



Planning

**MAJOR PROJECT ASSESSMENT:  
SHELL COVE BOAT HARBOUR PRECINCT  
BOOLLWARROO PARADE, SHELL COVE**



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

February 2011

Cover Photo: Artist's impression of the waterfront

Photo Source: Google Earth

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NSW Department of Planning

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# 1 EXECUTIVE SUMMARY

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This is a report on a Concept Plan application which seeks approval under Part 3A of the Environmental Planning and Assessment Act, 1979 ("the Act") for a mixed development comprising residential, commercial, community, retail, hotel, a business park, dry boat facility, open space and wetlands. The project is known as the Boat Harbour Precinct (BHP) as it surrounds the approved boat harbour and marina at Shell Cove.

The BHP is the centrepiece of the wider Shell Cove project which has been extensively planned and developed for urban development.

The \$1.5 billion Shell Cove project will include around 3,000 residential lots, a 300 berth marina constructed within an in-shore boat harbour, an 18-hole golf course, community parks and playgrounds, cycle ways, and a range of commercial, retail, tourist, community and recreational facilities.

This Concept Plan application covers an area of about 100 ha and is the future commercial and retail hub of the wider Shell Cove residential development (refer to the Aerial Photo at **Figure 2**). The Concept Plan incorporates a mix of land uses including residential, commercial, community, retail, hotel, business park, dry boat storage, open space and wetlands.

The Concept Plan comprises twelve (12) development stages and the proponent (Australand Corporation NSW Pty Ltd) seeks approval for building height in terms of number of storeys, indicative floor areas, number of dwellings, land uses, indicative street alignments, pedestrian networks and the location of open space and wetlands.

The project is a joint venture between Australand Corporation Pty Ltd and Shellharbour City Council. The estimated capital investment value is \$463.4 million and 2,800 operational jobs are expected to be created once fully developed.

The Environmental Assessment was exhibited for a period of 30 days from 17 March 2010 to 16 April 2010. In response to public exhibition, the Department received a total of 27 submissions comprising 16 from the public (11 objections and 5 support) and 10 from public authorities.

The key issues raised in the submissions include height of the hotel, environmental and social impacts including water quality, Aboriginal heritage impacts, coastal hazards including sea level rise and climate change impacts, conflicts with Bass Point Quarry, traffic and access impacts, flora and fauna impacts, economic impact, lack of social infrastructure and useable public open space, visual impact and lack of community consultation.

In response to issues raised by the Department and in the submissions, the proponent submitted a Preferred Project Report (PPR) which was accepted by the Department on 16 November 2010. The single change to the Concept Plan involved a rationalisation of the street hierarchy. The PPR also included additional information to address issues raised in the submissions.

The Department considers the BHP will have significant benefits for the community, including:

- a range of housing types in a coastal environment;
- employment opportunities for around 2,800 people;
- a commercial/retail hub to support the wider Shell Cove project;
- land based services and facilities to support the approved marina; and
- public access around the future marina and pedestrian links to the existing Shellharbour village.

The proposal is consistent with the *Illawarra Regional Strategy* (IRS) which identifies Shell Cove as a town centre and key employment land. The IRS recognises the important role the BHP will play in achieving housing and population targets for the Illawarra Region.

The *Illawarra Urban Development Program* identifies Shell Cove as a major release area suitable for medium density housing and apartments around the approved harbour.

The project satisfies a key priority in the *NSW Government State Plan (2010)* by supporting business investment and jobs.

The Department has assessed the merits of the proposal and is satisfied that the impacts of the Concept Plan have been addressed through the proponent's PPR, the Statement of Commitments and the Department's recommended further assessment requirements.

It is also recommended that the Minister determine that approval to carry out future development on the site be subject to Part 4 of the Act in accordance with section 75P(1)(b) except where it meets the criteria in Schedules 1 and 2 of the Major Development SEPP.

The Department is satisfied that the site is suitable for the proposed development and that the project will contribute to the supply of housing and employment and provide environmental, social and economic benefits to the Illawarra Region.

The Department therefore concludes the project is in the public interest and recommends it be approved, subject to conditions.



## CONTENTS

<b>1</b>	<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>2</b>	<b>BACKGROUND.....</b>	<b>6</b>
2.1	The Site.....	6
2.2	Existing Site Features .....	8
2.3	Surrounding development .....	9
<b>3</b>	<b>STRATEGIC CONTEXT .....</b>	<b>11</b>
<b>4</b>	<b>THE PROPOSED DEVELOPMENT .....</b>	<b>11</b>
4.1	Concept plan (exhibited proposal).....	11
4.2	Preferred Project Report .....	16
<b>5</b>	<b>STATUTORY CONTEXT.....</b>	<b>17</b>
5.1	Major Project Declaration .....	17
5.2	Zoning and Permissibility .....	17
5.3	Environmental Planning Instruments (EPIs).....	18
5.4	Objects of the Environmental Planning and Assessment Act 1979.....	18
5.5	Statement of Compliance .....	19
5.6	Ecologically Sustainable Development .....	19
5.7	Delegation .....	19
<b>6</b>	<b>CONSULTATION AND ISSUES RAISED .....</b>	<b>20</b>
6.1	Exhibition and Notification.....	20
6.2	Submissions from the public .....	20
6.3	Submissions from public authorities.....	21
6.4	Proponent's Response to Submissions.....	22
<b>7</b>	<b>ASSESSMENT OF ENVIRONMENTAL IMPACTS.....</b>	<b>23</b>
7.1	Built Form, Urban Design and Landscape .....	23
7.2	Traffic and Access.....	25
7.3	Economic Impact.....	26
7.4	Water Cycle Management.....	27
7.5	Flooding .....	28
7.6	Coastal Hazards.....	28
7.7	Contamination.....	31
7.8	Aboriginal Cultural Heritage .....	31
7.9	Acid Sulfate Soils .....	32
7.10	Flora and Fauna Impacts .....	32
7.11	Impacts on Aquatic Ecology.....	33
7.12	Noise, Vibration and Air Quality .....	34
7.13	Provision of Social Infrastructure.....	35
7.14	Provision of Public Open Space.....	35
<b>8</b>	<b>PUBLIC INTEREST .....</b>	<b>37</b>
<b>9</b>	<b>CONCLUSION.....</b>	<b>37</b>
<b>10</b>	<b>RECOMMENDATION.....</b>	<b>38</b>
<b>APPENDIX A.</b>	<b>ENVIRONMENTAL ASSESSMENT .....</b>	<b>39</b>
<b>APPENDIX B.</b>	<b>SUBMISSIONS .....</b>	<b>40</b>
<b>APPENDIX C.</b>	<b>PROONENT'S RESPONSE TO SUBMISSIONS .....</b>	<b>41</b>
<b>APPENDIX D.</b>	<b>CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS .....</b>	<b>42</b>
<b>APPENDIX E.</b>	<b>OTHER RELEVANT REPORTS OR DOCUMENTS.....</b>	<b>46</b>
<b>APPENDIX F.</b>	<b>RECOMMENDED CONDITIONS OF APPROVAL .....</b>	<b>48</b>

## 2 BACKGROUND

### 2.1 The Site

Shell Cove is an emerging coastal residential precinct located about 17kms south of Wollongong in the Shellharbour local government area. The site adjoins the southern side of Shellharbour village and Shellharbour South Beach (refer to the Location Plan at **Figure 1**).



**Figure 1: Location Plan** (source: Google Maps)

The site sits behind the approved boat harbour and marina where construction has commenced. The BHP will provide supporting land based facilities for the marina and a range of residential and employment uses as part of the wider Shell Cove project (refer to the Aerial Photo at **Figure 2**).

The land has the following legal description:

Lot 8032 DP 1072187	Lot 8100 DP 1082981	Lot 206 DP 857030
Lot 9004 DP1117743	Lot 30 DP 229374	



Site context/background:

The majority of the site has been vacant since before c.1960s. The north western portion of the site was developed as a golf course in the 1970s. The golf course ceased operation in 2004. The remainder of the site, other than the former council landfill has been used for farming.

The adjacent approved boat harbour/marina development comprises the following:

- a 350 berth boat harbour/marina at South Shellharbour Beach;
- removal of land fill material from the boat harbour site and placement of treated landfill in a series of acoustic mounds adjacent to a realigned haul road to the Bass Point quarry; and
- the enlargement and enhancement of the Shadforth Wetland to the north of the proposed boat harbour to compensate for the loss of 12.4 hectares of the Shellharbour Wetland.

