

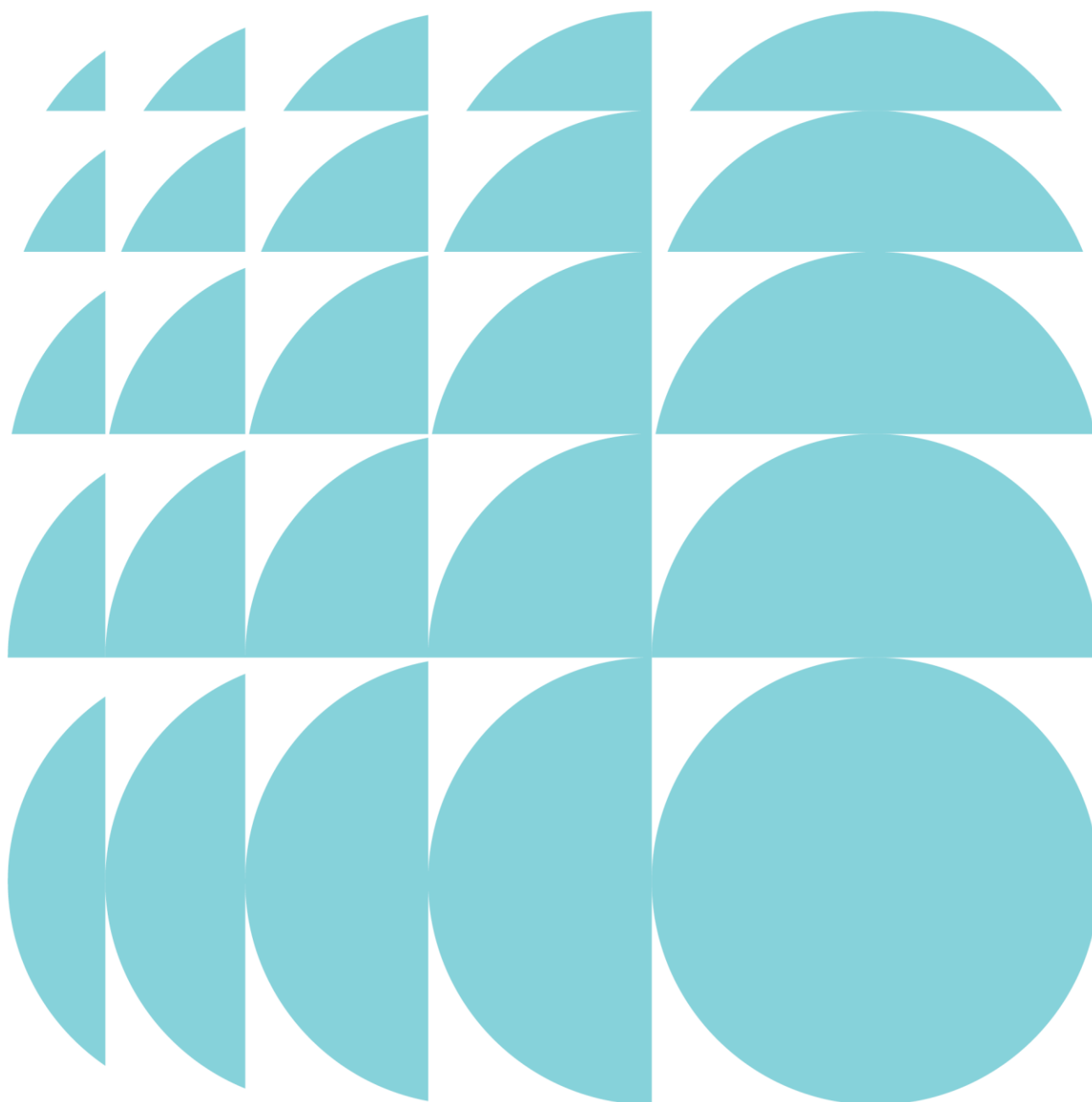
# ETHOS URBAN

**Response to Submissions**  
Section 75W Modification Application

Boollwarroo Parade, Shell Cove

Submitted to Department of Planning and  
Environment  
On behalf of Frasers Property Australia

07 February 2018 | 16075



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**CONTACT**

Jim Murray Associate Director jmurray@ethosurban.com 9956 6962

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This document has been prepared by:



Jim Murray 7/02/2018

This document has been reviewed by:



Michael Rowe 7/02/2018

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Ethos Urban Pty Ltd  
ABN 13 615 087 931.  
www.ethosurban.com  
173 Sussex Street, Sydney  
9956 6962

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# Contents

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1.0	Introduction	3
2.0	Issues Summary and Frasers' Response	4
2.1	View Loss	4
2.2	Traffic and Parking	6
2.3	Character	7
2.4	Social Infrastructure and Services	9
2.5	Planning Process	10
2.6	Ecological and Coastal Impacts	12
2.7	Overshadowing	12
2.8	Heritage	13

---

3.0	Proposed Amendment to Exhibited Modification – Boat Storage Acoustic Walls	14
3.1	Summary of acoustic assessment	15
3.2	Assessment of amenity impacts	15
3.3	Proposed modification to the Instrument of Approval	16

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4.0	Conclusion	17
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## Tables

Table 1	Summary of additional height and dwellings by Precinct	7
Table 2	Acoustic Wall – Matters for consideration	14

