

# Instrument of Modification

## Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Brendon Roberts  
**Acting Director**  
**Regional Assessments**

Sydney *20 November* 2019

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### SCHEDULE 1

<b>Applicant:</b>	Australand Corporation (NSW) Pty Ltd
<b>Development application:</b>	DA 95/133 lodged on 10 July 1995 and Environmental Impact Statement prepared by LFA (Aust) Pty Ltd dated June 1995.
<b>Land:</b>	Lot 206 in DP 857030, Lot 8100 in DP 1082981, Lot 8032 in DP 1072187, Lot 9004 in DP 1117743, Lot 1 in DP 584291, Lot 2 in DP 109304, Lot 82 in DP 729172, and lots 1 and 2 in DP 1022866.
<b>Proposed Development:</b>	Construction of a 350 berth boat harbour/marina at South Shellharbour Beach, enhancing and enlarging a wetland at Shadforth, and the placement of acoustic barriers adjacent to the quarry haul road.
<b>Modification:</b>	<b>DA 95/133 MOD 8:</b> the modification includes: <ul style="list-style-type: none"><li>• modifications to the location and design of outer harbour structures and facilities</li></ul>

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## SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 Condition 1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words/numbers as follows:
1. The development shall be carried out generally in accordance with the Environmental Impact Statement (EIS) dated June 1995 prepared by LFA (Aust) Pty Limited certified by Alf Lester in accordance with section 77(3) of the *Environmental Planning and Assessment Act 1979*, and the Applicant's submission to the Commission of Inquiry (including its answers to questions), as amended by:
    - (a) the modification application made by Shellharbour City Council on 7 June 2001, the accompanying Statement of Environmental Effects (SEE) prepared by LFA (Pacific) Pty Limited dated May 2001, and the Supplementary Report "Assessment of Environmental Noise Impact of Quarry Haul Road" prepared by Acoustic Logic Consultancy Pty Ltd, dated 4 June 2001;
    - (b) the modification application made by Shellharbour City Council on 8 December 2003 with the accompanying Statement of Environmental Effects (SEE) prepared by LFA (Pacific) Pty Limited dated November 2003;
    - (c) the modification application made by Shellharbour City Council on 22 December 2005 with accompanying Statement of Environmental Effects (SEE) prepared by LFA (Pacific) Pty Limited, dated December 2005;
    - (d) the modification application made by Australand Corporation (NSW) Pty Ltd on 4 June 2008 with accompanying letter, dated 29 May 2008;
    - (e) the modification application made by Australand Corporation (NSW) Pty Ltd on 30 April 2010 with the accompanying supporting information by Worley Parsons dated 12 April 2010;
    - (f) the modification application made by Australand Corporation (NSW) Pty Ltd on 20 April 2015 with accompanying Section 75W Application report by JBA Urban Planning Consultants Pty Ltd dated 20 April 2015, and the revised Marina Concept General Arrangement Plan, numbered 301015-02681-MA-DSK-0006 Issue A, prepared by Worley Parsons and dated 03/06/15;
    - (g) the modification application made by Frasers Property Australia (NSW) Pty Ltd in April 2017 with accompanying Section 75W Application report by JBA Urban Planning Consultants Pty Ltd dated March 2017, the revised Marina Concept General Arrangement Plan, numbered 301015-02681-MA-DSK-0006 Issue A, prepared by Worley Parsons and dated 03/06/15, and the following drawings:
    - (h) **the modification application made by Frasers Property Australia Pty Ltd with accompanying Section 75W Application report dated 22 November 2018 by Ethos Urban Planning Consultants Pty Ltd, Response to Submissions and Supplementary Information, and the following drawings:**

Water Edge Plans prepared by Group GSA Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
13294-L-3000	E	Waterfront Section Reference	06/03/17
13294-L-3100	C	Waterfront Sections	16/04/2015
13294-L-3200	C	Waterfront Sections	16/04/2015
13294-L-3300	D	Waterfront Sections	06/03/17
13294-L-1000	G	Waterfront Cover Sheet	06/03/17
13294-L-2001	E	Waterfront	16/04/2015
13294-L-2002	E	Waterfront	16/04/2015