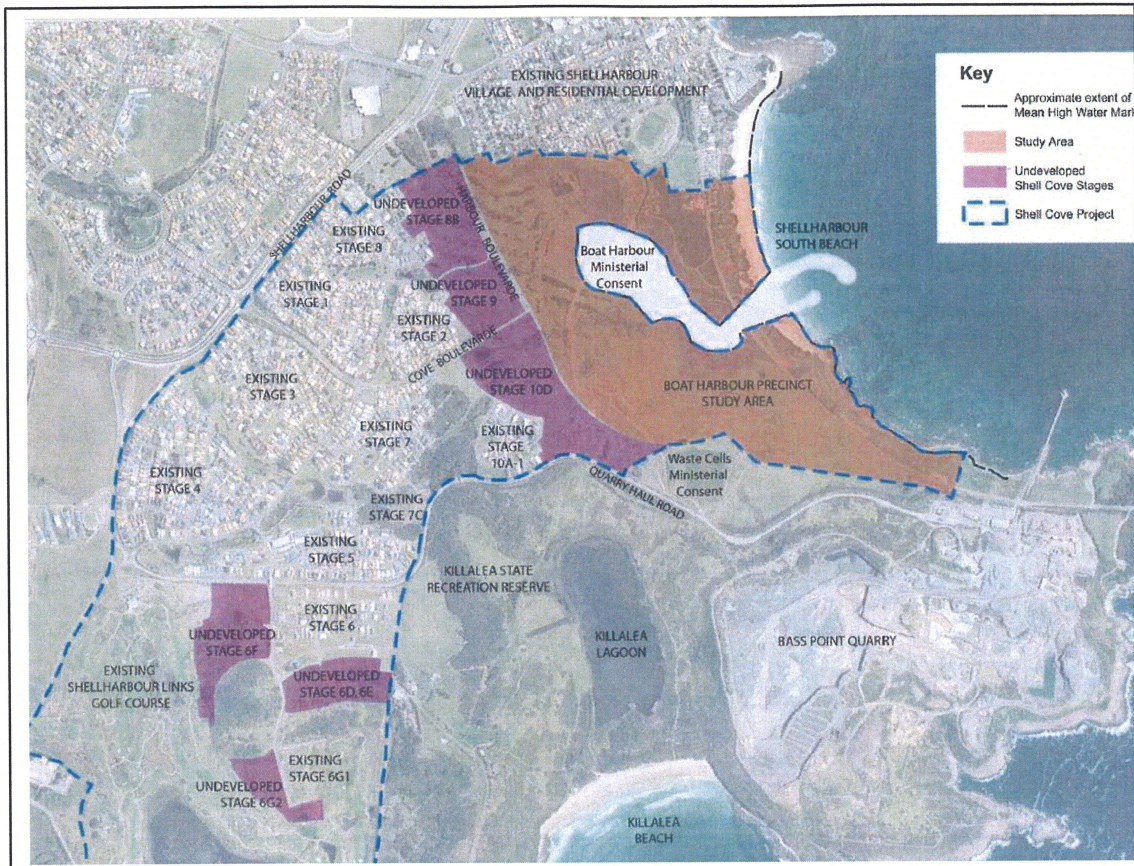
The boat harbour/marina proposal was the subject of a 1996 Commission of Inquiry. The Commission examined matters, including the environmental aspects of the proposal; and the significance of a SEPP 14 wetland proposed to be removed, and the effectiveness of related compensatory measures. The then Minister for Urban Affairs and Planning subsequently approved the application

The Minister has modified the approval on five occasions:

- on 9 November 2001, to erect acoustic barriers along the haul road instead of engineered landfill cells;
- on 6 September 2004, to permit the placement of the old landfill material to be extracted from the Shellharbour Wetland during construction to a single landfill cell in the quarry buffer zone on the southern edge of the site;
- on 31 October 2006, to change the layout and design of the boat harbour and marina; delete the proposed flushing pipe system; and remove stop-work provisions for indigenous heritage management;
- 25 November 2008, to extend the development's seaward boundary to incorporate the inter-tidal area; and
- on 20 August 2010, to modify Condition 18 regarding acid sulphate soil management

Since the Minister's 1996 approval, Council commissioned a range of further studies and investigations to support the detailed design of the boat harbour/marina complex. This resulted in a number of changes to the design of the complex. The consent has been acted upon with works on the boat harbour/marina commenced, including the compensatory wetlands.

The larger development proposal by Council and Australand for the wider Shell Cove area (refer to **Figure 2**) comprises a residential estate and golf course. The residential component comprises ten staged releases of residential lots which are currently at different phases of development (see Section 2.3 below).



**Figure 2:** Aerial photo showing the subject site (shaded light pink)

## 2.2 Existing Site Features

The site has an area of 100ha and extends inland from Shellharbour South Beach which forms the eastern boundary of the site.

The land has been cleared of its original forest cover and includes remnants of the Shellharbour swamp and part of the disused Shellharbour golf course and degraded farmland. There is a high number of exotic plant species and a small number of indigenous tree species which reflect the modified character of the land. The indigenous species are mainly typical coastal species growing along the dunal system.

The site is generally low lying and partly swampy and is behind a coastal dune system which runs parallel to the ocean frontage.

It is generally below RL 5m AHD except for the southern elevated portion which is at RL 28m AHD. The land slopes towards the approved boat harbour which has an elevation approximate to sea level.

Refer to **Figures 3, 4 and 5** below.



### 2.3 Surrounding development

The land to the west comprises the balance of the Shell Cove project (refer to **Figure 2**), and is primarily residential. The western boundary of the site adjoins the undeveloped stages 8B, 9 and 10D of that project.

Stage 8B was approved by the Southern Region Joint Regional Planning Panel in November 2009 and construction is envisaged around June 2011. Stage 9 is under planning and Stage 10 is partly planned and completed. The balance of the project has been constructed except for Stages 6D, 6F and 8B3 which are at the Construction Certificate stage.

To the south of the site is Bass Point Quarry (BPQ) which produces up to 6,000 tonnes of basalt daily. Basalt is shipped and trucked (along the private quarry haul road) to Blackwattle Bay, Sydney.

To the east of the quarry is Bass Point Reserve and the adjacent Bushrangers Bay Aquatic Reserve. Further south is Killalea State Park, a Crown reserve covering an area of about 265ha.

The eastern boundary of the site is formed by Shellharbour South Beach.

To the north is the Shellharbour village and surrounding residential development.



**Figure 3:** Looking north across the site: Shellharbour village in the background; the approved boat harbour location in the mid-ground, and Shellharbour South beach to the right.





**Figure 4:** View from the southern part of the site showing Shellharbour South Beach and stockpiled rocks in the foreground to be used for the proposed harbour seawall.



**Figure 5:** View from the southern part of the site looking west.



### 3 STRATEGIC CONTEXT

The BHP is identified as key employment land in the *Illawarra Regional Strategy (IRS)* with opportunities for conference, events and accommodation to strengthen growth in tourism. The *Illawarra Urban Development Program (IUDP)* underpins the *IRS* and provides a framework to manage and co-ordinate new housing.

A total of 845 dwellings are expected around the future marina at Shell Cove in accordance with the *IUDP*. The development of the BHP is important in achieving the employment and housing targets for the Illawarra Region. The project also satisfies a key priority in the *NSW Government State Plan (2010)* by supporting business investment and jobs.

### 4 THE PROPOSED DEVELOPMENT

#### 4.1 Concept plan (exhibited proposal)

The Concept Plan application seeks approval for a mixed development comprising residential, commercial, community, retail, hotel, business park, dry boat storage facility, open space and wetlands. Refer to **Figure 6** below. The project has a capital investment value of \$463.4 million and would employ about 1,075 people during construction and around 2,800 people once operational.

