



Planning &  
Infrastructure

**MODIFICATION REQUEST:**

**Redevelopment of the Lake Macquarie Yacht Club  
Ada Street, Belmont**

**MP 08\_0045 MOD 1**

**Modification to Staging**

Director-General's  
Environmental Assessment Report  
Section 75W of the  
*Environmental Planning and Assessment Act 1979*

December 2013



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## 1. BACKGROUND

The purpose of this report is to determine a request to modify the approved project application for the redevelopment of the Lake Macquarie Yacht Club, Ada Street, Belmont. The application seeks to modify the staging of construction (four stages instead of two) and the provision of parking and a combination of wet and dry berths at each stage.

### 1.1 Site Location and Surrounding Land Uses

Lake Macquarie Yacht Club ('the club') is located at 9 Ada Street, Belmont ('the site'), near the intersection of Ada Street and the Pacific Highway in the Lake Macquarie local government area. The site is approximately 20kms south of Newcastle and 130km north of Sydney (Figure 1) and is situated on the eastern shores of Lake Macquarie on a reclaimed piece of land that extends approximately 220m into the lake (Figure 2 next page).

Swing mooring areas are located immediately north and south of the current yacht club. Extensive seagrass beds are located amongst the moorings, including a community of *Posidonia Australis* which is identified under the threatened species provisions of the *Fisheries Management Act 1994*. The site is bound to the east by Cullen Park and to the north and south by one to two storey detached dwelling houses oriented to the waters of Lake Macquarie. An informal car park is located on a Crown foreshore reserve immediately adjacent to the yacht club. The club has been operating from the site for approximately 80 years.



Figure 1: Lake Macquarie Yacht Club site and surrounding context





**Figure 2: Lake Macquarie Yacht Club site (red outline) and surrounding area**

## 1.2 Previous Approval

On 13 January 2012 the Acting Deputy Director-General Development Assessment & Systems Performance, under delegation, approved Major Project 08\_0045 for the redevelopment of the Lake Macquarie Yacht Club. The project gave approval for the redevelopment of the existing yacht club to make provision for a total of 167 berths (148 wet and 19 dry), replacement of the existing clubhouse with a new facility, reconfiguration of existing parking to accommodate a total 169 car spaces. The approval included formalisation of parking spaces at Cullen Park foreshore reserve and along the southern boundary of Ada Street as well as associated landscaping (**Figure 3**).