13294-L-2003	F	Waterfront	06/03/17
13294-L-5001	B	Typical Details: Balustrade & Handrail Types	15/04/2015
13294-L-5002	B	Typical Details: Balustrade & Handrail Types	15/04/2015
<b>Water Edge Plans prepared by Worley Parsons Pty Ltd</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
301015-02681-MA-DWG-3600	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment General Arrangement Plan	13/02/2015
301015-02681-MA-DWG-3601	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Town Centre Control Line Plan	13/02/2015
301015-02681-MA-DWG-3605	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Kayak Access Reinforced Concrete Plan, Sections & Details	13/02/2015
301015-02681-MA-DWG-3610	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Beach Access General Arrangement Plan	13/02/2015
301015-02681-MA-DWG-3611	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Beach Access General Arrangement Sections	13/02/2015
301015-02681-MA-DWG-3620	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Rock Revetment Plan and Sections Sheet 1 of 3	13/02/2015
301015-02681-MA-DWG-3621	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Rock Revetment Plan and Sections Sheet 2 of 3	13/02/2015
301015-02681-MA-DWG-3622	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Rock Revetment Plan and Sections Sheet 3 of 3	13/02/2015
301015-02681-MA-DWG-3630	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Beach Access Stepped Wall Plan and Sections	13/02/2015
301015-02681-MA-DWG-3631	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Beach Access Stepped Wall Reinforcement Details	13/02/2015
301015-02681-MA-DWG-3640	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Beach Access Elevated Platform Plan and Sections	13/02/2015
301015-02681-MA-DWG-3641	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Beach Access Elevated Platform Reinforcement Details	13/02/2015
301015-02681-MA-DWG-3650	A	Shell Cove Boat Harbour (Stage 2) Town Centre Edge Treatment Town Centre Control Line Plan and Retaining Wall Plan and Elevation	13/02/2015
<b>Detailed Water Edge Plans prepared by Worley Parsons Pty Ltd</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>

301015-02681-MA-DWG-3700	A	Shell Cove Boat Harbour (Stage 2) Town Centre Boardwalk General Arrangement Plan	13/02/2015
301015-02681-MA-DWG-3701	A	Shell Cove Boat Harbour (Stage 2) Town Centre Boardwalk Boardwalk Plan Sheet 1	13/02/2015
301015-02681-MA-DWG-3702	A	Shell Cove Boat Harbour (Stage 2) Town Centre Boardwalk Boardwalk Plan Sheet 2	13/02/2015
301015-02681-MA-DWG-3703	A	Shell Cove Boat Harbour (Stage 2) Town Centre Boardwalk Boardwalk Plan Sheet 3	13/02/2015
301015-02681-MA-DWG-3710	A	Shell Cove Boat Harbour (Stage 2) Town Centre Boardwalk Typical Sections Sheet 1 of 2	13/02/2015
301015-02681-MA-DWG-3711	A	Shell Cove Boat Harbour (Stage 2) Town Centre Boardwalk Typical Sections Sheet 2 of 2	13/02/2015
301015-02681-MA-DWG-3720	A	Shell Cove Boat Harbour (Stage 2) Town Centre Boardwalk Typical Pile Details and Schedule	13/02/2015
301015-02681-MA-DWG-3400	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment General Arrangement Plan of Proposed Changes	16/01/2015
301015-02681-MA-DWG-3401	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment General Arrangement Plan	11/02/1
301015-02681-MA-DWG-3402	B	Shell Cove Boat Harbour (Stage 2) Edge Treatment Typical Sections for Outer Harbour	10/03/2015
301015-02681-MA-DWG-3403	B	Shell Cove Boat Harbour (Stage 2) Edge Treatment Typical Sections – Inner Harbour Sheet 1 of 2	10/03/2015
301015-02681-MA-DWG-3404	B	Shell Cove Boat Harbour (Stage 2) Edge Treatment Typical Sections – Inner Harbour Sheet 2 of 2	10/03/2015
301015-02681-MA-DWG-3405	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall General Arrangement Plan	10/03/2015
301015-02681-MA-DWG-3406	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Typical Arrangement Plans	10/03/2015
301015-02681-MA-DWG-3407	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Special Arrangement Plans	10/03/2015
301015-02681-MA-DWG-3408	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Units Details Sheet 1 of 2	10/03/2015
301015-02681-MA-DWG-3409	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Units Details Sheet 2 of 2	10/03/2015
301015-02681-MA-DWG-3410	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Reinforcement Details Sheet 1 of 2	10/03/2015