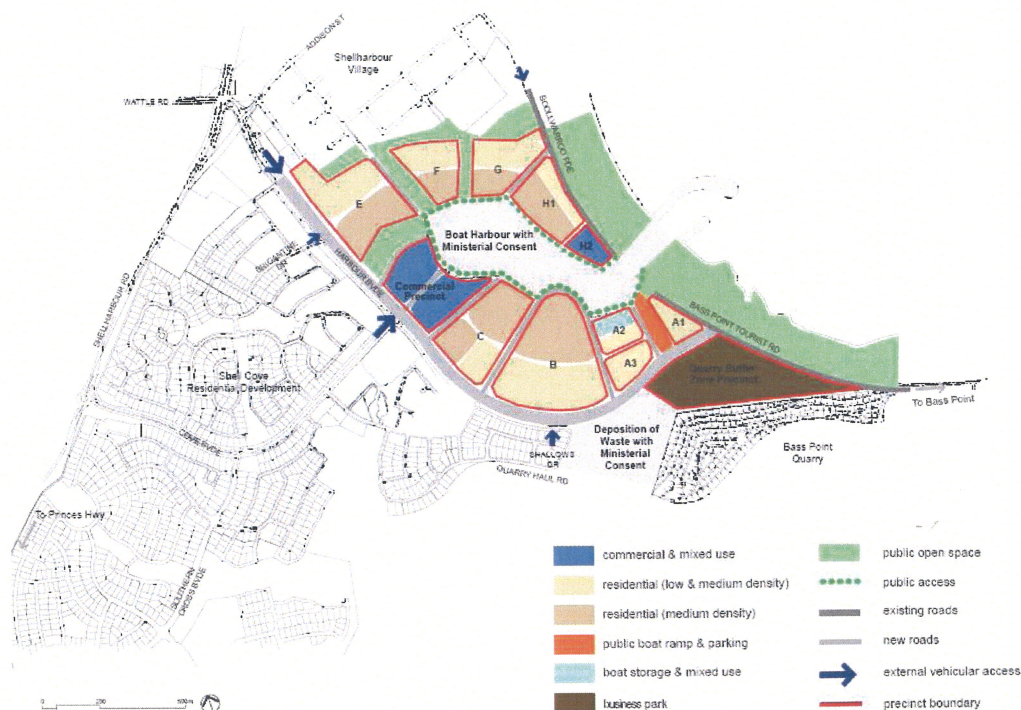


Figure 6: Overall precinct plan



Approval is not sought for development of buildings or subdivision, rather Concept Plan approval is sought for the following key elements to guide future development:

- building height in terms of number of storeys;
- indicative floor areas;
- number of dwellings;
- land uses;
- indicative street alignments and pedestrian networks; and
- location of open space and wetlands.

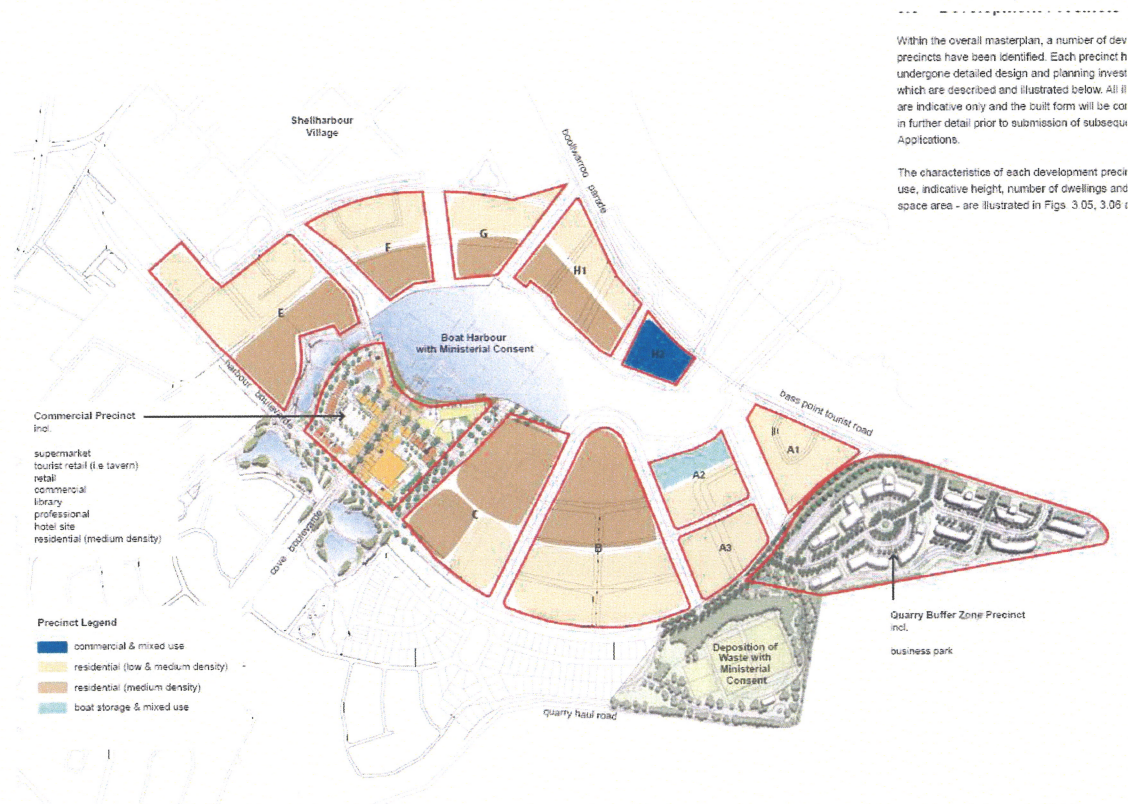
A snapshot summary of the key development parameters are shown in **Table 1** below.

**Table 1 – Snapshot Development Data**

Development Data	
Number of dwellings	1,238
Number of storeys	2-4 except for a hotel of 9
Retail/Commercial floor space	15,000m <sup>2</sup>
Business Park floor space	30,000m <sup>2</sup>

The development site is divided into 12 precincts/stages as shown in **Figure 6**.

The Concept Plan application as exhibited, sought approval for the land uses in **Table 2** and **Figure 7**. Figures 8 and 9 show the number of storeys, floor space and number of dwellings for each stage.



**Figure 7: Proposed land use for each precinct**

**Table 2 – Development Data by Precinct**

Precinct	Land use	Number of storeys	Gross floor area	Number of dwellings	Dwelling types
<b>Quarry Buffer Zone</b>	Business Park	2	30,000m <sup>2</sup>	nil	
<b>A1</b>	Residential (low and medium density)	1-2	4,680m <sup>2</sup>	26	Standard dwelling houses – typically 180m <sup>2</sup>
<b>A2</b>	Boat storage and mixed use	4 (boat storage and mixed use)	9,240m <sup>2</sup>	84	Apartments typically 110m <sup>2</sup>
	Residential (low and medium density)	1-3 (residential)			
<b>A3</b>	Residential (low and medium density)	1-3	4,740m <sup>2</sup>	31	19 Standard dwelling houses – typically 180m <sup>2</sup> 12 medium density dwellings typically 110m <sup>2</sup>
<b>B</b>	Residential (low and medium density)	1-4	32,280m <sup>2</sup>	254	62 Standard dwelling houses – typically 180m <sup>2</sup> 80 medium density dwellings typically 110m <sup>2</sup>
	Residential (medium density)				112 Apartments typically 110m <sup>2</sup>
<b>C</b>	Residential (low and medium density)	2-4	24,200m <sup>2</sup>	220	72 medium density dwellings typically 110m <sup>2</sup> 148 Apartments typically 110m <sup>2</sup>
	Residential (medium density)				
<b>Commercial</b>	Supermarket				
	Tourist				
	Retail & Commercial	2-4	Retail/commercial – 14,950m <sup>2</sup>	161	Apartments typically 110m <sup>2</sup>
	Library Hotel Medium density housing	8-9 (hotel)	Residential – 17,710m <sup>2</sup>		



<b>E</b>	Residential (low and medium density)	1-4	19,480m <sup>2</sup>	151	41 Standard dwelling houses – typically 180m <sup>2</sup>
	Residential (medium density)				38 medium density dwellings typically 110m <sup>2</sup>
					72 Apartments typically 110m <sup>2</sup>
<b>F</b>	Residential (low and medium density)	1-4	12,830m <sup>2</sup>	109	12 Standard dwelling houses – typically 180m <sup>2</sup>
	Residential (medium density)				53 medium density dwellings typically 110m <sup>2</sup>
					44 Apartments typically 110m <sup>2</sup>
<b>G</b>	Residential (low and medium density)	1-4	10,460m <sup>2</sup>	90	8 Standard dwelling houses – typically 180m <sup>2</sup>
	Residential (medium density)				44 medium density dwellings typically 110m <sup>2</sup>
					38 Apartments typically 110m <sup>2</sup>
<b>H1</b>	Residential (low and medium density)	2-4	8,530m <sup>2</sup>	75	4 Standard dwelling houses – typically 180m <sup>2</sup>
	Residential (medium density)				56 medium density dwellings typically 110m <sup>2</sup>
					15 Apartments typically 110m <sup>2</sup>
<b>H2</b>	Commercial and mixed use	4	Option 1:	Option 2	
			Hotel/retail – 6,900m <sup>2</sup>		18 Standard dwelling houses – typically 180m <sup>2</sup>
			Option 2:	37 (Option 2)	19 medium density dwellings typically 110m <sup>2</sup>
			Standard & medium density – 5,330m <sup>2</sup>	48 (Option 3)	Option 3
			Option 3: Apartments – 5,280m <sup>2</sup>		48 Apartments typically 110m <sup>2</sup>



Figure 8: Proposed number of storeys for each precinct



Figure 9: Proposed number of dwellings and floor space for each precinct



## 4.2 Preferred Project Report

The Proponent prepared a Preferred Project Report (PPR) which included additional information and clarification in response to issues raised during the exhibition period.

