

29 April 2019

218123

Michelle Niles
Senior Planner
Department of Planning and Environment
320 Pitt Street, Sydney

Dear Michelle,

Shell Cove Boat Harbour and Marina (DA 95/133) – Outer Harbour Modification Response to Submissions (RtS)

We write on behalf of the proponent Frasers Property Australia (Frasers), formerly Australand Corporation (NSW) Pty Ltd, in relation to the proposed Section 75W Modification to DA 95/133 (MOD 8) being the Shell Cove Boat Harbour and Marina. The modification relates to the relocation of the outer harbour structures associated with the future operation of the Shellharbour Marina.

Table 1 responds to the matters raised by the Environment Protection Authority (EPA) and Shellharbour City Council (Council).

Table 1 Response to Submissions

Issue	Response
Environment Protection Authority (EPA)	
The requirements of the Protection of the Environment Operations (Underground Petroleum Storage Systems) Regulation 2014 (the UPSS Regulation) must be complied with. This regulation focuses on minimising the risk to the environment and human health by requiring best practice design, installation and ongoing maintenance and monitoring of UPSS in NSW.	<p>It is noted that the fuel tanks do not form part of this application and no works are proposed within the on-shore boat maintenance facility (BMF).</p> <p>Notwithstanding, the outer harbour structures, including the fuelling facilities, have been designed to be capable of compliance with this regulation.</p>
<p>The following guidance on the EPA website should be considered:</p> <ul style="list-style-type: none"> Underground Petroleum Storage Systems -Best practice guide for environmental incident prevention and management. See: https://www.epa.nsw.gov.au/publications/contaminatedland/underground-petroleum-storage-systems-environmental-incident-prevention-guide-16041 Resources for implementing the UPSS Regulation. See: https://www.epa.nsw.gov.au/your-environment/contaminated-land/preventing-contaminated-land/upss/upss-implementing-guideline Environmental Action for Marinas, Boatsheds and Slipways and Best Management Practice for Marinas and Slipways. 	<p>Noted. Best practices will be incorporated into the design and operation of the fuel and pump out pontoon.</p> <p>Specifically, this guidance has been met in the following way:</p> <ul style="list-style-type: none"> This marina maintains an EPA Licence (EPL 12426) and it will continue to be constructed and operated in accordance with this licence. Contamination will be minimised through the correct design of the fuelling and pump out facilities: <ul style="list-style-type: none"> The fuel tanks will be constructed and located onshore (subject to a separate development application) and connected to the fuel pontoon by fuel pipes. A canopy will be installed above each fuel dispenser to protect them from the elements and wear and tear. A pump out facility for boat sewerage will be provided on the pontoon. Signage can be installed to encourage boat owners from taking steps to avoid polluting waters.

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	<ul style="list-style-type: none"> The prevention of leakages will be managed by: <ul style="list-style-type: none"> The entry and exit for the fuel pipes into the under-pump sump will be sealed to prevent fuel leakages. The submersible fuel pumps will be fitted with leak detection monitoring devices to detect a drop in pressure in the pipelines. The fuel pipelines between the fuel tank and the fuel pontoon will be flexible non-corrodible, double-walled HDPE fusion-welded piping. The gap between the inner and outer pipes is able to be monitored for signs of a compromise of either tank wall which could result in leakage of fuel into the environment. Regular inspections will be undertaken of the fuel storage, pipes and fuelling facilities. In the event of a spill the pumps will be shut down and the relevant authorities notified.
<p>The EPA can vary the existing EPL 12426 to protect the environment, if required. In exercising these licensing functions the EPA will take into consideration Section 45 of the POEO Act 1997.</p>	<p>Noted. Separate discussions will be held between Frasers, Coastwide Civil (the contractor) and the EPA to seek any variance to EPL 12426.</p>
<p>The proponent retains primary responsibility for the environmental performance of its project and activities. This includes the preparation of acceptable management plans to ensure compliance with environment protection legislation and conditions of approval at all times. The proponent is also responsible for ensuring these plans are implemented, maintained and regularly reviewed. This should take into account any complaints received, environmental monitoring results and outcomes from the independent auditing and reporting required under the conditions of approval.</p>	<p>The development of the Boat Harbour and Marina will continue having regard to the required environmental performance responsibilities as outlined in the Construction Environmental Management Plan (CEMP) and Operational Environmental Management Plan (OEMP).</p> <p>The OEMP states that a Marina Plan of Management is to be prepared. The minimum requirements of this plan are detailed in the OEMP and cover the following elements as a minimum:</p> <ol style="list-style-type: none"> 1. Statutory obligations, regulatory / legislative requirements; 2. Register of licences and permits; 3. Policies and procedures for operation of the marina; 4. Emergency response management; 5. Training; 6. Records; 7. Reporting; and 8. Environmental management audit process. <p>A draft Conceptual Marina Plan of Management has been prepared as a starting point and is appended to the OEMP (Appendix C).</p>
<p>DPE should consider the relationship of this proposed modification to any approved masterplan or land use and infrastructure plans for the precinct to ensure land use conflict does not occur from the relocation of the services (for example, fuel odours or noise).</p>	<p>The interrelationship of this project with the Shell Cove Boat Harbour Precinct (MP 07_0027) forms the basis for this modification, with the outer harbour structures proposed to be relocated and consolidated with the BMF. This will contain the heavier operations associated with the Marina in a single location.</p>