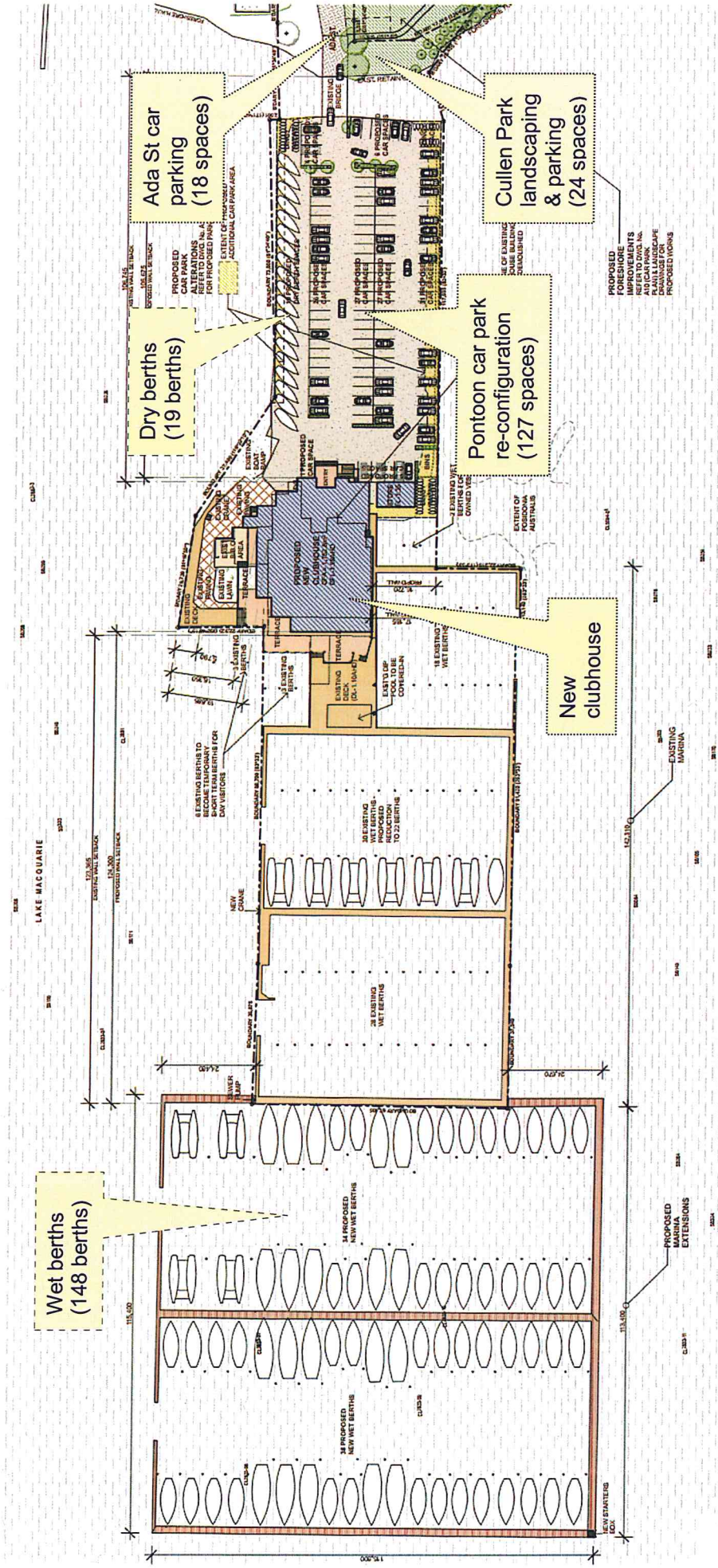


Figure 3: Lake Macquarie Yacht Club redevelopment project (as approved)

The staging of construction under the existing approval is as follows:

Stage 1

- extension of the existing marina to accommodate 64 additional wet berths (148 total);
- reconfiguring of existing berths and the surrender of four (4) commercial swing moorings (reduced to eight);
- reconfiguration of car parking on the existing pontoon to provide a total of 127 car parking spaces;
- public domain improvements to Cullen Park, including provision of 24 car parking areas and landscaping improvements;
- provision of 18 car spaces on the southern side of Ada Street; and
- provision of infrastructure and services associated with the new facilities.

Stage 2

- demolition of existing club house and erection of new club house;
- construction of 19 hardstand dry berths; and,
- provision of infrastructure and services associated with the new facilities.

## **2. PROPOSED MODIFICATION**

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The modification proposes to:

- amend the staging of the project from two (2) to four (4) stages;
- reconfigure the project layout to provide car parking and a combination of wet and dry berths at each stage; and,
- modify conditions of approval to reflect the new staging.

The proposed staging of the Lake Macquarie Yacht Club will allow for the current and projected needs of the facility to be met on a progressive basis in line with the level of demand generated by each stage.

The staging and construction of the project is proposed as follows:



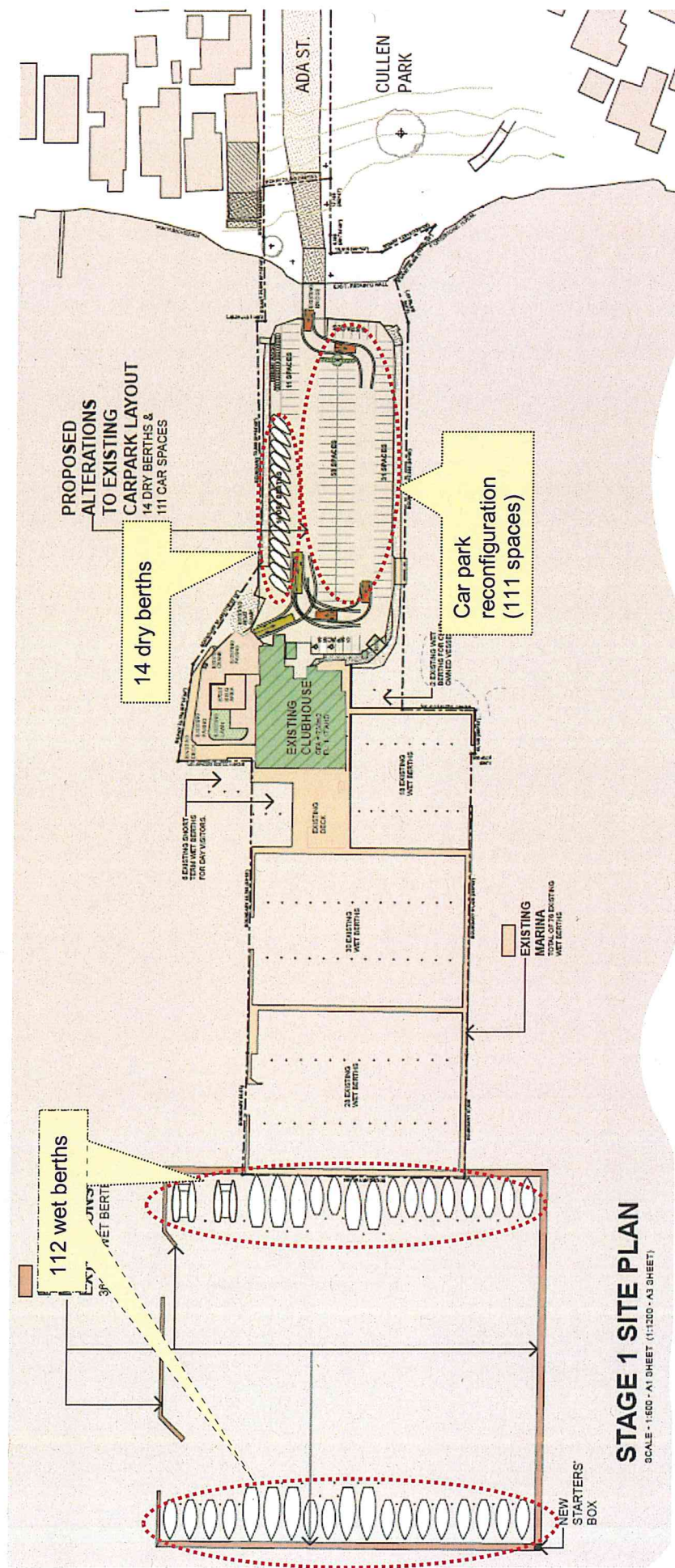
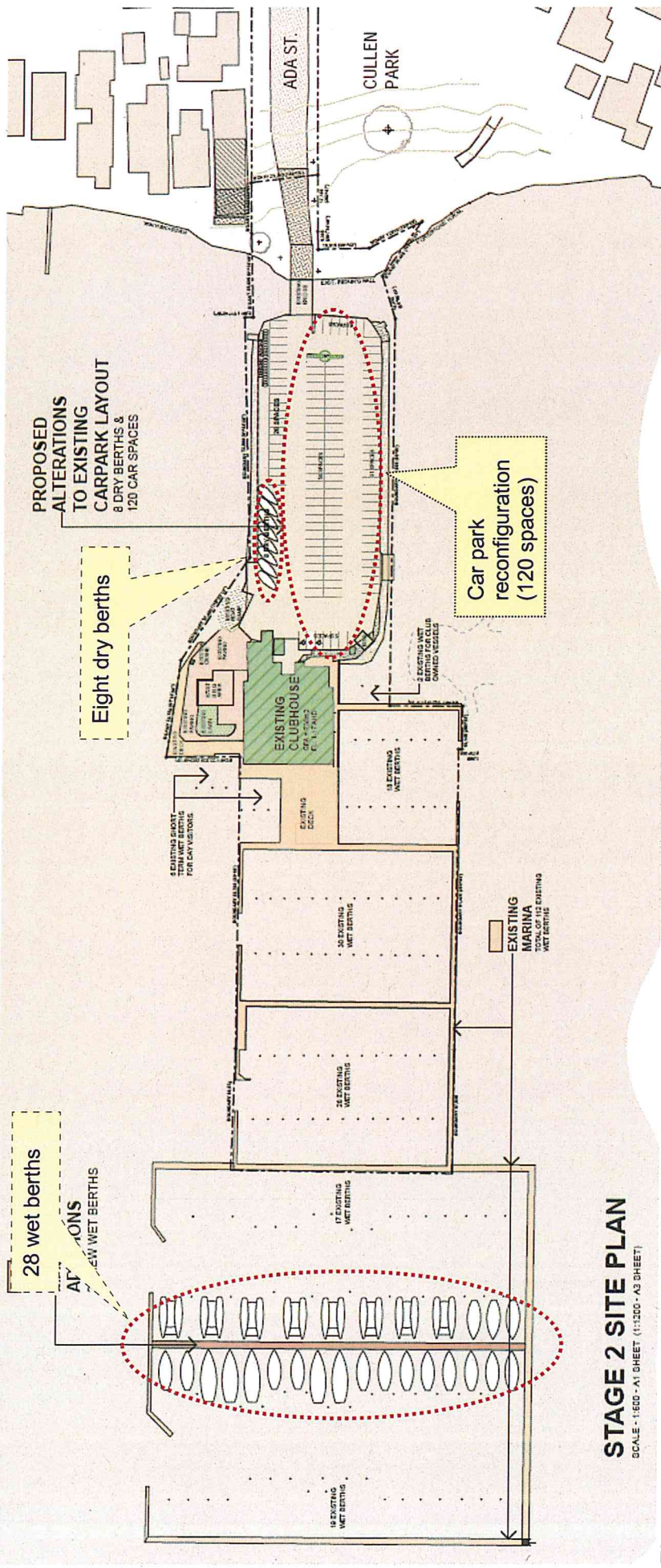