The single change to the proposal involved rationalisation of the road hierarchy. The simplified layout is discussed in **Section 7.1** of the report. There is no change to the development data as described in **Section 4.1** above.

The amended proposal was not re-advertised but it was placed on the Department's web site.

## 5 STATUTORY CONTEXT

### 5.1 Major Project Declaration

The proposal was declared a major project under Part 3A of the *Environmental Planning and Assessment Act 1979* 'the Act' because it met Schedule 2 criteria of the (then) *State Environmental Planning Policy (Major Projects) 2005* being a development for marina facilities that stores more than 80 vessels, and a tourist, convention and entertainment facility with a CIV more than \$100m or that employs more than 100 people. The opinion was formed by the Director-General, as the Minister for Planning's delegate, on 2 April 2007.

The Minister for Planning is the approval authority for the project.

### 5.2 Zoning and Permissibility

The site is zoned predominantly 2(f) Mixed Use Residential F under the *Shellharbour Local Environmental Plan 2000* (LEP 2000) (refer to the Zoning Plan at **Figure 10**). The foreshore part of the site along Shellharbour South Beach is zoned 6(a) Public Open Space.



Figure 10: Zoning plan

There will be no development along the foreshore part of the site. The proposal is permissible with consent in the 2(f) zone. The objectives of the 2(f) zone are:

- (a) To allow for mixed use residential neighbourhoods to be developed providing for a range of household preferences and needs.
- (b) To enable the development of a regional boat harbour facility and associated commercial and recreational activities.



The proposal is consistent with the objectives of the zone because it will provide a mix of housing, including detached houses, townhouses and apartments potentially catering for a range of household income types. The retail/commercial area will support the approved boat harbour and marina.

The LEP provides for a defined quarry buffer zone for the site's common boundary with the Bass Point Quarry. The quarry buffer zone restricts proposed uses to commercial and industrial activities to avoid potential conflicts with more sensitive residential uses on the site (see also section 7.13 below). The LEP's requirements for land affected by the quarry buffer zone are:

- (a) The development will not be unduly affected in an adverse manner by proximity to the Bass Point Quarry, having regard to the normal course of the quarry's operations, and*
- (b) The applicant for that consent is aware of the nature of the operation of the quarry and its likely impact on the land within the quarry buffer area and has notified the Council in writing of his, hers or its acceptance of that impact, and*
- (c) The development will not pose a restriction on the nature of operations within the quarry.*

The Concept Plan's proposed business park, including 'high tech' and marine related uses in the quarry buffer area, is acceptable and is unlikely to adversely affect the development itself or the quarry operations.

### **5.3 Environmental Planning Instruments (EPIs)**

Under Sections 75I(2)(d) and 75I(2)(e) of the Act, the Director-General's report for a project is required to include a copy of, or reference to, the provisions of any State Environmental Planning Policy (SEPP) that substantially governs the carrying out of the project, and the provisions of any environmental planning instruments (EPI) that would (except for the application of Part 3A) substantially govern the carrying out of the project and that have been taken into consideration in the assessment of the project.

The Department's consideration of relevant SEPPs and EPIs is provided in **Appendix D**.

The Department is satisfied that, subject to the implementation of the recommended conditions of approval, the amended proposal is generally consistent with the aims and objectives of other plans and policies. An assessment of the proposal against the relevant requirements is at **Appendix E**.

### **5.4 Objects of the Environmental Planning and Assessment Act 1979**

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its implementation. Therefore the Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, and in particular not be inconsistent with the stated Objects of the Act (refer to Section 5 of the Act).

The proposal is consistent with the relevant objectives of the Act as follows:

- The proposed development will make use of existing infrastructure (sewerage, electricity, water) servicing the wider Shell Cove project resulting in an orderly and efficient use of the land;
- It will provide supporting land based facilities for the boat harbour and marina and a range of residential and employment uses;
- The proposed development will not have an adverse impact on the environment due to the cleared nature of the site and the environmental conditions recommended on the approval to protect the water quality of the future harbour and Shellharbour South Beach; and
- The approval includes requirements to ensure future applications address environmental matters.

## 5.5 Statement of Compliance

In accordance with section 75I of the Act, the Department is satisfied that the Director-General's Environmental Assessment requirements (DGRs) have been adequately addressed by the proponent's EA and PPR.

## 5.6 Ecologically Sustainable Development

The aim of ecologically sustainable development is to meet the needs of the present, without compromising the ability of future generations to meet their own needs. The EP&A Act adopts the definition of Ecologically Sustainable Development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes. It also states that ESD can be achieved through the implementation of:

- (a) *the precautionary principle - namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. In the application of the precautionary principle, public and private decisions should be guided by:*
  - (i) *careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*
  - (ii) *an assessment of the risk-weighted consequences of various options,*
- (b) *inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations,*
- (c) *conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration,*
- (d) *improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as:*
  - (i) *polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement,*
  - (ii) *the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste,*
  - (iii) *environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The proposal is generally consistent with ESD principles in that:

1. Although the site is generally devoid of significant vegetation and is suitable for development, mitigation measures are recommended (e.g. stormwater, erosion and sedimentation) to ensure minimal environmental impact, particularly on the boat harbour, the dunal system and Shellharbour South Beach.
2. The proposal will provide regional economic benefits through additional housing supply and employment opportunities. The design and layout will protect and manage the boat harbour, dunal system and Shellharbour South Beach; and conditions will ensure the maintenance of water quality.
3. The Proponent will be responsible for the cost of infrastructure required to minimise impact on the environment and public costs, including stormwater measures.

## 5.7 Delegation

On 25 January 2010, the Minister for Planning delegated responsibility for the determination of project applications under Part 3A of the Act to the Deputy Director-General, Development Assessment and Systems



Performance where there are fewer than 25 submissions (objections) and the project is not a critical infrastructure project under Section 75C of the Act.

The application attracted a total of 11 objections and is not a critical infrastructure project. The Deputy Director-General can therefore determine the project under delegated authority.

## 6 CONSULTATION AND ISSUES RAISED

### 6.1 Exhibition and Notification

The EA was exhibited for 30 days from 17 March 2010 to 16 April 2010. Notification of the exhibition was given in the Illawarra Mercury, Shellharbour Warilla Lake Times and the Wollongong Advertiser.

Exhibition locations were at:

- Department of Planning Head Office, Bridge Street Sydney;
- Department of Planning Regional Office, Wollongong;
- Shellharbour City Council;
- Shellharbour Local Library;
- Warilla Local Library;
- Albion Park Local Library; and
- Oak Flats Local Library.

The EA was also provided for download on the Department's website.

Local stakeholders within proximity of the site were informed of the Concept Plan proposal in writing and invited to make a written submission. The extent of properties notified was done in consultation with officers from Shellharbour City Council.

In response to public exhibition, the Department received a total of 27 submissions comprising 11 individual submissions in objection and 5 individual submissions in support and 10 from public authorities.

A summary of the issues raised in submissions is provided below.

### 6.2 Submissions from the public

Sixteen (16) submissions were received from the public. This included a submission from a local community group, the Illawarra Greens. Of the 16 public submissions, 9 (56%) objected to the project and 2 (13%) did not object but raised concerns and 5 (31%) supported the proposal. The issues raised in public submissions objecting to the proposal are listed in Table 1 below.

**Table 3: Summary of Issues Raised in Public Submissions**

Issue raised	Percentage (%) of submissions objecting that raised the issue
Environmental Impacts	55
Excessive height of the hotel building	44
Loss of wetland areas and saltmarsh	33
Traffic safety	33
Lack of public transport	33

Residential development not providing jobs	22
Lack of community consultation	22
Lack of public open space	22
Reliance on motor vehicle use	22
Lack of rehabilitation of the natural environment	22
Poor street layout and lot orientation	22
Traffic impacts associated with use of Harbour Boulevard intersection with Shellharbour Road	22
Visual impact	22
Impact on water quality	22
Climate change and sea level rise	22
Lack of public access	22
Inadequate pedestrian and cycling access ways	22
Erosion and on-going maintenance costs along South Shellharbour beach	11
Contaminated land	11
Non-compliance with NSW State Plan 2010 and planning guidelines for walking and cycling	11
Adverse impact on Aboriginal heritage	11
Overdevelopment	11
Adverse impact on the Bass Point Quarry	11
Loss of natural beauty	11
Rehabilitation costs associated with foreshore reserve	11
Lack of economic justification in terms of job creation	11
Financial costs to the community associated with upkeep of marina/public facilities, roads, open space	11
Burden on infrastructure	11

Of those submissions in support of the proposal, the main issue raised was the need to progress the project in a timely manner so that the residents can enjoy the marina lifestyle and economic benefits and convenience associated with the new retail/commercial hub.