# Contents

## Appendices

- A** Summary response to Public Submissions  
*Ethos Urban*
- B** Summary response to Agency Submissions  
*Ethos Urban*
- C** Revised Concept Plan Design Report  
*COX*
- D** Visual Impact Assessment  
*Richard Lamb and Associates*
- E** Revised Social Impact Assessment  
*MacroPlan Dimasi*
- F** Heritage Impact Statement  
*GML Heritage*
- G** Response to EPA Comments  
*Advisian*
- H** Noise Impact Assessment of Boat Ramp Carpark, Dry Boat Stacking & Boat Maintenance  
*Wilkinson Murray*
- I** Landscape Mound Plan  
*LFA (Pacific) Pty Limited*
- J** Landscape Plan – Acoustic Wall Location  
*LFA (Pacific) Pty Limited*
- K** Boat Maintenance Facility: Solar Access Study  
*LFA (Pacific) Pty Limited*
- L** RMS email regarding additional traffic impact study  
*RMS*
- M** Traffic Review  
*Colston Budd Rogers & Kafes (CBRK)*

## 1.0 Introduction

We write on behalf of the proponent Frasers Property Australia (Frasers), formerly Australand Corporation (NSW) Pty Ltd, in relation to the subject Concept Plan Modification MP 07\_0027 (Mod 1) for the Shell Cove Boat Harbour Precinct.

The Environmental Assessment Report (EAR) for the Concept Plan Modification (Mod 1) was publicly exhibited between the 15<sup>th</sup> September 2017 and 20<sup>th</sup> October 2017. In total, 207 submissions were received during the exhibition period and one submission has been received after the exhibition period.

The Department of Planning and Environment (the Department) then requested additional information on the 27<sup>th</sup> November 2017. This package provides a consolidated response to the public submissions and Department's requests for information.

An analysis of these submissions has identified the following key issues with the proposal:

- View Loss;
- Traffic and Parking;
- Character;
- Social Infrastructure and Services;
- Planning Process.
- Ecological and Coastal Impacts;
- Overshadowing; and
- Heritage.

Frasers and its specialist consultant team have reviewed and considered the Departments comments, the agency and Council's submissions, and the public submissions and, in accordance with Section 75H(6) of the Environmental Planning and Assessment Act 1979 (EP&A Act), now responds to the issues raised.

This Response to Submissions (RtS) should be read in conjunction with the Concept Plan Modification EAR prepared by JBA dated June 2017 and additional documentation appended to this response package.

Based on the assessment undertaken as part of this RtS and the exhibited EAR and the accompanying technical reports, the independent review process has determined that on balance there are limited environmental impacts beyond those originally assessed and determined to be acceptable in the approved Concept Plan. The basis for this determination is explained in detail below.

## 2.0 Issues Summary and Frasers' Response

207 submissions were received in response to the public exhibition of the proposed Concept Plan Modification (the Modification). Specifically, this encompassed:

- 198 submissions from the general public (including one petition);
- two (2) submissions from organisations; and
- seven (7) submissions from public authorities, including:
  - Shellharbour City Council (the Council);
  - Sydney Water;
  - NSW Environmental Protection Authority (EPA);
  - Heritage Council;
  - Roads and Maritime Services.

Transport for NSW (TfNSW) and the NSW Office of Environment and Heritage (NSW OEH) raised no issues in their responses to the Department.

Frasers response to all issues raised in relation to the Modification is provided at **Appendix A** (public submissions) and **Appendix B** (Agency submissions). A detailed response to the key issues has been provided below. It is noted that there were a number of matters raised in the public submissions that do not specifically fall under the categories listed in Section 1.0 above. These matters have been classified as miscellaneous and are addressed in the public submissions table at **Appendix A**.

In addition to the issues raised in the submissions identified above, the Department has requested additional information in relation to a range of matters. This information has been provided as part of, or appended to, this Report as follows:

- The submission of a Visual Impact Assessment (VIA) prepared by Richard Lamb and Associates (RLA) that considers the visual impact of the proposed modifications against the approved concept plan. This VIA is provided at **Appendix D**;
- Building heights have been nominated in addition to the maximum storey heights proposed. This is outlined within the revised Concept Plan Design Report (**Appendix C**) and **Section 2.3** below;
- The dry boat storage and Business Park have been further considered and captured in maps prepared as part of the revised Concept Plan Design Report (**Appendix C**);
- A detailed assessment against the design quality principals in the State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development (SEPP 65) has been prepared and is within the revised Concept Plan Design Report (**Appendix C**); and
- A Heritage Impact Statement has been prepared by GML Heritage and attached at **Appendix F**.

Further analysis of the issues raised by the Department has been undertaken below as well as within the summary response to agency submissions (**Appendix B**).

The following sections summarise Frasers' consideration of the key matters listed in the introduction.

### 2.1 View Loss

A number of public submissions raised strong concerns with the potential view impact of the Modification on public and private views. The Department also requested that a Visual Impact Assessment be undertaken. In response, Richard Lamb and Associates (RLA) were engaged by Frasers to prepare a Visual Impact Assessment (VIA) (**Appendix D**) which assessed the potential visual impacts of the proposed built form envelopes compared to the approved built form envelopes. The key built form components of the Modification relevant to the assessment include the proposed relocation and height increase of the hotel and the proposed height increases to residential flat buildings within the town centres and around the boat harbour foreshore.

RLA undertook a site visit to observe public and private views and take photographs from key locations. A 3-dimensional (3D) computer model of the approved and proposed conceptual building envelopes was accurately located and merged with the photographs taken from key viewing places, to produce two photomontages for each view. Photomontage views were prepared from the following locations:

- Shallows Drive;
- Cowries Avenue;
- Beakys Reserve, Bass Point;
- Shellharbour Boat Harbour (Cowries Reserve);
- North end of Shellharbour South Beach;
- 27 Raggamuffin Circuit;
- 18 Tasman Drive; and
- 26 Mystics Drive.