Figure 4: Proposed Stage 1

#### Stage 1

- reduce the overall number of wet berths to be constructed from 148 to 112;
- construct 14 hardstand dry berths;
- reconfigure car parking on the existing pontoon to accommodate 111 spaces; and,
- provide infrastructure and services associated with the new facilities (refer to Figure 4).



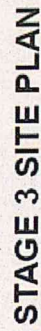


**Figure 5: Proposed Stage 2**

**Stage 2**

- construct the central finger of the new marina resulting in 28 wet berths;
- reduce the number of hardstand dry berths of from 14 to eight (8);
- provide infrastructure and services associated with the facilities; and,
- reconfigure car parking on the existing pontoon to increase parking from 111 to 120 spaces (refer to **Figure 5**).





**Figure 6: Proposed Stage 3**

### Stage 3

- demolish and construct the new club building;
- remove one (1) hardstand dry berth;
- carry out public domain improvements to Cullen Park, including the formalisation of existing gravel areas to provide 24 car parking spaces and landscaping improvements;
- carry out road works along Ada Street, including provision of 18 additional car spaces;
- reconfigure parking on the existing pontoon to reduce parking from 120 to 119 spaces; and,
- remove remaining eight (8) swing moorings (refer to **Figure 6**).



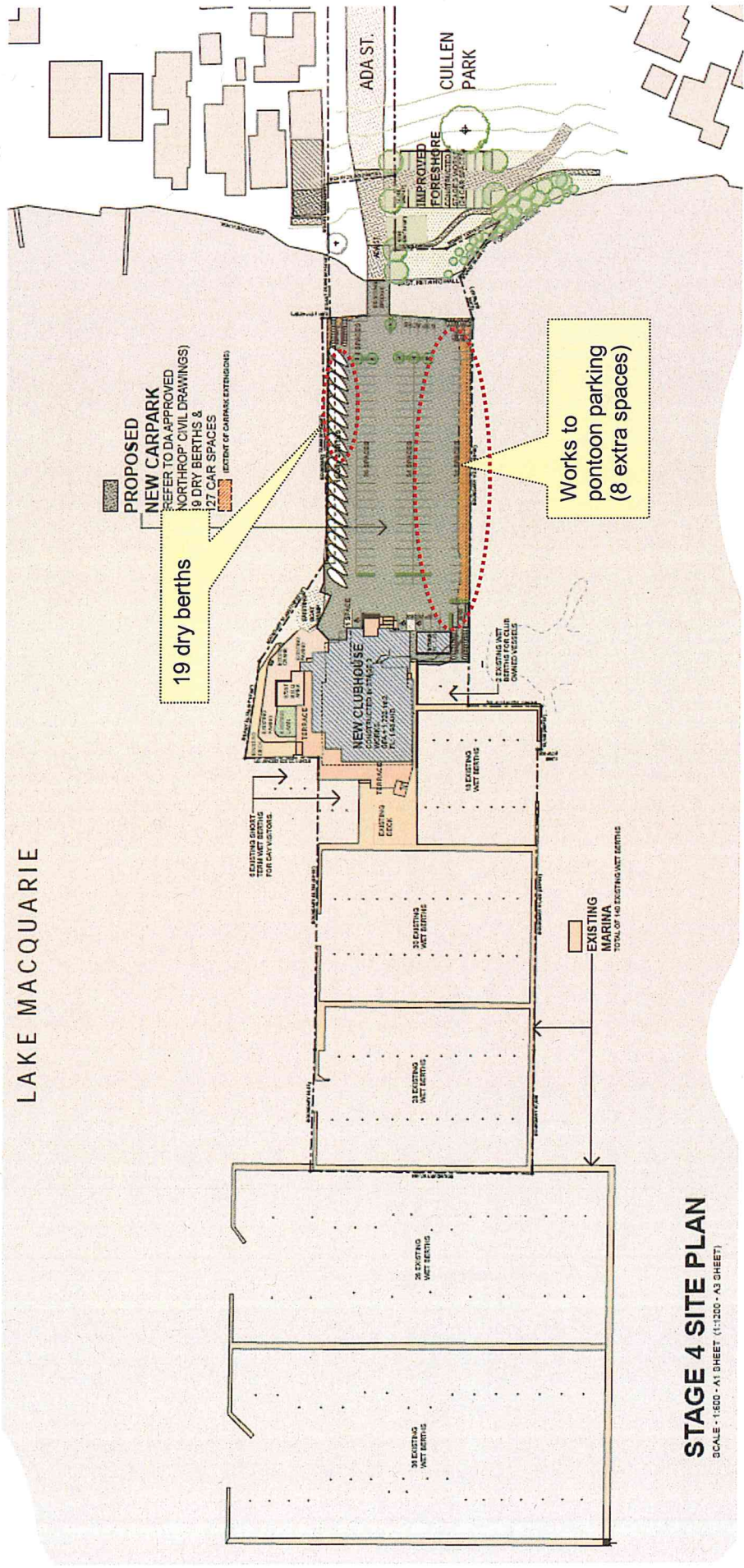


Figure 7: Proposed Stage 4

Stage 4

- carry out works to pontoon car parking area to increase parking from 119 to 127 spaces; and,
- increase number of hardstand dry berths from seven (7) to 19 (refer to Figure 7).



### 3. STATUTORY CONTEXT

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#### 3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), Section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove of the carrying out of the project under section 75W of the EP&A Act.

#### 3.2 Modification of a Minister's Approval

In accordance with clause 12 of Schedule 6A of EP&A Act, section 75W of the EP&A Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Under section 75W of the EP&A Act, the Minister is obliged to be satisfied that what is proposed is indeed a modification of the original proposal, rather than being a new project in its own right.

The department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification;
- the modification is of a scale that warrants the use of section 75W of the EP&A Act; and