The Department has fully considered the issues raised in its assessment of the project.

### 6.3 Submissions from public authorities

Ten (10) submissions were received from public authorities including Shellharbour City Council; Roads and Traffic Authority; Department of Environment, Climate Change and Water; Industry and Investment; Transport and Infrastructure; Rural Fire Service; Sydney Water; Integral Energy; NSW Maritime; and Land and Property Management Authority.

There were no objections to the proposal by the public authorities. The comments raised are addressed below.

**Shellharbour City Council** - The key issues raised relate to future uses and the comprehensive LEP, urban design, visual impact and landscape, traffic and access, coastal processes, contamination, geotechnical and acid sulfate soils, flooding and water cycle management, heritage, environmental impacts and socio-economic impacts. Where relevant, these issues have been addressed in **Section 7** of this report.

**Land and Property Management Authority** – The key issues raised relate to loss of public access along the beach, and the proximity of buildings to the foreshore. These issues have been addressed in **Section 7** of the report.



**Department of Environment, Climate Change and Water** – The key issues raised include noise impacts from traffic generated from the proposal and the Bass Point Quarry, flora and fauna, acid sulfate soil, Aboriginal cultural heritage, protection and enhancement of riparian land, and groundwater impacts. These issues have been addressed in **Section 7** of the report or by way of recommended conditions on the approval.

**Industry and Investment NSW** – The main issue raised was the potential impact the development may have on the operation of the Bass Point Quarry. This issue has been addressed in **Section 7** of the report.

**Rural Fire Service** – The issues which were raised related to future applications and not the Concept Plan.

**NSW Maritime** – The points which were raised related to the approved boat harbour and are not directly relevant to this Concept Plan application.

**Roads and Traffic Authority** – The RTA identified further matters which are relevant at the detailed design stage.

**Transport and Infrastructure** – The main issue relates to public transport and promotion of cycling and walking in and around the area. These matters have been addressed in **Section 7** of the report.

**Sydney Water** – No issues were raised other than detailed design would be done upon consideration of a Section 73 Certificate. This matter will be dealt with at the construction stage.

**Integral Energy** – No issues were raised other than the requirement for the proponent to apply for supply requirements prior to development. The need for augmentation can be dealt with at the construction stage of the project.

#### **6.4 Proponent's Response to Submissions**

The proponent was provided with copies of all agency submissions and a summary of public submissions and asked to respond to the issues raised, in accordance with section 75H(6) of the Act and provide a Preferred Project Report (PPR).

The exhibited Concept Plan was amended by simplifying the street hierarchy in response to the issues raised by the Department. The changes were documented in the PPR accepted by the Department on 16 November 2010.

As the changes to the nature of the project resulted in an improved design it was not re-exhibited but was placed on the Department's website.

## 7 ASSESSMENT OF ENVIRONMENTAL IMPACTS

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The Department considers the key environmental issues for the project to be:

- Built form, Urban Design and Landscape
- Traffic and Access;
- Economic Impact;
- Public Access;
- Water Cycle Management;
- Flooding;
- Coastal Hazards including Climate Change and Sea Level Rise;
- Contamination;
- Aboriginal Cultural Heritage;
- Acid Sulfate Soil;
- Flora and Fauna Impacts;
- Impacts on Aquatic Ecology;
- Noise, Odour and Air Quality;
- Provision of Social Infrastructure; and
- Provision of Open Space.

### 7.1 Built Form, Urban Design and Landscape

The proposed mixed use development will comprise 1,238 low and medium density dwellings, 15,000m<sup>2</sup> retail/commercial space and 30,000m<sup>2</sup> business space, in 12 precincts generally over 2 to 4 storeys, except for a 9 storey hotel. The type of development/land use, heights and density is considered acceptable given the local context, provision of services, proximity to a regional centre and access to employment. The Department raised concern with the street hierarchy which included a confusing number of street types and a lack of road connectivity and pedestrian permeability with adjoining residential areas. In response to the concerns the proponent has simplified the street network and street types to create a clearer street hierarchy (refer to **Figure 11** below).

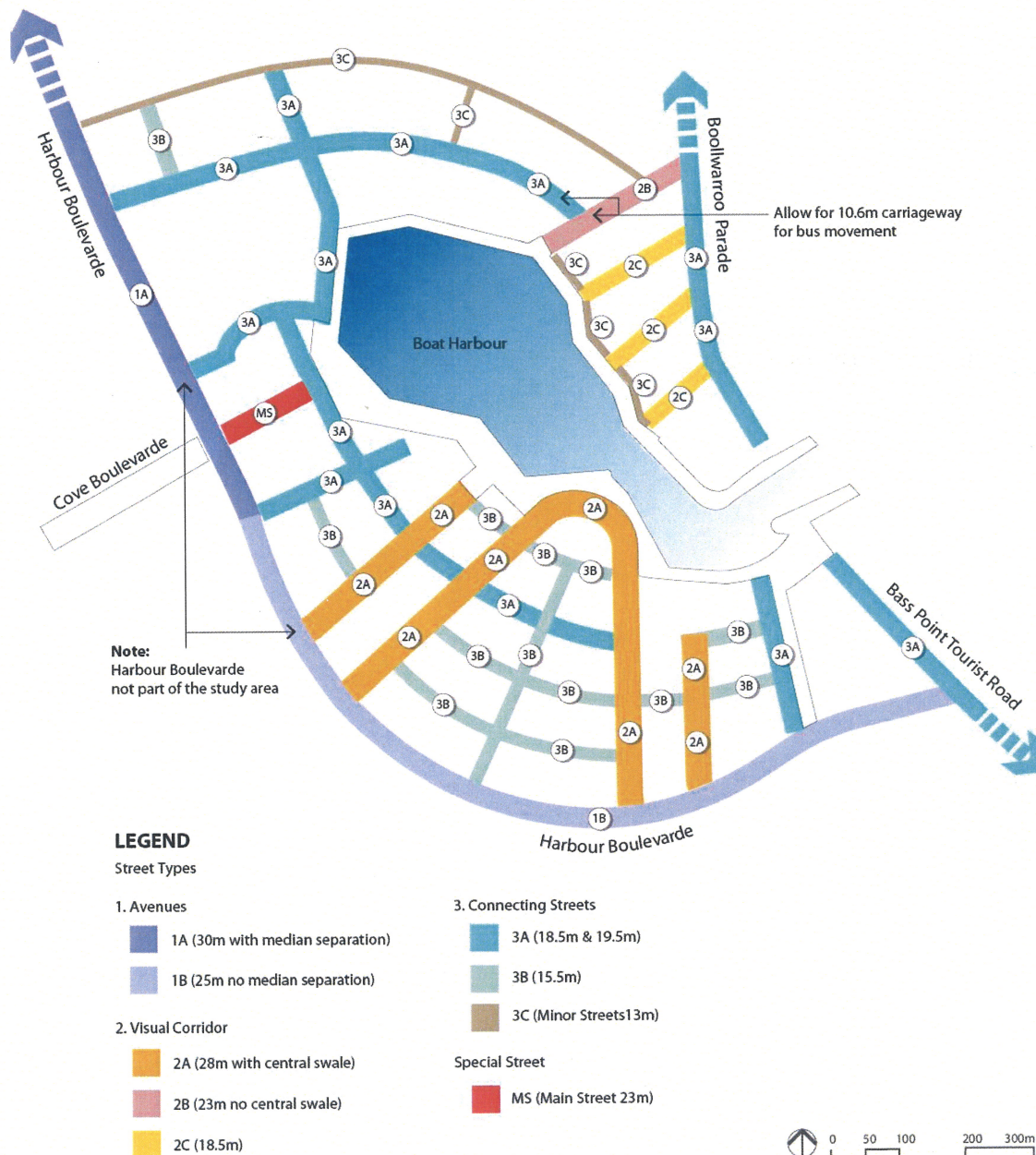
The road layout will be well connected with a 'warped grid' which responds to the boat harbour shape. Blocks are relatively small and there will be a satisfactory degree of permeability for vehicles, pedestrians and cyclists. The street grid is likely to be based on a 60m block depth to allow for subdivision for medium density and other housing types. The street types are not entirely consistent with Council's residential subdivision DCP. However, the Department accepts that the street types proposed are an optimal solution with improved pedestrian links and landscaping opportunities.