The exact location of each view is illustrated in **Appendix D**. RLA have undertaken a comparative analysis of the visual effects of the Concept Approval and the Modification. It must be noted that the comparative analysis of the visual effects is not an assessment of the effects of the Concept Approval on the existing view. Rather it is an assessment of the difference in view sharing between the Concept Approval and the proposed Modification.

When analysing the private residential views, for thoroughness, RLA also applied the planning principle in the judgement of Roseth SC of the Land and Environment Court in *Tenacity Consulting v Warringah [2004] NSWLEC 140 – Principles of view sharing: the impact on neighbours* (Tenacity).

Following their analysis of public and private views, RLA concluded that:

- The differences between the Modification and the Concept Approval will primarily be evident in the mid-slope locations in the visual catchment to the west of the site, or distant views from the coast of Bass Point;
- The proposed increased height will not create significant changes to the composition of views, relative to the Concept Approval built form.
- There would be a minor quantitative increase in view loss of the ocean in parts of the views looking east or north-east across the site from existing residential areas that are sufficiently elevated to have views over the site. However, the overall composition of the Concept Approval and Modification views are qualitatively similar.
- The increased height of the hotel, in its amended location further north, does not cause a significant increase in view blocking compared to the Concept Approval and the re-orientation of the envelope causes a decrease in horizontal bulk visible from the residences assessed;
- The increased height in some built forms will add a minor amount of additional height to some forms within the subject site, in particular in the commercial precinct. The additional height leads to less visibility of roof surfaces from some elevated viewing places, but no significant increase in view loss;
- The application of the planning principle in Tenacity to the three private residential views determined that the differences between the views of the Concept Approval envelopes and the conceptual Modification envelopes are minor and not significant.

In summary, it is RLA's expert opinion that when considering the Concept Approval and the Modification, the overall views achieved are qualitatively similar; and the proposed envelopes in the Modification appear compatible and consistent with the intended future character for the site established by the Concept Approval.

## 2.2 Traffic and Parking

A large number of public submissions raised concerns about the potential impact of the Modification on transport, traffic and parking in Shell Cove. The discussion overleaf summarises the responses to the key matters.

### 2.2.1 Traffic Generation

The RMS confirmed in an email dated 19<sup>th</sup> December 2016, that the traffic report was satisfactory and that they raised no objection to the modification in principle. Additionally, they confirmed that the traffic generation would not significantly impact on the state road network (refer **Appendix L**). On this basis, the traffic analysis undertaken to date is complete (attached at **Appendix M**).

Notwithstanding, a number of public submissions raised concerns with the traffic analysis identifying that an approximate 2% increase in traffic generation would occur when there is a potential increase of up to 318 dwellings (21%) throughout the Boat Harbour precinct. To clarify, the minor increase in traffic generation is a result of the following:

- The primary source of traffic generation will be the non-residential uses;
- Traffic generated by the residential component represented only 16% of total traffic generation within the Boat Harbour precinct; and
- The applicable RMS traffic generation rates for residential development are currently 8% to 20% lower than the RMS traffic generation rates used to calculate the traffic generation in the assessment submitted with the Concept Approval.

To expand, the Concept Approval (fully developed) was estimated to generate approximately 4,000 vehicles per hour (two way) in the weekday afternoon peak hour. Of this number, the residential component (1,238 dwellings fully developed) of the Concept Approval was estimated to generate approximately 655 vehicles per hour (two way) in the weekday afternoon peak hour. Applying the current RMS traffic generation rates the increased residential component (1,501 dwellings) would generate approximately 750 vehicles per hour (two way) in the weekday afternoon peak period. This is an increase of approximately 95 vehicles per hour (two way) or 2%.

If the RMS traffic generation rates that were used to calculate the traffic generation from the original Concept Approval were applied to the Modification, the increase in traffic would be approximately 3.5%.

The RMS has accepted the traffic analysis that has been undertaken.

### 2.2.2 Parking

The impact on residential, commercial and visitor car parking was a concern that was raised by a number of public submissions. To clarify how the parking provisions have been developed and deemed appropriate, the key concerns are addressed below:

- Residential parking within the Boat Harbour precinct will be provided in accordance with the Council's parking rates outlined in the relevant development control plans or other relevant standard;
- A minimum of 596 spaces will be provided across the Shell Cove Town Centre and close to the marina. The proposed parking has been assessed to be suitable to support the range of uses planned for the Town Centre. The number of parking spaces has been calculated using the relevant RMS parking rates and takes into account that not all uses have peak parking demands at the same time; and
- Parking rates and requirements will be addressed in further detail during the preparation and endorsement of the relevant precinct urban design guidelines.

### 2.2.3 Road Design and Safety

Public submissions raised concerns with road design and potential parking and safety issues. It is understood that some of these comments may relate to land in Shell Cove that is not within the Concept Approval boundary. Notwithstanding, it is noted that the proposed roads have and will be designed generally in accordance with the road designs proposed in the Concept Approval.



## 2.2.4 Public Transport

A lack of public transport options was identified in the public submissions. It is noted that the main roads within Shell Cove have been designed for buses with bus stops to be provided within the town centre. Frasers is in consultation with the local bus operator to provide services to the Town Centre.

