardwalk and revetment.

The Proponent notes that

- there are no seagrasses in the construction area,
- there will be no dredging,
- there are no slipways, marina maintenance, dry stand, boat maintenance activities in the subject Proposal.

The Proponent suggests that the following commitments be included in conditions of consent in order to reflect a commitment by Marmong Point Marina to sensitively enhance the quality of community life within which the Marina continues to operate.

Public Interest Commitments

Marmong Point Marina commits to:

- 1) Funding a four fold increase in boat storage efficiency on public wet lands to be leased.
- 2) Accept the offer by Lake Macquarie City Council and the Land and Property Authority to assume the role of Reserve Trustee for all lands within R68035 between the northern boundary of Marmong Street (from the south west corner of Lot 100 DP 1067106 to the eastern boundary of Marmong Creek), around to the western boundary of Lot 369 DP 722241 excluding such lands that are under leasehold tenure. The proponent accepts that the Trust document will include terms requiring public access to the foreshore.

- 3) To fund on an ex gratia basis:
- the presence of an experienced mooring servicing contractor, with barge, to be at Marmong Cove for the period necessary to efficiently move the approximately 22 swing moorings that require moving out of the areas required to facilitate the marina extension, and
 - the "servicing" by the experienced mooring servicing contractor of the approximately 22 swing moorings to be moved, and
 - the upgrading the "dump weights" of any of the approximate 22 swing moorings considered by the experienced mooring servicing contractor in his sole discretion to require upgrading, and
 - the concurrent availability of that experienced mooring servicing contractor, with barge, to adjust the position of all other swing moorings requiring position adjustment, but without servicing or change in dump weight. (It is noted that it is the obligation of each swing mooring holder to have an appropriate dump weight and to annually service their mooring. On that basis all adjustments in position (ie. other than about 22 to be moved north of the new marina) should be to moorings serviced no more than 12 months previously and with adequate dump weights.)
 - provision of an anchored chain structure on the Booragul foreshore sufficient to secure 10 dinghies, with the siting, legal responsibility, maintenance and ongoing maintenance to remain with the landowner of the Booragul foreshore.
 - the balance of offers in the BOA letter shown in Appendix 3.7 of the Environmental Assessment.
- 4) No relocated swing moorings to be sited westward of the existing westerly line of swing moorings in Marmong Cove.
- 5) Raise no objection to relocation by NSW Waterways of any commercial moorings allocated to the Proponent to any other location within Marmong Cove.
- 6) Relinquish up to 10 commercial swing moorings in Marmong Cove if NSW Maritime considers some commercial moorings must be removed from Marmong Cove to enable existing private swing moorings within Marmong Cove to be relocated within Marmong Cove because of the proposed expansion of the marina.
- 7) Funding the provision of infrastructure built into the marina pontoons that enables a public sewer pump-out unit to be built (from funds sourced elsewhere) on the northern end of main eastern pontoon, and to deliver recreational boat sewerage waste to the Hunter Water Corporation sewerage system.
- 8) Provision of a "Slop Hopper" on the sewerage pump out facility to be installed on the fuel wharf.
- 9) Making the sewer pump-out facilities on the fuel wharf available to the public during business hours seven days per week.
- 10) Allowing the new formal 30 vehicle car park to operate as a 24/7 car park open to the public.
- 11) Provision in consultation with Lake Macquarie City Council of bicycle storage racks to secure 5 bicycles.

- 12) Preservation under the supervision of the Koompahtoo and Bahtabah Local Aboriginal Land Councils of a shell deposit on the eastern shoreline edge of the Project, its viewing access from the proposed public access boardwalk and installation of interpretive signage in consultation with both Local Aboriginal Land Councils.
- 13) General public access along the new boardwalk that forms public domain works on the northern edge of the foreshore reserve around Marmong Cove.
- 14) Repair and reinforcement of degraded foreshore reserve revetment.
- 15) Continued public access to toilets situated on freehold marina lands.

Operational Commitments.

Marmong Point Marina commits to:

1. Maintaining an active "*Marmong Point Marina Environmental Action Plan*" comparable to the completed Environmental Action Plan attached as **Appendix 3.1** and developed from the June 2007 DECC publication "*Environmental Action for Marinas, Boatsheds and Slipways*".
2. Maintaining an active "*Marmong Point Marina Environmental Management Plan*" comparable to the completed Environmental Management Plan attached as **Appendix 3.2** and developed from the June 2007 DECC publication "*Environmental Action for Marinas, Boatsheds and Slipways*".

Construction Commitments

Marmong Point Marina commits to:

1. Engagement of competent consultants to prepare working drawings and specifications to enable a Private Certifier to issue appropriate Construction Certificate or Certificates.
2. Construction will only occur between 7.00 am and 6.00 pm Monday to Friday.
3. Construction will only occur between 7.00 am and 1.00 pm Saturday.
4. No construction to occur on Sundays or Public Holidays.
5. Impact piling only occurring between 8am and 5pm Monday to Friday and not on weekends or public holidays, with a 1 hour respite for every three hours of piling subject to an ability to seek a variation in conditions from the Department of Environment, Climate Change and Water.
6. All piles will be driven into the bed of the Cove.
7. If drilling is required to enable a pile to be driven the drilling will be contained within a silt curtain and containment boom.
8. All pontoon units to be manufactured off site.

9. All foreshore construction works will comply with the guidelines and principles set out in "*Landcom Blue Book*".
10. All structures will be designed and built to comply with AS 1428 (set) - 2003, Design for Access and Mobility Set.
11. All marina structures will be designed and built to comply with AS 3962-2001 Guidelines for design of marinas.
12. All marina structures will be designed and built to comply with a 25 year design horizon in terms of Lake Macquarie City Council's Planning Levels and Other Adaptation Responses to Sea Level Rise and Climate Change.
13. Transitioning the proposed board walk to effectively meet up with the Trailer Parking area that Lake Macquarie City Council has built on Lot 369 DP 722241.

Terrestrial water cycle management predominantly relates to areas outside the subject project boundaries. Consequently water cycle management will continue to comply with the Lake Macquarie City Council conditions of consent that have been implemented on the adjacent freehold lands.