- environmental impacts would remain unchanged as a result of the modification.

Therefore, it is considered that the proposed modification is within the scope of section 75W of the EP&A Act. Consequently, the department considers that the application should be assessed and determined under section 75W of the EP&A Act rather than requiring a new development or project application to be lodged.

#### 3.3 Environmental Assessment Requirements

Section 75W(3) of the EP&A Act provides that the Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the Proponent must comply with before the matter will be considered by the Minister.

In this instance, following an assessment of the modification request, it was not considered necessary to notify the proponent of environmental assessment requirements pursuant to section 75W(3) with respect to the proposed modification, as suitable information was provided to the department to consider the application.

#### 3.4 Delegated Authority

On 14 September 2011, the Minister delegated his powers and functions to determine section 75W modification requests to the Director – Industry, Social Projects and Key Sites, where:

- the relevant local council has not made an objection; and
- a political disclosure statement has been made, but only in respect of a previous related application; and
- there are less than 10 public submissions in the nature of objections.

As no submissions from the public were received, council did not make an objection and a political disclosure statement has not been made, the Director – Industry, Social Projects and Key Sites may determine the modification request under delegated authority.

## 4. CONSULTATION AND SUBMISSIONS

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### 4.1. Exhibition

In accordance with section 75X of the EP&A Act and clause 8G of the *Environmental Planning & Assessment Regulation 2000*, the Director-General is required to make the modification request publicly available. The modification request was made available on the department's website and referred to Lake Macquarie City Council, Roads & Maritime Services and the department of Primary Industries for comment. Due to the nature of the proposed modification, the modification request was not exhibited by any other means. No public submissions were received on the modification request.