## 2.3 Character

A large number of residents raised concerns that the proposed modifications would adversely change the character of the area, in particular as a result of the additional density and building height.

One of the key challenges when considering the impact of the Modification on the 'character of the area' is that the majority of the Concept Plan site is yet to be developed. It is therefore problematic to identify how the 'character' of a developing area is actually defined.

There is the potential for the community to compare the existing low density residential character in the broader area with selected parts of the proposed Modification, which can appear to represent a significant change. It is therefore necessary to refer to how the concept of 'character' was addressed in the original Concept Plan approval.

In approving the original Concept Plan in 2012, the Planning Assessment Commission (PAC) determined that the then proposed changes to the density, height, built form, land uses, and urban structure at Shell Cove would be an appropriate outcome for the future development of the area. Accordingly, the delivery of the Concept Plan as approved will result in a change in the character of the area.

For the purposes of the assessment of the proposed Modification, it is appropriate to assess these changes against the approved change in character, not the existing or historical character of the area. As noted previously, the general objection to the change in character was connected with the proposed increases in height and density and the perception of what effect that would have on the area.

Whilst there is an overall increase in the number of dwellings (in the order of 25%) there are a range of factors that explain how the additional density is consistent with the character of the area.

The Concept Plan site is approximately 100 hectares and divided into 10 precincts. The proposed modification seeks to distribute the additional dwellings across the Concept Plan site so that the impacts of those additional dwellings are also spread across the site. Further, the additional dwellings are located in the most appropriate locations to accommodate additional height and density. **Table 1** below illustrates that the actual increases in height and dwellings are relatively minor when viewed on precinct by precinct basis.

**Table 1 Summary of additional height and dwellings by Precinct**

Precinct	Increase in maximum permissible height*	Approximate Additional dwellings
A	no change	-6
B	2 storeys	33
C	1 storey	12
D	2 storeys	60
E**	No change	108
F & G	No change	40
H	No change	71
Boat Storage	No change	0
Business Park	No change	0

\* Only occurs in selected parts of the Precinct

\*\* The area of Precinct E has been expanded

The built form strategy in the approved Concept Plan was to provide mid-rise apartments in the Town Centre, low to mid rise apartments and/ or terraces on the waterfront, dropping back to lower density terraces and houses further away from the waterfront. The proposed Modification seeks to amend the housing typologies and form within each

Precinct to accommodate the proposed additional dwellings. However, it does not seek to alter the approved built form strategy and retains the same fundamental principles, and therefore built form character. The following discussion describes the proposed modifications to the typologies and form within each Precinct in further detail.

Residential Precincts A-C, which are the Precincts where development has already occurred within the Concept Plan site, will accommodate the lowest number of additional dwellings, minimising the impact of the changes on the character of those areas. The additional increase in height of 1-2 storeys only occurs along the waterfront of those Precincts closest to the boat harbour where the dwellings receive significant amenity as a result of their access to views and open space. As the Concept Plan allowed for 4 storey apartment buildings in these locations, an additional 1 – 2 storeys will have a negligible impact on the character of the form along the waterfront. It should also be noted that a large part of Precinct A is proposed to have a reduction in height from 3 storeys to 2 storeys + attic which will reduce the built form at the periphery of the Boat Harbour Precinct.

Precinct D is the Town Centre, and therefore appropriately accommodates one of the most significant increases in the number of dwellings and height. The additional height and density, is consistent with the key principles that underpinned the design and character of the Town Centre, as expressed in the original Concept Plan, which included:

- Building heights will generally decrease the greater the distance from the Town Centre and/or Boat Harbour.
- The hotel will provide a visual landmark.
- The hotel's location is slightly removed from Main Street where building heights are less, and the site enhances views to the Marina.
- The hotel is narrow in width and the architectural language complements the coastal condition of the surrounding built form.
- Key anchor points and/or street corners will be reinforced with higher built form, vertical elements and/or distinctive architectural features.
- Civic buildings will be of distinctive form and architectural quality
- A supermarket will be located in close proximity to Main Street and Harbour Boulevard but will be sleeved by retail activities which have direct street frontage.
- Apartments will be provided with private open spaces, courtyards, useable balconies and deck spaces in accordance with SEPP 65.
- Residential development on medium density and standard lots will adopt a housing typology consistent with the coastal condition of the Precinct.
- The articulation of residential and commercial facades will be achieved by the use of mixed external cladding materials and sun-screening elements.

Furthermore, no change is proposed to the architectural "character" as expressed in the Concept Plan, which is for:

*A contemporary coastal village materials palette will be adopted and will include the use of raw materials such as timber, stone, off-form concrete, rendered masonry, cor-ten, monochromatic brick, profiled metal sheet and glass. Lightweight roof forms using metal roof claddings are also proposed. The array of built form will maintain a shared character through the use of some common elements.*

It should be noted that under the Concept Plan 4 storeys can be built across the entire Town Centre. Whilst the Modification does seek to increase the height in parts of the Town Centre up to 6 storeys, large parts of the Town Centre are proposed to have a reduction in height to 2-3 storeys, thereby creating a more varied and interesting built-form. The two blocks where 6 storeys are proposed, front the hotel, retail uses and wetlands, and therefore have no interface with existing residential areas.

The increase in height of the hotel building from 9 to 11 storeys will not result in a perceptible difference in the character of the Town Centre, noting it would always have stood as a taller building in its context.