Concerns were raised by the public about the height of the proposed 9 storey hotel building at the edge of the boat harbour. Due to the undeveloped nature of the site and the relatively low scale of residential development at Shell Cove, a building of that height would be a dominant feature within the landscape. In response to those concerns, the Department's architect/urban designer expert reviewed the hotel design. The expert recommended a slender tower form above a 3-4 storey high podium which will relate well to the centre's urban form, create visual interest, and better define the street and water edges. The Department is satisfied that the revised design will ameliorate the impacts of the original design, and it is reflected in the conditions of approval.

It is important that the development of the entire precinct achieves architectural diversity and richness in design. For example, the main street should have buildings that use different materials, colours and design details to enrich the experience. The consistent elements of the design should be the awnings and colonnades and the overall height of the buildings. The proponent has advised that they intend to have a range of architects involved in the design of the BHP. The Department supports this intention and recommends that detailed urban



design guidelines are prepared for each subsequent application (on a staged basis) to demonstrate how development will relate to the approved concept plan whilst achieving architectural diversity.



**Figure 11: Revised street layout and hierarchy in the PPR**

A key feature of the proposal is the continuous public pedestrian access around the perimeter of the boat harbour. It is recommended that the public walkway has clear and direct access to streets meeting the harbour edge, and that public access is well defined and integrated. Some changes were made in the PPR to increase the number of streets along the harbour edge giving wider public access and a greater sense of public ownership.

The Department recommends that each stage of development should demonstrate clear through site links for pedestrians and active street frontages, direct and legible access to key points of interest and high degree of public access at all times.

There are limited vehicular connections to the southern streets of the Shellharbour village to minimise through site traffic for existing residents. However, visual, pedestrian and cycle links have been provided via Old Bass Point Road, Sophia Street and Mary Street. The proposal demonstrates acceptable connectivity to the existing Shellharbour village.

There are 3 vehicular connections across Harbour Boulevard which feed into the internal road network of the wider Shell Cove project and 3 additional cycle/pedestrian crossings.

Some of the harbour edges are reserved for pedestrians rather than vehicles to create areas of water edge connectivity.

The Department considers that the issues discussed above can be dealt with as future assessment requirements. The proposed built form, design and landscape at the conceptual stage is acceptable.

## **7.2 Traffic and Access**

The BHP will have some relatively intensive traffic generating activities including the town centre, marina, hotel and commercial development. A Traffic Impact Study, prepared by Maunsell was submitted with the application.

The Concept Plan for the BHP has been assessed in the context of planning for Shell Cove as a whole and its inter-relationship with existing adjoining development. The traffic modelling undertaken formed an important component of the assessment, informing the project of likely future traffic volumes and impacts. The traffic forecasts were produced using the Illawarra TRACKS model used by the RTA and Council and updated for Shell Cove by Maunsell.

The model incorporates expected road network, population and land use changes in the Illawarra Region until 2018. Traffic forecasts have been produced for the full development of Shell Cove. The existing and proposed road network within Shell Cove has been designed with sufficient capacity to safely and efficiently cater for additional traffic generated by the BHP. The Shellharbour Road key intersections servicing the development will have sufficient capacity to safely and efficiently cater for the full development of Shell Cove.

The major access to Shell Cove is currently Cove Boulevard. Harbour Boulevard will form a second major access from Shellharbour Road to the BHP. The intersection of proposed Harbour Boulevard and Shellharbour Road is outside the subject site and being considered under a separate development application with Council. The intersection is currently under design and the RTA has granted in-principle approval. However, use of the intersection and associated land for road purposes will require Council to re-classify it from community land to operational land and to rezone the land. If the land is not rezoned, an alternative secondary access will be required. The Department considers it acceptable to determine the BHP separately on the basis that the Concept Plan can be modified at a later date if alternative access is required.

The traffic flows along Harbour Boulevard will vary along its length from about 2,000 vpd to the north of Bass Point reserve to about 20,000 vpd near Shellharbour Road. The traffic model includes forecasts for all key streets and it is concluded most of the streets are lightly trafficked and can easily cater for on-street parking and safe pedestrian movements.

The RTA did not object to the proposal subject to some further modelling and upgrading of traffic signals at key intersections. These requirements are included as conditions on the approval requiring further assessment at the future application stage.



The Department considers the traffic and access impacts as acceptable.

#### *Pedestrians*

Public access will be provided around the boat harbour which will have edge conditions, including streets, boardwalk, pathways, and open space overlooked by housing, the town centre or hotel. The approved severance of Shellharbour South Beach (as part of the boat harbour consent) to make way for the harbour entrance is not a relevant consideration in this application.

The precinct layout and design will provide a high degree of permeability for pedestrians. Some of the harbour edges are reserved for pedestrians, not vehicles to create areas of special character and water edge connectivity. Visual, pedestrian and cycle connectivity has been provided between the southern part of Shellharbour village and Shell Cove.

Two access points to Killalea State Park will be provided via the Shell Cove project: the main entry off Killalea drive and a pedestrian bridge across the quarry road in the vicinity of Hinchinbrook Drive. Public access to those points from the BHP is available via the road network. The layout and design of the BHP is acceptable in regard to connectivity to surrounding areas and public access to the approved harbour.

#### *Cyclists*

Cycle ways will extend from the existing Shellharbour village and wider Shell Cove area across the proposed Harbour Boulevard, and terminate at the harbour edge. Parts of the network will be defined as dismount zones to avoid safety risks and minimise conflicts with pedestrian use of the harbour edge walkways and retail precinct. The Department considers the proposal acceptable in terms of the proposed infrastructure and opportunities for cyclists.

#### *Public transport*

There is an existing bus route which serves the wider Shell Cove residential area and Shellharbour village and provides access to Shellharbour City centre and Wollongong. The bus route can be extended to service the BHP. In that regard all residents and visitors will be within 400m walking distance of a bus stop. The Department is satisfied that future residents and workers will have good access to public buses which service the wider region.

### **7.3 Economic Impact**

Concerns were raised about the potential economic impact the proposed BHP commercial/retail centre will have on Shellharbour village. The BHP centre will have a floor area of about 8,000m<sup>2</sup> (excluding community, tourist and hotel).

Schedule 4 'Commercial hierarchy for Shellharbour City local government area' of *LEP 2000* identifies a District Centre of up to 10,000m<sup>2</sup> for the combined area of Shellharbour General Business zone and Shell Cove 2(f) zone. Clause 25 of the LEP provides that Council may consent to commercial or retail development (or mixed commercial and retail development) within the 2 (e) zone only if it will promote the Schedule 4 hierarchy. The proposed total floor space when combined with existing Shellharbour village is likely to exceed 10,000m<sup>2</sup>.

The proposed range of uses is considered consistent with the 2(f) zone objectives namely, to allow: for a range of household preferences and needs; and commercial and recreational activities associated with the regional boat harbour. Moreover, the proposed range of mixed uses is considered consistent with the following aims of *LEP 2000* at cl 4:

- (a) to ensure that land uses...are compatible with each other and are suitably located,*
- (b) to ensure that adequate provision is made to meet the needs of an increasing population'.*

Council's Retail and Commercial Centres Study (Hill PDA, 2008) stated there is likely to be an impact from further competition in the long term associated with the retail/commercial development at Shell Cove. Expenditure modelling showed there is no immediate demand for expansion of Shellharbour village; and without a major anchor supermarket, demand for food and groceries is likely to be satisfied by existing, higher order centres such as Shellharbour City Centre.

A substantial proportion of the BHP centre will be occupied by a supermarket and it is likely to capture food and grocery expenditure otherwise spent at centres outside of Shellharbour. Whilst it is likely the BHP centre will affect some Shellharbour village businesses due to increased competition, the village's traditional strip development is a sufficient point of difference with distinct appeal to retain its economic integrity. Moreover, the BHP centre will have a tourism focus and primarily serve the needs of Shell Cove residents. The Department is satisfied the proposal will not adversely affect the economic viability of Shellharbour village.

## **7.4 Water Cycle Management**

### *Stormwater Management and Water Quality*

Issues were raised by Council and the Department concerning stormwater management and water quality.

