

## ASSESSMENT REPORT

### Section 75W Modification Marmong Point Marina, 1-13 Nanda Street, Marmong Point, (MP07\_0138 MOD 1)

#### 1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval (MP 07\_0138 MOD 1) for the Marmong Point Marina within the Lake Macquarie local government area. The request has been lodged by ADW Johnson on behalf of Marmong Point Marina Pty Ltd (the Proponent), pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to modify conditions in relation to the location of the sewage pump-out facility, the provision of dinghy storage, and the provision of a tethering mechanism.

#### 2. SUBJECT SITE

The site is located in Marmong Cove on the southern shore of Cockle Bay at the northern end of Lake Macquarie. The site contains the Marmong Point Marina at 1-13 Nanda St, Marmong Point (refer to **Figure 1**). The marina covers an area of 1.73 hectares, including the water based component.



**Figure 1 – Location of the subject site**

[illegible]

**Figure 2 – Subject site**

### 3. SITE HISTORY

On 18 February 2010, Project Approval (MP 07\_0138) was granted for expansion of the Marmong Point Marina. Key aspects of the project include:

- an additional 85 wet berths to provide a total of 245 wet berths;
- provision of 30 informal car spaces;
- a new emergency spill shed;
- replacement of a floating marina arm; and
- relocation of swing moorings, and relinquishment of ten commercial swing moorings.

The works associated with the Project Approval have been constructed.

### 4. PROPOSED MODIFICATION

On 11 August 2014, the Proponent lodged a Section 75W modification application (MP07\_00138 MOD 1) seeking to modify conditions of approval in relation to the location of the sewage pump-out facility and the location of dinghy storage. It also originally sought to delete a requirement for a tethering mechanism for dinghies in Booragul Reserve, but subsequently amended the modification request to allow for an alternative arrangement to be made with Council for the provision of the mechanism.

The proposed modifications are outlined in **Table 1**, as follows:

**Table 1: Summary of the Proposed Modifications**

Proposed Modification	
<b>Sewage pump-out facility</b>	<ul style="list-style-type: none"><li>• Condition B3(5) requires the provision of a sewage pump-out and slops hopper facility on the northern end of the 'T' head at the eastern end of the marina arm.</li><li>• However, the sewage pump-out facility was constructed in an alternative location, being the end of the fuel wharf.</li><li>• The proposal seeks to modify the Project Approval to reflect the actual location, as constructed.</li></ul>
<b>Dinghy storage</b>	<ul style="list-style-type: none"><li>• Condition F19(1) requires the provision of storage for 20 dinghies adjacent to the emergency spill shed in accordance with the approved Landscape Plan LA05.</li><li>• The Proponent seeks to provide the dinghy storage in an alternative location, being the foreshore where existing informal dinghy storage occurs, between the approved floating restaurant and the existing boat ramp.</li></ul>
<b>Dinghy tethering mechanism</b>	<ul style="list-style-type: none"><li>• Condition F19(2) requires the provision of a tethering mechanism for ten dinghies on Booragul Reserve in consultation with Council.</li><li>• The Proponent seeks to include an alternative option, to be agreed with Council for the provision of the tethering mechanism.</li></ul>

### 5. STATUTORY CONTEXT

#### 5.1 Section 75W

The application was originally approved under Part 3A of the *Environmental Planning and Assessment Act* (EP&A Act). Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former Section 75W of the Act.

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



## 5.2 Approval Authority

The Minister for Planning is the approval authority for the application. However, the Acting Director, Modification Assessments may determine the application as:

- Council has not made an objection; and
- a political donation disclosure statement has not been made; and
- no public submissions were received objecting to the proposed modification.

## 5.3 Consultation

The Department made the modification application publicly available on its website and referred the application to Lake Macquarie Council (Council) and Roads and Maritime Services (RMS) for comment. Due to the minor nature of the modification request the application was not exhibited by any other means.

### Council:

- raised no objection to the location of the sewage pump-out facility at the end of the fuel wharf, and recommended a reduction in the fee to use the sewage pump-out for non-marina clients to encourage increased use of the facility;
- initially raised concerns with the proposed location of the dinghy storage due to the potential impacts on existing foreshore vegetation, and recommended an alternative location further to the north, subject to design and construction requirements. However; following consultation with the Proponent, Council advised it is satisfied with the proposed location and the detailed design, and agreed to the timing of construction coinciding with the completion of the approved floating restaurant.
- initially raised concerns in relation to the design of the tethering mechanism in Booragul Reserve, and has subsequently agreed that a monetary contribution could be paid by the Proponent in lieu of the tethering mechanism, to enable the Council to construct the mechanism itself, to its own design.

RMS raises no objection to the proposed modification.