Precinct E has the most significant increase in the number of dwellings. This is because it includes the introduction of the 'northern land' which increases the site area and therefore the number of dwellings the Precinct can

accommodate. The second reason Precinct E accommodates an increase in dwellings is that the townhouses that previously fronted the wetlands, the furthest point from the existing residential areas, are now proposed as apartments to a maximum permissible height of 4 storeys. These apartments mirror the apartments that are approved on the other side of the wetlands, but step down in height to create a transition with the medium density and low density areas further north, which remain as approved in the Concept Plan. It should also be noted that parts of Precinct E will have a reduction in height from 3 to 2 storeys and from 4 to 3 storeys.

In a manner similar to Precinct E, the increase in dwellings in Precincts F and G is the result of the medium density dwellings fronting the waterfront being replaced with residential flat buildings to a maximum height of 4 storeys. These apartments are consistent with the other apartments already approved around the boat harbour and both Precincts retain the transition of medium and low density residential uses north towards the existing residential areas without increasing the maximum permissible building height which remains the same as the Concept Approval. Similar to Precinct E, it is proposed to reduce the height on certain land from 4 to 3 storeys within Precinct F and from 3 storeys to 2 storeys + attic in Precinct G.

In Precinct H the housing typologies are generally consistent; however a large part of the Precinct will be reduced in height from 3 storeys to 2 storey + attic. The maximum building height of 4 storeys remains the same; however a larger area will be able to be built to 4 storeys, allowing for more dwellings.

In summary, the proposed Modifications will not result in a perceptible change in character when compared to the approved Concept Plan as:

- the approved built form strategy has not changed;
- the additional density is spread across the site;
- where additional density and height does occur it has been limited to small parts of the site in locations away from existing residential areas;
- the majority of the site will remain low to medium density residential, in particular at the interfaces with existing residential areas;
- the landmark hotel building in the Town Centre would have always been read as a tall building in its context;
- no changes are proposed to the architectural character expressed in the Concept Plan which is now embodied in the Urban Design Guidelines prepared for each Precinct; and where dwelling typologies have changed, they occur adjacent to the same typologies that were already approved under the Concept Plan and only extend the existing approved character.

## **2.4 Social Infrastructure and Services**

Several public submissions cited a lack of general social infrastructure and services (i.e. hospital facilities, public transport, schools, emergency services etc) within the local area and identified concerns that the additional demand created by the increased population could not be supported. A Social Impact Assessment (SIA) was prepared by MacroPlan Dimasi and submitted with the original modification application. The SIA considered the demand for services created by the proposed increase in dwellings and the resultant population. In summary, MacroPlan determined that the following services have adequate capacity to service the proposed population increase:

- Emergency infrastructure (fire, ambulance and police);
- Primary and secondary schools;
- Regional health facilities;
- Youth centres;
- Community service centres;
- Child care centres / before and after school care;
- Library services;
- Performing arts / cultural facilities;
- Open space, sport and recreation facilities; and

- Aquatic centres;

Following the receipt of the public submissions, MacroPlan reviewed the SIA and an updated edition is provided as **Appendix E**. The updated SIA considers the proposed modifications within the context of the 2016 Census figures (the original SIA was submitted prior to their release and used 2011 Census figures). The updated assessment determined that, in addition to the list above, there are adequate existing local community health facilities and residential aged care facilities to meet the demand created by the proposed population increase. In the regard, the community and the Department of Planning can be comfortable that any demand on essential services and schools generated by the proposed increase in dwellings and population can be accommodated by the existing services and those confirmed to proceed (i.e. \$215M upgrade to Shellharbour Hospital; community health facility development at the Kiama Hospital site).

## 2.5 Planning Process

A submission prepared by Hones Lawyers on behalf of 12 members of the public questioned whether a section 75W Modification is the correct planning process to give effect to the changes being contemplated on the site under the Concept Plan Modification.

An assessment has therefore been undertaken below to compare and contrast the Concept Plan and the proposed Modification to assist the Minister (or their delegate) to better consider the availability of the section 75W to serve as the appropriate planning mechanism.

### **DGRs and Environmental assessment commonalities between the Concept Plan and the proposed Modification (Mod 1)**

The then Director General of the Department issued requirements for the preparation of the environmental assessment to accompany the original Concept Plan. The Director Generals Requirements (DGRs) required the Proponent to address, in detail, each of the relevant requirements previously issued under the EP&A Act in relation to the preparation of the environmental assessment that accompanied the original Shell Cove Concept Plan.

The exhibited environmental assessment and additional assessment provided as part of this Response to Submissions demonstrates that the Modification does not result in environmental and other consequences that were significantly different to those approved under the Concept Plan.

The submission specifically raised the absence of the assessment of views external to the site in the original and proposed modification. A detailed view loss assessment is now provided at **Appendix D**. The assessment considers the impacts of the proposed changes in built form between the approved and proposed modification in order to allow the Minister to assess the likely impacts of the changes.

### **Strategic planning commonalities between the Concept Plan and Mod 1**

The Concept Plan and Mod 1 have the following strategic planning commonalities:

- The overall range of land use types to be provided on the site, namely the creation of a new predominantly residential focused precinct centred around a new town centre that also incorporates retail, tourist, community, employment and recreation uses.
- The overall urban structure and public domain concept, namely public open space concentrated around the boat harbour and wetlands to the north and west of the town centre, with residential areas across the remainder of the site and a business park within the Quarry Buffer Zone.
- The overall built form strategy to provide mid-rise apartments in the Town Centre, low to mid rise apartments and/ or terraces on the waterfront, dropping back to lower density terraces and houses further away from the waterfront.