The proponent modelled the estimated average annual pollutant loads generated by the proposed development and the efficiency of proposed water sensitive urban design (WSUD) measures. The boat harbour precinct will employ WSUD measures, including rainwater tanks, bio-retention swales, bio-retention basins, gross pollutant traps and wetlands.

The boat harbour consent required that development to maintain harbour water quality which is also influenced by other land uses beyond the site. The boat harbour Stormwater Quality Management Strategy (SQMS) aimed to match the pre-development pollutant concentrations arising from that development. Part of that stormwater quality control system has been implemented. The SQMS results in average annual reduction in pollutant loads of 82% Total Suspended Solids, 57% Total Phosphorous, and 47% Total Nitrogen, respectively, compared with current best practice of 85%, 45%, and 45%, respectively.

It is proposed to construct the project in stages which will require most of the stormwater infrastructure to be built during the early stages. This will ensure stormwater quality exceeds the modelled reduction in pollutant loads until the project is finalised.

On-site detention is not proposed as the BHP catchment is immediately adjacent the ocean and there is no need to preserve downstream flow regimes. The proposed WSUD features do not intercept the proposed ground water table for the site and will not have any significant impact on groundwater. There is an existing requirement for an on-going water quality monitoring program for the boat harbour consent which addresses upstream impacts.

The Department engaged Parsons Brinckerhoff (PB) to review the stormwater and water cycle management aspects of the proposal. PB concluded the information provided in the EA satisfactorily addressed the DGRs. Clarification was sought on pollutant reduction targets, impacts on water quality during construction and flooding events, and hydraulic residence times. The proponent has satisfactorily addressed those issues in the PPR. The Department's recommended further assessment requirements include stormwater and water quality management plans for the entire project and all subsequent stages/precincts, and an erosion and sediment control plan. The Department is satisfied the project is acceptable in terms of stormwater management and water quality.



## 7.5 Flooding

Parsons Brinckerhoff (PB) reviewed the proponent's flooding assessment, and advised that it is based on a comprehensive technical analysis. PB concluded that the concept plan is consistent with the *NSW Floodplain Development Manual (2005)* and Council's *Flood Policy*. PB sought further clarification on some aspects of the flood planning level (FPL). At the time of proponent's initial flood planning modelling, sea level rise was addressed by the 2007 *'Practical Considerations of Climate Change'* (DECCW). The proponent adopted the medium range scenario (0.55m) for climate change impacts and a 30% increase in rainfall intensity.

Currently, the *NSW Coastal Planning Guideline Adapting Level Rise* (August 2010) recommends FPLs incorporate a sea level rise of 0.9m (to the year 2100). The proponent advised that the 3mAHd proposed building platform will be above the minimum sea wall crest (see Section 7.6 below) of 2.0mAHd, and that the site landward of Boollwarroo Parade/Bass Point Tourist Road would not be inundated. The FPL adjacent to the boat harbour and for major overland flow paths will be based on the 100 year ARI flood level plus 0.9m sea level rise and 0.50m to comply with Council's freeboard requirement. The 100 year ARI flood level within the boat harbour will not exceed the minimum road level of 2.5mAHd.

The Department considers there will be no major flood impacts or risks if the FPL is adopted in accordance with NSW Government benchmarks at the time of lodgement of future applications. Recommended further assessment requirements include a flood assessment analysis for future stages of the project, including an assessment of the sea wall height to ensure impacts can be mitigated and managed over time. Such analysis will include details of final design levels.

## 7.6 Coastal Hazards

Parsons Brinckerhoff (PB) reviewed the proponent's information on coastal processes. PB advised that all relevant coastal processes and policies were considered in the assessment and that the proposal was consistent with all relevant policies. The *Shellharbour Coastal Hazard Study*, prepared by SMEC, dated April 2010 was adopted by Council after the Major Project application was lodged with the Department. PB sought further details in relation to sea level rise, wave climate, beach erosion and overtopping of the dune system. The proponent responded to those matters and a review of the SMEC study.

In the SMEC study the beach erosion and shoreline recession zones were considered for present day, 2050 and 2100, and assume no future management of hazards. The major component of the shoreline recession hazard is due to sea level rise (which will be managed by Council in its beach nourishment/rehabilitation management plan). The SMEC study demonstrated that development within the site landward of Boollwarroo Parade/Bass Point Tourist Road would not be impacted by beach erosion and shoreline recession hazards up to the year 2100.

There is some discrepancy between the proponent's hazard lines (north of the boat harbour entrance) which are based on the NSW Government's planning benchmark, and those in the SMEC study. The proponent's 2100 hazard line is 18m seaward of the SMEC study hazard line (see **Figure 12**). That (dunal) part of the site is seaward of Boollwarroo Parade and is proposed to be open space (see **Figure 6**). The proposal, east (landward) of Boollwarroo Parade/Bass Point Tourist Road would not be affected by beach erosion and shoreline recession hazards to the year 2100.



**Figure 12:** Comparison of SMEC study and Environmental Assessment 2100 coastline hazard lines



The proponent's estimated 5m AHD wave run-up (coastal inundation from waves overtopping the dual system) along Shellharbour South beach in a 100 year event is slightly higher than the SMEC (conservative) estimate of 4.6m AHD. Based on the conservative estimate, wave run-up would not extend beyond Boolwarroo Parade (Figure 13). The SMEC noted that whilst Boolwarroo Parade and existing houses seaward may be affected by wave run-up, any impacts would not be significant due to low energy (absorption by the dune). Further, the PPR noted that the proposal includes dunal stabilisation works to 4.5m AHD.



**Figure 13:** Maximum wave run-up, North and South Shellharbour beaches



The proponent's maximum estimated 5.5m AHD wave run-up affected by sea level rise (to the year 2100) will be catered for by pipe drainage and/or storage so that the site landward of Boollawaroo Parade/Bass Point Tourist Road will not be affected.

Proposed sea walls surrounding the boat harbour will have a crest level of 2m AHD above which building platforms will be provided, at a minimum of 3m AHD. Potential, temporary overtopping of the sea wall will occur from a combination of storms, astronomical tides and sea level rise to the year 2100. Whilst that timeframe is generally beyond the life of boardwalk structures, the recommended further assessment requirements include a detailed coastal hazard study including details of the adequacy of the sea wall height.

## 7.7 Contamination

A Phase 2 Contamination Assessment was submitted with the PPR. Concentrations of heavy metals were below practical limits except for detectable levels of cadmium, mercury, copper and zinc in the former golf course area and areas occupied by farm buildings.

The groundwater analysis indicated concentrations of heavy metals below practical limits except for copper and zinc. Chloride concentrations were also detected in excess of the guidelines for recreation purposes. The PPR concluded that there was no major contamination issue which would preclude development of the site.

Subject to further investigation to delineate the extent of contaminants and heavy metals, the site can be made suitable for the proposal. An investigation into groundwater in the location of the former golf course is recommended with future applications. Recommended further assessment requirements include a Remedial Action Plan to ensure the site is remediated to a standard suitable for the intended development.

## 7.8 Aboriginal Cultural Heritage

The proponent's Cultural Heritage Review concluded that the cultural heritage of the Shell Cove area has been recorded and studied for over two decades, with extensive consultation with the aboriginal community. Council's advice confirmed the extensive consultation.

On 29 September 2009, an Aboriginal Heritage Impact Permit (No. 2534) was granted to the proponent (under sections 87 and 90 of the *National Parks and Wildlife Act 1974*). The permit applies to land, including the BHP site (see **Figure 14**). The permit includes salvage/monitoring requirements and consultation with the Aboriginal community in accordance with an *Archaeological and Heritage Protection Plan*.

The permit does not apply to the shell midden within a fore-dune on the beachfront considered to have relatively high heritage values. However, this part of the proposal (on the eastern side of Boollawaroo Parade) comprises open space, and is also zoned Public Open Space 6(a) under *LEP 2000*.

The boat harbour consent conditions required the establishment of a Shell Cove Compliance Committee (including an Aboriginal representative); protection of the shell midden; and preparation of an *Archaeological and Heritage Protection Plan* (AHPP) in consultation with the Aboriginal community and the (former) National Parks and Wildlife Service (now DECCW). The AHPP contained heritage protection measures for the project area in general, and a copy was submitted with the EA.

DECCW did not raise any issue concerning the proponent's Cultural Heritage Review, and recommended conditions, including a buffer and plan of management in consultation with the Aboriginal community for the midden area. The Aboriginal heritage significance of the site has been adequately investigated; and the requirements of the boat harbour consent and the terms of approval of the current proposal will ensure appropriate management of Aboriginal heritage.





