

Notice of Modification

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

As delegate of the Minister for Planning under delegation dated 16 February 2015, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthony Witherdin
Acting Director
Modification Assessments

Sydney 19 February 2016

SCHEDULE 1

Project Approval:	MP 07_0138 granted by the Minister Assisting the Minister for Planning on 18 February 2010.
For the following:	Expansion of the Marmong Point Marina comprising: <ul style="list-style-type: none">• 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• relocation of swing moorings, and relinquishment of ten commercial swing moorings
Proponent:	Marmong Point Pty Ltd
Consent Authority:	Minister for Planning
The Land:	1-13 Nanda Street, Marmong Point
Modification:	MP 07_0138 MOD 1: modification to the conditions in relation to the location of the sewage pump-out facility, and the provision of dinghy storage area and tethering mechanism.

The above approval (MP07_0138) is modified as follows:

SCHEDULE 2

Part A – Administrative Conditions.

(a) Condition A1 is amended by the deletion of the ~~struck-out~~ words/numbers as follows:

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.

- (b) Condition A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

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	bc	Car Park + Spill Shed - Detail	20/11/09 <u>27/02/2015</u>
Survey Drawings prepared by Cashmere Marler & Cavanagh Pty Ltd			
Drawing No.	Revision	Name of Plan	Date
13627 CMC Lease Plan Ver.2j		Marmong Point Marina Development Site Plan Proposed Lease Areas and Details of Proposed Marina Extensions	undated

- (c) Condition A3 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~struck-out~~ words/numbers as follows:

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; **and**
- (3) **Section 75W Modification Application Marmong Point Marina (07 0138) report, prepared by ADW Johnson, dated 8 August 2014.**

Part B – Prior to Issue of a Construction Certificate

- (d) Condition B3 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

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'.~~ **fuel wharf as described in the Statement of Commitments provided with the Response to Submissions prepared by Eastoe consulting Pty Ltd on behalf of Marmong Point Marina, 2009.** 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.

Part F – Post Occupation

- (e) Condition F19 is amended by the insertion of the **bold and underlined** words / numbers as follows:

F19 Dinghy Storage

- 1) The Proponent shall provide a dinghy storage rack for twenty dinghies on the Nanda Street foreshore located **generally** in accordance with approved Landscape Plan LA05 **Rev C dated 27/2/15.**

Prior to construction of the dinghy storage, a detailed plan of the dinghy storage rack shall be submitted to and approved to the satisfaction of Council and shall:

- I. **minimise the removal of any foreshore vegetation or damage to tree roots. In that regard a detailed Landscape Plan shall be provided showing trees to be retained and trees to be removed and visual screening vegetation;**
- II. **maintain the foreshore slope and structure and sit on the natural substrate or a pebble beach should stabilisation be required (not a concrete slab);**

The storage rack is to be provided within two years of the approval of Modification 1 to this approval, or prior to the issue of a Final Occupation Certificate for the floating restaurant approved under DA 975/2013, whichever occurs first.

- 2) The Proponent shall provide a tethering mechanism for ten dinghies on Booragul Reserve in consultation with Lake Macquarie Council, **or enter into an alternative satisfactory arrangement with Council for the provision of the tethering mechanism within six months of the approval of Modification 1 to this approval.**

End of Modification