The above items are fundamental elements of the approved strategic development outcomes for Shell Cove, and are significant to the extent that they encapsulate the underlying purpose of the project as a whole, and also the manner in which the project is intended to be implemented.

Importantly, there are no differences between the Concept Plan and Mod 1 that affect the fundamental strategic planning elements of the approved development outcomes for Shell Cove that are identified above.

## Physical commonalities and differences between the Concept Plan and Mod 1

The Concept Plan and Mod 1 have the following physical development commonalities:

- approximately 8.5 hectares of usable public open space;
- continual public pedestrian access to the boat harbour waterfront via a series of parks and boardwalks;
- open space / parklands proposed through a series of wetlands around the town centre;
- provision of a new town centre in Precinct D, including a landmark hotel building, community facilities, retail and commercial uses, harbour square;
- provision of a 'main street' connecting Harbour Boulevard to the waterfront promenade;
- predominantly residential uses in Precincts A, B, C, E, F, G and H, with low to mid rise apartments and/ or terraces on the waterfront, dropping back to lower density terraces and houses further away from the waterfront;
- the overarching road hierarchy and design;
- a business park located in the Quarry Buffer Zone with a maximum GFA of 30,000m<sup>2</sup>;
- the strategy and general location for drainage and stormwater infrastructure; and
- the maximum building heights within Precincts E, F and G.

The main physical differences from a planning perspective between the Concept Plan and Mod 1 are:

- An increase in area of the site of approximately 5850m<sup>2</sup> representing an overall increase of 0.006%. This increase relative to the total area of the 100 hectare site is negligible.
- An increase in the total number of dwellings to be accommodated within the Shell Cove site of 318, representing an overall increase of approximately 25%. The increase in the number of dwellings is relatively minor, noting:
  - the site area has also been expanded;
  - a large number of the additional dwellings will be provided in the town centre which was always intended to accommodate greater density compared to the rest of the site;
  - the change in dwelling typologies means a greater number of dwellings can be achieved within the same footprint; and
  - the increase strengthens the achievement of the original strategies discussed further below.
- A one to two storey increase in the height of buildings in parts of Precincts B, C and D. The increase in height is minor and does not change the built form character (see **Section 2.3**).
- Increasing the landmark hotel building from 9 up to 11 storeys in the town centre. Despite its physical relocation and change in form, the intent in the Concept Plan for the hotel to be a landmark building remains consistent.
- Minor refinements to the road pattern and layout to improve the relationship of the built form with the waterfront and improve pedestrian amenity and on-street parking.

Whilst there are physical changes, relevantly, the Concept Plan, as approved, establishes a planning framework that has, as an overarching objective, the delivery of:

- an entirely new and significant area for the Illawarra region, with a critical mass to contribute to the diversification of the economic base of the Illawarra by providing opportunities for tourism, recreational boating and marine activities, and commercial facilities;
- a significant number of new dwellings in the Illawarra in line with the strategic targets established for the region;
- appropriate densities to contribute to enhanced sustainable development outcomes as the mixed use characteristics of the neighbourhood will encourage walkability and efficient utilisation of infrastructure and services

- net environmental benefits including construction of the Myimbarr Wetlands and measures to enhance improvement of surface water quality runoff;
- significant open space for residents, workers and visitors.

Any modification proposal that seeks to provide additional dwellings at Shell Cove to support and / or strengthen implementation of the above strategies would, be clearly within the scope of the development concept as contemplated and approved by the PAC as part of the Concept Plan. Therefore the actual quantum of dwellings, or the height of buildings proposed is of lesser significance in this circumstance than is the question of whether or not the resultant development will still deliver on the underlying objectives of the Shell Cove Concept Plan, as approved.

Shell Cove is a major project intended to create a new coastal town centre and residential development by the creation of an entirely new and significant (in terms of dwellings) precinct that creates housing and commercial growth opportunities in the Illawarra region.

The proposed modification will be of limited environmental consequence when compared to the approved Concept Plan having regard to the impacts assessed within this PPR (including within section 2) and the exhibited EAR and accompanying technical reports.

For the reasons set out above, it is open to the Minister (or his delegate) to be reasonably satisfied that the Concept Plan (Mod 1) application is a modification that falls within the scope of section 75W.

## 2.6 Ecological and Coastal Impacts

A number of public submissions cited the potential for additional impacts to the coastal environment and wildlife. The matters raised in the submissions have been addressed in the table submitted as **Appendix A**. It is noted that, with the exception of the proposed inclusion of the 'Northern Lands', the proposed modifications remain within the site boundary established by the Concept Approval. The Northern Lands are treeless and do not contain any significant vegetation or plant species. The habitat value of the Northern Lands for native plants and animals is negligible and there is no significant habitat on this site for threatened plants, animals or communities. Therefore, there is no requirement to undertake additional assessment of the ecological or biodiversity values of the Northern Lands.

The Department's assessment of the Concept Approval and subsequent studies has determined that the site does not accommodate any threatened species of flora or fauna. Therefore, further analysis is not required.

A Coastal and Stormwater Quality Assessment was undertaken by Advisian and submitted with the Modification, the assessment concluded that the Modification will not result in any additional adverse impacts to coastal processes or stormwater quality beyond those considered during the assessment of the Concept Approval.

## 2.7 Overshadowing

Several public submissions raised overshadowing issues, with concern that the additional height on some buildings would decrease solar access over the coast, beach and public domain. A shadowing analysis has been prepared by COX as part of the Design Report (**Appendix C**).