#### Lake Macquarie Council (council)

Council's submission dated 3 October 2013 notes the proposed changes to staging from two stages to four and raised no objections in terms of the proposed modifications.

#### Department of Primary Industries (DPI)

DPI's submission dated 27 September 2013 raised concerns relating to the proposed removal of swing moorings from Stage 1 to Stage 3. Given that the proposed staging has no apparent timeframes around it, DPI objected to the swing moorings remaining until Stage 4.

#### Roads & Maritime Services (RMS)

In its submission dated 27 September 2013 the RMS provided its support for the proposed modification subject to Conditions B12 and E13 of the existing approval remaining as part of the approval.

### 4.2. Proponent response to Submissions

On 23 October 2013, the proponent submitted a response to address points raised by the DPI and the RMS. This response clarified that the proposed modification does not alter existing requirements of the approval to surrender four swing moorings. The issue raised by DPI is further discussed in **Section 5** for this report.

In response to the submission from the RMS the proponent confirmed that it was not seeking any amendments to Conditions B12 and E13 of the original approval with regards to the design requirements for the Cullen Park parking (Condition B12) and timing for completing the Ada Street works (Condition E13).

## 5. ASSESSMENT

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The department considers the key issues for the proposed modification to be:

- Seagrass management; and
- Carparking.

#### Seagrass management

Extensive seagrass beds are located immediately north and south of the current yacht club amongst existing swing moorings. These seagrass beds include a community of *Posidonia Australis*, which is listed as an endangered population within Lake Macquarie under the threatened species provisions of the *Fisheries Management Act 1994*.

Swing moorings scour the seabed as moored boats rotate, which can inhibit seagrass growth. A Seagrass Management Plan considered as part of the original assessment recommended the



surrender and removal of four swing moorings operated by the yacht club in Stage 1b. This recommendation is enforced in the existing approval through Condition B18.

As a result of the proposed revised staging, DPI raised concerns with the proposed timing of the swing mooring removal as the intended environmental benefit of originally removing the moorings during Stage 1 would not be achieved until Stage 3 (as proposed).

The proponent responded by clarifying that under the current approval, part of Stage 1 includes the surrender of four commercial swing moorings (from 12 existing to eight) and confirmed that the proposed modification will not alter the existing requirement to surrender these four swing moorings during Stage 1.

In view of what appeared to be a misunderstanding between the proponent and DPI, the department asked the proponent to consult directly with DPI on the matter. In a supplementary response (addressed to the proponent) dated 20 November 2013, DPI confirmed that the concerns relating to the removal of the swing moorings had been addressed and subsequently withdrew its objection to the proposal.

The department is satisfied that the proposed modification will not affect requirements established under the original assessment to ensure the ecological principles for seagrass management will be maintained.

#### Carparking

During times of peak car demand there is often a shortage of car parking at the yacht club and the immediate surrounding area. A key concern raised in the original assessment was the impact of the marina expansion on adjacent residents and other road users in terms of car parking availability.

The current approval makes provision for a total of 169 car parking spaces. This parking is provided through the reconfiguration of the existing parking and widening the pontoon parking structure (127 spaces), along with formalising parking areas at Cullen Park (24 spaces) and works to Ada Street (18 spaces).

Table 1 makes a comparison of council's *Development Control Plan 1* (DCP) parking requirements against existing/constructed parking areas for each stage of the proposal. The modification proposes to amend the provision of parking in proportion with the four stages proposed as follows:

**Table 1:** DCP parking requirements against existing/constructed parking areas for each stage

Stage 1	Spaces	Surplus/Deficiency
Existing Club Building 738m <sup>2</sup> @ 15m <sup>2</sup> per space +1	50.2	
New marina 112 wet berths @ 0.45 spaces per berth	50.4	
New hardstand 14 dry berths @ 0.3 spaces per berth	4.2	
8 swing moorings @ 0.45 spaces per mooring	3.6	
Reduction for courtesy bus -1 per 20 spaces	-5.5	
<b>Total DCP requirement (Stage 1)</b>	<b>102.9</b>	
<b>Total provided (re-configured pontoon carpark)</b>	<b>111</b>	<b>+8.1</b>
Stage 2		
Existing Club Building	50.2	
New marina 140 wet berths @ 0.45 spaces per berth	63	
Reduce hardstand dry berths to 8 @ 0.3 spaces per berth	2.4	
8 swing moorings @ 0.45 spaces per mooring	3.6	
8 short term wet berths	0	
Reduction for courtesy bus -1 per 20 spaces	-6	
<b>Total DCP requirement (Stage 2)</b>	<b>113.2</b>	
<b>Total provided (re-configured pontoon carpark)</b>	<b>120</b>	<b>+6.8</b>