## 6. ASSESSMENT

### 6.1 Sewage pump-out facility

The proposed modification seeks to relocate the sewage pump-out facility from its approved location on the northern end of the 'T' head at the eastern end of the marina arm to the end of the fuel wharf, as constructed (refer to **Figure 3**). The Department notes that the sewage pump-out facility has been operating at the end of the fuel wharf for three years.

The Proponent advises the fuel wharf is a safe and accessible location, which allows the marina operators to manage and monitor pump-out and fuel services for the general public and marina clients in a single location. The fuel wharf is situated closer to the emergency maintenance spill shed, which allows for a faster response in event of an emergency. The fuel wharf also provides controlled security access from the shore, and its proximity to the administration building increases the opportunities for casual surveillance.

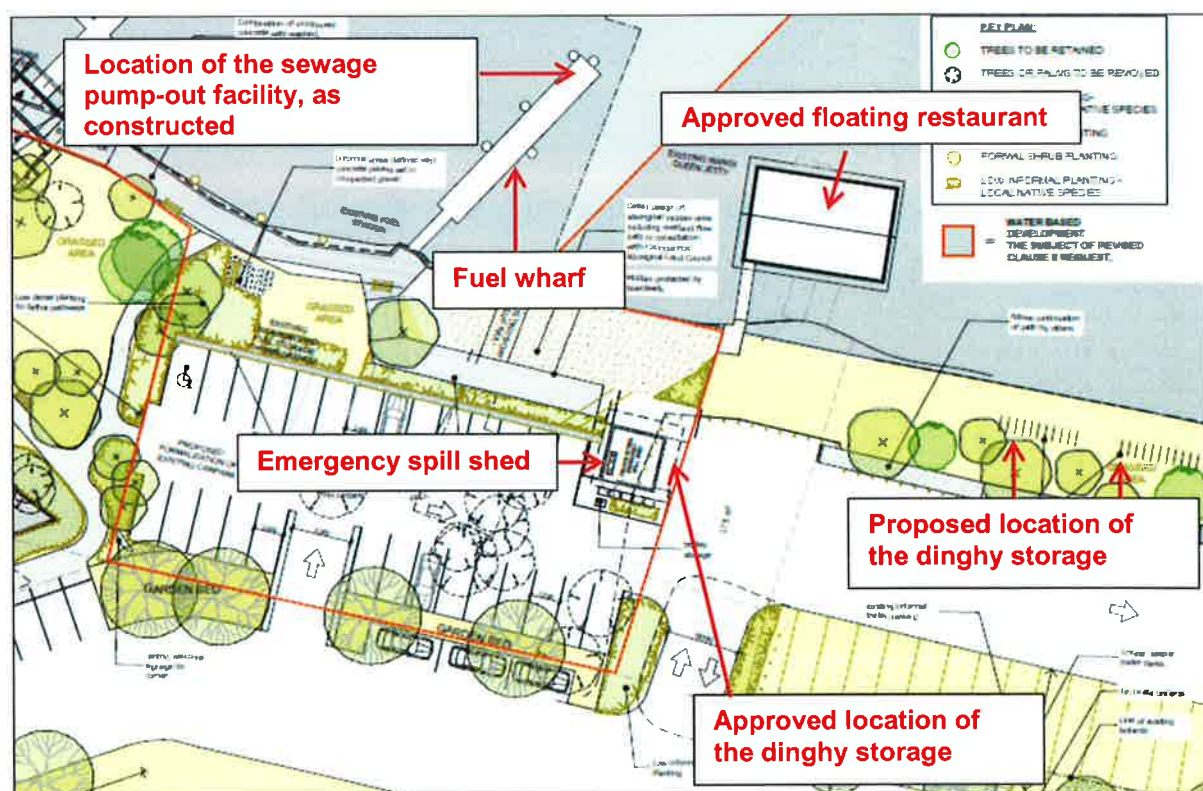
RMS has advised the location of the sewage pump-out facility at the end of the fuel wharf is acceptable, and there is no requirement for an additional sewage pump-out facility in the area. Council also raises no objection to the location of the sewage pump-out facility, as constructed. However, Council recommends a reduction in the \$15 fee for non-marina clients to encourage increased usage of the facility.

The Department notes that existing Condition F18 of the Project Approval already requires the sewage pump-out facility to be free-of-charge, and the onus is on the marina operators to comply with the Project Approval.

The Department also notes that there have been no known navigation or access incidents relating to the use of the sewage pump-out facility at the end of the fuel wharf. The Department is therefore satisfied that the current location of the sewage pump-out facility in relation to navigation, accessibility, safety and security considerations is acceptable. Further, the Department is satisfied that the location of the sewage pump-out facility is convenient for boat users and would help protect the water quality of Lake Macquarie consistent with the intent of the original approval. Accordingly, the updated plans have been recommended for approval.