The relocation of the hotel was undertaken following an analysis by architects HDR who deemed there to be a more suitable location for the hotel. This was a desire to stimulate pedestrian activity at the Town Centres northern edge. However, the relocation of the hotel to the north also removes any overshadowing impact of this structure on nearby residential precincts.

In summary, the overshadowing impact has been considered as part of the EAR and is considered acceptable for the following reasons:

- Taller buildings have been located adjoining primary roads and parking areas and have been configured so as to not overshadow other developments;
- The hotel has been relocated to north of the public square, removing any potential overshadowing impacts on residences in Precinct C;

- There will be no overshadowing of Shellharbour South Beach during mid-winter or the autumn equinox;
- The majority of the town centre open space, being the public parkland and foreshore area, will receive solar access between 9am – 12pm in mid-winter and all day at the autumn equinox. The Precinct D Urban Design Guidelines include provisions to protect solar access to the town centre open space, the public parkland and foreshore area;
- The neighbourhood parks in Precincts A, C and F receive full sun between 9am and 3pm in mid-winter and 21 March;
- The public waterfront receives good solar between 9am and 3pm in mid-winter and on 21 March; and
- The wetlands south of Precinct E receive full solar access between 9am and 3pm in mid-winter as well as on March 21.

## 2.8 Heritage

The Bass Point Reserve has been listed as a State Heritage item since the determination of the Concept Approval. In this regard, the Heritage Council of NSW has requested a Heritage Impact Statement (HIS), that includes a visual impact assessment of significant views to and from Bass Point Reserve, is prepared.

A HIS has been prepared by GML Heritage to accompany this RtS and is included at **Appendix F**. The HIS assesses the heritage impact on Bass Point Reserve and considers the following views:

- Bass Point Reserve to Shellharbour Village,
- Cowrie Island towards Shell Cove Boat Harbour; and
- Beachside Tourist Caravan Park looking south along Shellharbour beach.

In addition, the HIS assessed the Modifications with regard to their potential impacts on the following heritage items and conservation areas:

- Cowrie Island Reserve Breakwater;
- Shellharbour Foreshore Conservation Area;
- Beachside Tourist Caravan Park;
- Beverley Whitfield Pool; and
- Bass Point Reserve.

Following their analysis, GML Heritage concluded that no significant additional impacts arise from the Modification beyond those already considered by the Department during the assessment of the Concept Approval.

### 3.0 Proposed Amendment to Exhibited Modification – Boat Storage Acoustic Walls

Frasers have recently begun the detailed design of the residential areas adjacent to the future dry boat storage and marina services within Precinct A. Condition 3 ‘Noise Management Assessment’ under Part D of the Concept Approval requires the provision of landscape buffers and mounds to mitigate any noise impacts from the operation of the dry boat storage and marina services to the adjacent residential dwellings.

Frasers’ modelling has determined that the provision of mounding and landscaping to provide an acoustic buffer would have a width of approximately 40 metres and will result in the potential loss of a minimum 20 residential land lots and could effectively prohibit Precinct A being developed in accordance with the Concept Approval. It is our view that it was not the Department’s intent to prohibit the development of the site in accordance with the Concept Approval. Therefore, Frasers request that the Modification application is amended to include a request to modify Part D Condition 3 of the Concept Approval to remove the prohibition on the installation of acoustic walls around the dry boat storage and marina facilities.

It is noted that that the acoustic assessment submitted with the Concept Application proposed the following noise control recommendations for boat storage:

- Purchase of lowest noise level fork lift for moving vessels;
- Design of facility to maximise shielding to residences from the buildings themselves
- Purpose built shielding (noise walls) to residences not sufficiently protected by building shielding;
- Signage such as "respect our neighbours and depart quietly" at access points near residences;
- Construction materials sufficient to reduce noise transmission through walls – for example no ventilation openings facing neighbours;
- If there is flexibility to do so, night time movements should be to racks furthest from residences;
- No running of boat engines in the facility during night time hours.

We understand that the Department did not raise any issue with these recommendations during their assessment, and it wasn’t re-visited in the preferred project report, or mentioned in the Department’s assessment report. Therefore, we believe the issue is isolated and can be considered within the scope of this Modification application. The Department have confirmed that they can consider the proposed modification to Condition 3 provided the RtS includes the following:

- plans showing the location of the proposed acoustic wall compared to the location of the required acoustic mounds/landscaped buffer and detailing the distance of the acoustic wall from residential uses;
- advice from an acoustic consultant as to the required height of the acoustic wall and any additional noise mitigation requirements for dwellings (i.e. façade treatments) located in vicinity of the boat shed;
- modelling to demonstrate the effectiveness of the acoustic wall compared to the mound and landscaped buffer; and
- an assessment of any amenity impacts (particularly a detailed assessment of the visual impacts and any overshadowing impacts) to the adjoining residential or other uses.

Table 2 considers these matters.

**Table 2 Acoustic Wall – Matters for consideration**

Consideration	Comment
Plans showing the location of the proposed acoustic wall compared to the location of the required acoustic mounds/landscaped buffer and detailing the distance of the acoustic wall from residential uses;	Plans showing the location of the acoustic wall are attached as <b>Appendix J</b> .  Plans showing the location of the landscape mounds are attached as <b>Appendix I</b> .
Advice from an acoustic consultant as to the required height of the acoustic wall and any additional noise mitigation requirements for dwellings (i.e. façade treatments) located in vicinity of the boat shed;	A “Noise Impact Assessment of Boat Ramp Carpark, Dry Boat Stacking & Boat Maintenance” Report has been prepared by Wilkinson Murray and is submitted as <b>Appendix H</b> . The Report’s findings and recommendations are summarised below.