Stage 3	Spaces	Surplus/Deficiency
New Club Building 1,722.1m <sup>2</sup> @ 25m <sup>2</sup> per space +40	109	
Constructed marina 140 wet berths @ 0.45 spaces per berth	63	
Reduce hardstand dry berths to 7 @ 0.3 spaces per berth	2.1	
Reduction for courtesy bus -1 per 20 spaces	-8.0	
<b>Total DCP requirement (Stage 3)</b>	<b>166.1</b>	
Re-configured pontoon carpark	119	
Ada Street	18	
Cullen Park	24	
<b>Total car spaces provided (pontoon + Ada + Cullen)</b>	<b>161</b>	<b>-5.1</b>
Stage 4		
Constructed Club Building	109	
Constructed marina 140 wet berths @ 0.45 spaces per berth	63	
Increase hardstand dry berths to 19 @0.3 spaces per berth	5.7	
8 swing moorings @ 0.45 spaces per mooring	3.6	
Reduction for courtesy bus -1 per 20 spaces	- 9	
<b>Total DCP requirement (Stage 4)</b>	<b>172.3</b>	
Re-configured pontoon carpark	127	
Ada Street	18	
Cullen Park	24	
<b>Total car spaces provided (pontoon + Ada + Cullen)</b>	<b>169</b>	<b>-3.3</b>

In accordance with the DCP, the approval permits a deficiency of four (3.3) spaces. Given that the proposed staging intends to defer construction of the club building until Stage 3, Stages 1 and 2 will now achieve compliance with the DCP by making use of the reconfigured pontoon parking area prior to construction of the new club building. However, despite the inclusion of the Ada Street and Cullen Park parking areas, Stages 3 and 4 will continue to have parking deficiencies as identified in **Table 1**. In particular, Stage 3 will have a deficiency of 5.1 which increases the approved deficiency by approximately one space.

In terms of car parking availability for residents and other road users, both council and the RMS have not raised any objections to the proposed staging. The proposed modification results in an improved outcome largely due to a higher rate of compliance with the DCP in Stages 1 and 2.

The final development (as modified) constructed in accordance with the four stage plan proposed would result in no changes to the car parking deficiency of the original approval. Given the significant surplus in parking capacity generated by the proposed modification during Stages 1 (8.1 spaces) and 2 (8.8 spaces), the department considers that the impacts of the additional one space deficiency on residents and other roads users (during Stage 3) as minor and temporary. The department, therefore, supports the proponent's intention to provide car parking commensurate to the level of demand generated by each stage of the marina expansion. Subsequently, a new condition of approval has been recommended to reflect parking provision for four stages of development in **Schedule 2** of the modified instrument.



## 6. CONCLUSION

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The department considers the proposal, as modified, achieves the same objectives as assessed under the original approval including the adequate provision of parking during peak period, and the mitigation of biodiversity impacts. The proposed modification ensures these objectives can still be achieved.

The department has reviewed the modification request and is generally satisfied that the modification to amend the staging of the project from two stages to four and reconfigure project layout to provide parking, berths and associated facilities at each stage, is appropriate. It is therefore recommended that the modification request be approved.

Recommended conditions of approval for modifying the project to reflect the new car parking and staging are recommended in **Schedule 2** of the modified instrument (refer to 'Tag B').


## 7. RECOMMENDATION

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It is recommended that the Director – Industry, Social Projects and Key Sites, as delegate for the Minister for Planning and Infrastructure:

- note the information provided in this report;
- approve the modification request, subject to conditions; and
- sign the attached modifying instrument (**Tag A**).

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 5/12/13

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Approved by:

 13/12/13

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## **APPENDIX A      MODIFICATION REQUEST**

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See the department's website at

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6108](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6108)



## **APPENDIX B SUBMISSIONS**

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See the department's website at

[http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=6108](http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6108)

## **APPENDIX C    RECOMMENDED MODIFYING INSTRUMENT**

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