## 6.2 Dinghy storage

The proposed modification seeks to relocate the required dinghy storage rack from the approved location adjacent to the emergency spill shed to an alternative location on the foreshore where the existing informal dinghy storage occurs (including abandoned dinghies), between the approved floating restaurant and the existing boat ramp (refer to **Figure 3**).



**Figure 3 – Alternate location for dinghy storage**

The Proponent advises that the approved location provides insufficient area, and is restricted by the parking and pedestrian access associated with the approved development application (DA) for a floating restaurant (DA 975/2013).

Council initially raised some concerns with the proposed location, but subsequently advised that the proposed location is acceptable, subject to confirmation that there would be minimal removal of the existing Casurina Trees. In this regard, Council noted that the submitted plans did not accurately reflect the existing trees in the location of the proposed racks. Council also recommended specific requirements in relation to detailed design and

construction timing. The Proponent advises that no trees will be removed in order to provide the dinghy racks.

The Department considers the proposed location is generally suitable, and that the dinghy racks could be designed and located so as to have minimal impact on existing vegetation. However, to address Council concerns, it is recommended that the condition be modified to require a more detailed plan to be prepared and submitted to the satisfaction of Council (as the managers of the reserve), which accurately reflects the design of the racks, the location of all existing and proposed trees, and demonstrates that there would be minimal impacts to the existing vegetation.

Subject to minimal interference to the existing vegetation or impacts to the shoreline, the Department is satisfied that the proposal would have a positive visual impact on the foreshore by consolidating the existing informal dinghy storage. The proposal would also result in a corresponding improvement in the availability of open space and public access to the foreshore.

### **6.3 Dinghy tethering mechanism**

The proposed modification originally sought to remove a requirement for the provision of a tethering system for dinghies in Booragul Reserve. The condition was originally imposed to cater for dinghies used to access recreational swing moorings, which had been displaced further to the north within the bay due to the marina expansion. Deletion of the tethering mechanism was sought on the basis that Council had not provided approval for the Proponent to erect the mechanism within the Council Reserve, and Council may not be willing to accept responsibility for the long term management and maintenance of the tethering mechanism.

However, Council advised that it had introduced a new design of tethering system in the local area, and would prefer that this system be adopted within Booragul Reserve, before Council agreed to accept responsibility for maintenance.

In response, the Proponent advised the tethering system sought by Council was beyond what was contemplated by the Project Approval. However, to resolve the issue, the Proponent offered to make a payment to Council to enable it to fund the new tethering system in Booragul Reserve. Council has agreed to this approach, and for the responsibility of the installation and maintenance of the dinghy storage in Booragul Reserve. The condition is therefore recommended to be modified to enable the parties to make alternative arrangements for the provision of the tethering mechanism. The Department is satisfied that the amended condition would allow a new tethering mechanism to be provided in Booragul Reserve, consistent with Council's design requirements and the intent of the original approval.

## **7. CONCLUSION**

The Department's assessment concludes the proposed modification is appropriate on the basis that:

- the location of the sewage pump-out facility at the end of the fuel wharf is acceptable in terms of environmental, navigation, accessibility, safety and security considerations;
- the alternative dinghy storage location would have minimal impact on existing vegetation on the foreshore, subject to detailed design in consultation with Council;
- the new dinghy storage location would improve the visual impacts on the foreshore by removing the informal and unsightly dinghy storage area;

- the provision of dinghy storage racks would rationalise the number of dinghies on public land by the removal of unauthorised vessels, and improve the availability of open space and public access to the foreshore; and
- a dinghy tethering system would be provided in Booragul Reserve in accordance with Council's design requirements.

Consequently, the Department considers the proposed modification is in the public interest and should be approved subject to the conditions recommended in the Notice of Modification at **Appendix A**.

## 8. RECOMMENDATION

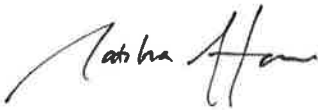
It is recommended that the Acting Director Modification Assessments:

- a) consider the findings and recommendations of this report;
- b) approve MP 07\_0138 MOD 1, under section 75W of the *Environmental Planning and Assessment Act 1979* by;
- c) sign the attached Notice of Modification (Appendix A).

Prepared by: Thomas Mithen  
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Endorsed by:

Approved by:



Natasha Harras  
**Team Leader**  
**Modification Assessments**



Anthony Witherdin  
**Acting Director**  
**Modification Assessments**

## **APPENDIX A: NOTICE OF MODIFICATION**

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The Notice of Modification can be found on the Department of Planning and Environment's website as follows:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6654](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6654)



## **APPENDIX B: SUPPORTING INFORMATION**

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The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6654](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6654)

2. Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6654](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6654)