Consideration	Comment
Modelling to demonstrate the effectiveness of the acoustic wall compared to the mound and landscaped buffer; and	Wilkinson Murray has advised that a 4m high vegetated mound would achieve the same effectiveness as the proposed acoustic wall. The mound would require a 1:4 batter to allow safe maintenance and planting (on both sides of the crest). Meeting these requirements would result in a significant landscape element approximately 40m wide that would prevent the development of the surrounding land for the purposes envisaged by the Concept Approval.
An assessment of any amenity impacts (particularly a detailed assessment of the visual impacts and any overshadowing impacts) to the adjoining residential or other uses.	An assessment of the amenity impacts is undertaken at <b>Section 3.2</b> below.

### 3.1 Summary of acoustic assessment

Wilkinson Murray concluded that:

*“noise levels from the boat ramp carpark, dry boat storage facility and boat maintenance facility can comply with appropriate noise criteria at nearby residences if the following mitigation measures are implemented:*

- *A 1.8 metre acoustic wall is constructed to the boat ramp carpark boundary, at least between proposed residences and carpark, using Colorbond, minimum 20mm timber, masonry or light weight concrete;*
- *The first floor rooms overlooking the carpark (generally eastern rooms to residences to the west and western rooms to the residences to the east, for residences parallel to the boundary) be mechanically ventilated or air-conditioned to allow the windows to be closed and the windows in the same facades of these residences be of minimum 6mm glazing;*
- *Acoustic walls of height 7 metres above the hard stand of the boat maintenance facility and dry boat stacking be erected; and*
- *The ground floor and first floor rooms on the northern side of residences proposed on the southern side of the boat maintenance facility be mechanically ventilated or air-conditioned to allow the windows to be closed and the windows in the northern facades of these residences (or at least all windows overlooking the maintenance facility) be of minimum 6mm glazing.*

### 3.2 Assessment of amenity impacts

The Department have identified overshadowing and visual impact as the key residential amenity considerations. It is noted that if Condition 3 was not amended to allow an alternative solution to the landscape mounds, there would be no land available for residential dwellings in this location. This is not what was envisaged under the Concept Approval. It is noted that the depth of the backyards to the future dwellings south of the boat storage facility are 10m deeper than average lot (40m overall) to provide appropriate acoustic and visual separation from the boat storage facility and solar amenity to the dwellings.

#### 3.2.1 Overshadowing

LFA have prepared an overshadowing analysis of the impacts of a 7m high wall. It is attached as **Appendix K**. The analysis demonstrates that the backyards to the future dwellings south of the boat storage will receive 2 hours direct solar access to a minimum of 26m<sup>2</sup> in mid-winter. This is a reasonable private open space area and is large enough to accommodate an outdoor setting and clothes drying facilities. The acoustic wall will not prevent future residents enjoying the use of their backyards in mid-winter.

#### 3.2.2 Visual impact

The visual impacts of the proposed acoustic wall are considered to be acceptable at a conceptual level for the following reasons:

- The wall is proposed to be approximately 7m high, which is significantly lower than the 4 storey maximum height (i.e. 12m - 16m) currently permissible on the boat storage land under the Concept Approval.

- As outlined above, the southern residential lots are deeper than average and provide a 12m separation from the acoustic wall. The proposed separation distance will mitigate any sense of enclosure created by the wall.
- Proposed landscaping measures and material treatments can be included at the detailed design stage to address any perceived visual impacts.

### **3.3 Proposed modification to the Instrument of Approval**

In addition to the modifications proposed in the original Section 75W application, it is proposed to modify Part D Condition 3 as follows:

#### *3. Noise Management Assessment*

*A detailed Noise Management Assessment identifying:*

- *Traffic noise mitigation measures for the road design;*
- *Areas which require acoustic treatments to dwelling facades to provide satisfactory indoor noise levels; and*
- *Appropriate mitigation measures (the use of mounds and landscape buffers, not acoustic walls) for the design and layout of stages affected by truck noise from the Quarry Haul Road, ~~dry boat storage and marina activities.~~*

## 4.0 Conclusion

Frasers has considered and responded to the issues raised in submissions by the public, agencies, the Council and the Department and prepared a number of new and revised consultant's reports to accompany the proposed Concept Plan Modification.

As outlined in the exhibited Concept Plan Modification EAR and this RtS, the Modification as proposed by the exhibited Concept Plan Modification EAR continues to maintain the fundamental principles inherent in the Concept Plan Approval.

The Shell Cove Boat Harbour Precinct has been identified as an ideal opportunity with a clear objective – to be an integrated mixed-use precinct focused on creating a healthy, sustainable and liveable community. The establishment of a well-positioned, mixed-use centre will serve the requirements of the local residents and facilitate employment creation. The mixed-use centre also delivers improved urban, environmental, economic and social outcomes.

Based on the additional assessment undertaken as part of this RtS as well as that prepared for the exhibited EAR and the accompanying technical reports, it has been determined that on balance there are limited environmental impacts beyond those originally assessed and accepted in the approved Concept Plan. The modified design continues to present an appropriate built form and public domain outcome for the Shell Cove Boat Harbour Precinct. The potential environmental impacts are consistent with the approved Concept Plan and are manageable. Where necessary, appropriate mitigation measures can be provided in the detailed stages of the development.

In light of these planning merits, it is recommended that the Modification be approved.