Issue	Response
DPE should consider the development of a consolidated consent for this project to assist in the management and regulation of this project.	We do not propose to consolidate DA 95/133 (as modified) and MP 07_0027. The management and regulation of this project will continue to operate in the same manner that it has throughout development.
Shellharbour City Council	
The modification application does not adequately address in detail the SEARS requirements set out for the Public Domain and Open Space section of the Outer Harbour 75W – Modification Report which include:	
Address any changes to public domain, pedestrian linkages, street activation and landscaping.	<p>The open space adjoining the marina remains outside of the boundaries of the Boat Harbour and Marina. However, the harbour foreshore will continue to provide public access and pedestrian linkages between the BMF and Boat Lift as intended by the Concept Plan Approval (MP 07_0027). No changes are proposed to this public access.</p> <p>The purpose of this modification is to relocate and consolidate the outer harbour structures with the adjacent BMF, thereby minimising the conflict between the operation of the Marina and the harbour foreshore and pedestrian links.</p>
Demonstrate that public access to the harbour foreshore will be maintained.	<p>Public access around the harbour foreshore will be maintained with systems put in place to limit the impact of the BMF and Boat Lift on pedestrian access surrounding the harbour foreshore.</p> <p>Appendix A illustrates how the interface of the public open space, between the BMF and the outer harbour structures, may occur during boat movement. As discussed below, principles for the operation of this facility will be agreed upon to minimise the impact on pedestrians.</p>
Minimise the potential for vehicle, bicycle and pedestrian conflicts.	<p>The design and operation of the BMF and Boat Lift will seek to minimise potential conflicts with pedestrians along the harbour foreshore. This will be assessed as part of the future BMF development application.</p> <p>Nevertheless, the following principles will be incorporated into the design of this facility in order to minimise the potential for conflict between pedestrians and the BMF:</p> <ul style="list-style-type: none"> • Limit to the hours of operation; • Opening of gates between each boat movement (i.e. no more than one boat in a row); • The BMF manager to monitor the movement of boats; and • Wayfinding signage for the public to move around the BMF and foreshore. <p>We note that the proponent is in the process of preparing a design for the BMF and adjacent open space. The principles for the operation of the BMF will be fully addressed as part of this future DA and be incorporated in the Marina Plan of Management.</p>

Issue	Response
Additionally, an overall plan comparing the existing approved layout to that proposed should be submitted.	This plan was provided within the original Section 75W Modification Report. Refer to Figure 4 in Appendix B.
The Precinct A UDGs attached to the modification application are not the signed endorsed version. Further, as an environmental assessment requirement of the concept approval it is inappropriate for UDGs to form part of any approval.	The Precinct A UDGs form supporting documentation to MOD 8. They are not intended to form part of the approval.

We trust the information below is sufficient to allow the finalisation of the assessment of the Modification. Should you have any queries about this matter, please do not hesitate to contact me on 9956 6962 or rgraham@ethosurban.com.

Yours sincerely,



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Appendix A - Examples of BMF Interface



Figure 1 Pedestrian pathway between BMF and Boat Lift

Source: Frasers Property



Figure 2 Boat Lift in Operation with pedestrian pathway closed

Source: Frasers



Figure 3 Example of Interface between BMF and Boat Lift

Source: Frasers

Appendix B – Approved Layout (DA 95/133)



Figure 4 Boat Harbour / Marina Plan

Source: EIS prepared by LFA (Aust) Pty Ltd, June 1995 & Advisian

Appendix C – Shell Cove Boatharbour Operational Environmental Management Plan