301015-02681-MA-DWG-3411	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Reinforcement Details Sheet 2 of 2	11/03/2015
301015-02681-MA-DWG-3412	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Precast Unit Schedule	10/03/2015
301015-02681-MA-DWG-3413	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Precast Retaining Wall Special Arrangements Plans Sheet 2	10/03/2015
301015-02681-MA-DWG-3414	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Insitu Reinforced Concrete Retaining Wall Details	13/02/2015
301015-02681-MA-DWG-3415	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Drainage Plan	13/02/2015
301015-02681-MA-DWG-3416	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Drainage Sections and Details Sheet 1 of 2	13/02/2015
301015-02681-MA-DWG-3417	A	Shell Cove Boat Harbour (Stage 2) Edge Treatment Drainage Sections and Details Sheet 2 of 2	13/02/2015
301015-02681-MA-DWG-3420	A	Shell Cove Boat Harbour (Stage 2) Boardwalk General Arrangement Plan	13/02/2015
301015-02681-MA-DWG-3421	A	Shell Cove Boat Harbour (Stage 2) Boardwalk Typical Plan and Sections	13/02/2015
301015-02681-MA-DWG-3422	A	Shell Cove Boat Harbour (Stage 2) Boardwalk Typical Sections Sheet 1 of 2	13/02/2015
301015-02681-MA-DWG-3423	A	Shell Cove Boat Harbour (Stage 2) Boardwalk Typical Sections Sheet 2 of 2	13/02/2015
301015-02681-MA-DWG-3424	A	Shell Cove Boat Harbour (Stage 2) Boardwalk Details Sheet 1 of 8	13/02/2015
301015-02681-MA-DWG-3427	A	Shell Cove Boat Harbour (Stage 2) Boardwalk Details Sheet 4 of 8	13/02/2015
301015-02681-MA-DWG-3435	A	Shell Cove Boat Harbour (Stage 2) Boardwalk Typical Pile Details and Schedule	13/02/2015
301015-02681-MA-DWG-3440	A	Shell Cove Boat Harbour (Stage 2) Boardwalk Typical Details	13/02/2015
<b>Detailed Water Edge Plans prepared by Worley Parsons Pty Ltd</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
301015-02681-MA-DWG-0801	C	Title Sheet, Locality Plan and Drawing List	16/12/2016
301015-02681-MA-DWG-0802	A	Site Plan	16/12/2016
301015-02681-MA-DWG-0805	C	General Arrangement Plan	16/12/2016
301015-02681-MA-DWG-0806	C	Stage 1 Marina Layout Plan	16/12/2016
301015-02681-MA-DWG-0807	C	Stage 2 and Stage 3 Marina Layout Plan	16/12/2016

301015-02681-MA-DWG-0810	C	Pile Layout and Detail	16/12/2016
301015-02681-MA-DWG-0811	C	Services Layout	16/12/2016
301015-02681-MA-DWG-0820	C	Rock Level Contour Plan	16/12/2016
301015-02681-MA-DWG-0821	C	Subsurface Long Sections – Sheet 1 of 2	16/12/2016
301015-02681-MA-DWG-0822	C	Subsurface Long Sections – Sheet 2 of 2	16/12/2016
301015-02681-MA-DSK-0014	A	Shell Cove Boat Harbour Marina Alternate 268 Berth Layout	13/03/2017
<b>Outer Harbour Plans prepared by Advisian Worley Parsons Group</b>			
<b><u>Drawing No.</u></b>	<b><u>Revision</u></b>	<b><u>Name of Plan</u></b>	<b><u>Date</u></b>
<b><u>301015-02681-MA-DWG-0815</u></b>	<b><u>B</u></b>	<b><u>Shell Cove Marina Outer Harbour Facilities General Arrangement and Services Layout</u></b>	<b><u>18.09.2019</u></b>
<b><u>301015-02681-MA-DSK-0021</u></b>	<b><u>H</u></b>	<b><u>Shell Cove Boat Harbour Outer Harbour Facility General Arrangement</u></b>	<b><u>18.09.2019</u></b>

(b) In Schedule 2 following Condition 17, insert Conditions 17A, 17B, 17C and 17D as follows:

**17A. To manage conflicts between boat lifting and use of the pedestrian foreshore path, boats are not to be lifted into or out of the harbour adjacent to the outer harbour facilities approved by MOD 8 until safety gates have been approved and operate in accordance with the development consent for the adjoining boat maintenance and storage facility.**

**17B At the Outer Harbour Facilities approved by MOD 8, boat lifting operations and the use of all mechanical equipment and power tools is restricted to the hours of 6.00 am to 9.00 pm, Monday to Saturday and 8.00am to 9.00pm on Sunday.**

**17C Within three months of the occupation of the residential building fronting the foreshore, occupation of the residential buildings immediately west of the future boat maintenance and storage facility and following commencement of full operations of the outer harbour structures, whichever occurs last, the operator of the outer harbour structures must submit to the Department a noise audit of the outer harbour facility operations. The audit must be carried out by a suitably qualified and experienced acoustic consultant and is to validate the noise levels via noise monitoring against the predicted noise levels in the Acoustic Report (05135-M) prepared by Wilkinson Murray and submitted with MOD 8. Where noise levels are found to exceed those anticipated by the acoustic report as well as result in noise at the boundary of the residential premises greater than 5 decibels above background levels, the noise audit is to include an action plan that identifies additional noise mitigation measures and management practices to reduce noise levels. If additional noise mitigation and management measures are recommended, the report is to provide a further program of monitoring and reporting.**

**17D (i) The quantities of dangerous goods stored and handled on the site must be below the threshold quantities listed in the Department of Planning's Hazardous and Offensive Development Application Guidelines – Applying SEPP 33 at all times.**

**(ii) Dangerous goods, as defined by the Australian Dangerous Goods Code, must be stored and handled strictly in accordance with:**

**(a) all relevant Australian Standards;**

**(b) the Environment Protection Manual for Authorised Officers:  
Bunding and Spill Management – technical bulletin (EPA, 1997).**

**(iii) In the event of an inconsistency between the requirements of conditions 17D(i) and 17D(ii), the most stringent requirement must prevail to the extent of the inconsistency**

**End of Modification**