Figure 14 Aboriginal Heritage Impact Permit Area .

## 7.9 Acid Sulfate Soils

Parsons Brinckerhoff (PB) reviewed the EA and advised that it was a comprehensive assessment of the site's ASS, but requested additional details concerning oxidation of ASS left in-situ under the land platform and associated groundwater impacts.

The excavated ASS will be managed using a number of techniques, including reburial, transfer to a licensed landfill, neutralisation and re-use, and incorporation into landscape mounds. ASS management for the boat harbour was the subject of an approved ASS Management Plan and an Environmental Protection Licence from DECCW.

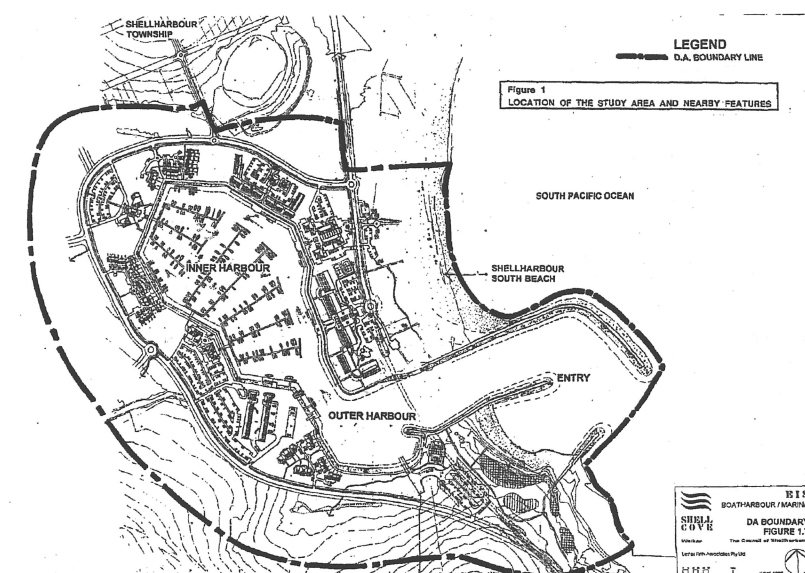
The PPR stated that the land platform ASS will remain in-situ by consolidation and capping to a minimum thickness of 2m. The capping material will comprise bridging and drainage layer, and general and structural fill. The top surface of the ASS would be below the long-term groundwater levels at the site following construction, thus avoiding oxidation. Recommended further assessment requirements include a ASS management plan for the project and for each stage/precinct. The Department considers those requirements and the proponent's management approach for ASS is acceptable.

## 7.10 Flora and Fauna Impacts

The site contains two Ecological Endangered Communities (ECCs) listed under the *Threatened Species Conservation Act 1995*: Coastal saltmarsh and Swamp oak floodplain forest. Those ECCs lie within the approved boat harbour consent area and also outside that area. Concerns were also raised in submissions about the removal of the existing Shellharbour swamp.

The boat harbour approval included removal of the swamp subject to the provision of compensatory wetlands at Shadforth, north of Shellharbour. Those wetlands have been provided, and are known as Myimbarr Wetlands. Whilst the proponent indicated that the boat harbour approval ecological assessment covered the full extent of

EECs (as shown in **Figure 15** below), the Department recommends a contemporary Green and Golden Bell Frog assessment in accordance with DECCW's relevant guidelines as a further assessment requirement to address DECCW's concerns regarding the proponent's survey currency and methodology.



**Figure 15:** Study Area for the Ecological Survey Assessment approved with the Boat harbour consent.

#### 7.11 Impacts on Aquatic Ecology

The approved boat harbour will be constructed prior to the adjoining land-based development and will replace the Shellharbour Swamp with an integrated wetland at Shadforth in accordance with the boat harbour consent. That development will result in removal of the remaining wetland area surrounding the approved boat harbour. The impact is inevitable and was considered as part of the boat harbour assessment.

The Black Rock Cod is listed as vulnerable under the *Fisheries Management Act 1994* and could potentially occur in the intertidal rock pools waters along Shellharbour South Beach adjacent to the site. Thirty other fish and shark species listed under the *EPBC Act* could occur in the sub-tidal waters off-shore from the subject site. The Australian Grayling freshwater fish listed as Vulnerable under the *Environment Protection and Biodiversity Conservation Act 1997* (Cth) (*EPBC Act*) was found to be unlikely to occur in the waters of the study area.

The impacts on the above species from the approved boat harbour and adjoining land-based development were separately assessed and a referral report was submitted to the Commonwealth under the *EPBC Act*. The proponent submitted confirmation that the proposal is not a 'controlled action' under the *EPBC Act* so that no further assessment by the Commonwealth is required.

Potential impacts on aquatic habitats and biota from the proposed land-based development surrounding the harbour will occur from the management of construction and operational runoff of polluted waters into adjacent habitats. The Department is satisfied that impacts, including any potential impacts on the Black Rock Cod, can be managed by implementation of environmental safeguards and the existing framework of the Construction Environmental Management Plan (EMP) and Operational EMP for the approved boat harbour.

Mitigation, protection and management measures, including implementation of environmental safeguards within a specific aquatic ecology EMP are recommended. This will ensure that proposed development adjacent to the remaining intertidal, rocky reef south of the harbour entrance is protected during construction to ensure minimal



impact from waste construction water or spill runoff, particularly for the Black Rock Cod. It will also ensure there is no significant increase in trampling or disturbance of those reefs from construction-related activities.

Based on the existing framework of safeguards for the approved boat harbour, there are unlikely to be any significant impacts on threatened aquatic species or matters of National Environmental Significance.

### 7.12 Noise, Vibration and Air Quality

The southern part of the BHP adjoins the Bass Point Quarry which has been operating for forty years and is currently operated by Hansons Construction Materials Pty Ltd (see **Figure 2**). It mines basalt for concrete, road base and other applications.

The wider residential Shell Cove project has been planned and developed in stages since the 1980s, gradually closer to the quarry. The BHP is the final stage of the wider residential Shell Cove project, and will introduce sensitive residential uses at higher densities closer to the quarry than previously proposed. The potential for land use conflict associated with dust migration, noise and vibration was raised as an issue, having been recognised by Council and the operator.

The quarry operators have lodged a Major Project application to extend the quarry life and increase production of aggregate and road construction materials. A quarry buffer zone adjoins the site's common boundary with the quarry (see section 5.2 above and Figures 6 and 7). The buffer zone restricts proposed uses to commercial and industrial activities to avoid potential conflicts with more sensitive residential uses. It is understood that a deed of agreement was also reached between the quarry owner and Council for a new, private quarry entrance road, road noise attenuation measures and a landscaped mound on the quarry to act as a buffer.

The landscaped buffer on the quarry may be modified for the quarry expansion application being considered by the Department. The proposed quarry expansion will potentially generate land use conflicts with future residents, visitors and workers at Shell Cove. However, given the expansion essentially involves going deeper with minimal lateral expansion, the imposition of robust controls for dust, noise and vibration management and mitigation are likely to minimise potential adverse impacts to the future BHP population.

There is likely to be an increase in truck movements along the quarry haul road which could generate noise impacts on the BHP. Whilst the onus is on the quarry operators to minimise noise impacts to neighbouring residential areas, it is reasonable for the proponent to also consider potential noise impacts to future development in close proximity to the haul road. It is recommended that this be addressed as a future assessment requirement and inform the proposed density and layout. Alternatively, satisfactory mitigation measures to minimise noise impact will be required from the proponent.

The proposed quarry expansion will also result in an increase in blasting from the site. The quarry is subject to operational controls under its current Environment Protection Licence (EPL 2193). The operator is required to manage blasting and the use of equipment and plant in accordance with existing environmental controls. Any proposed increase in noise or vibration would be curtailed within the parameters set by the EPL.

The quarry operator has predicted an increase in incremental concentrations of dust and particulate matter at the southern boundary of the site and at the proposed sporting fields. This has been factored into the land use planning framework viz. the restriction on uses in the quarry buffer zone under *LEP 2000*. Air quality impacts are to be addressed as part of the quarry's Major Project application.

It is appropriate that the BPQ mitigates and manages any additional off-site impacts that may result from the proposed expansion of its operation.



### 7.13 Provision of Social Infrastructure

The Department raised a number of issues with regard to the provision of social infrastructure, including aged care housing. The proponent has advised that a seniors living development is currently being planned for Stage 8 adjoining the BHP. The proposed development will provide up to 63 independent living units, 160 bed residential aged care facility plus facilities for community care services and day respite programs.

Whilst there is no specific aged care housing earmarked for the BHP this can be a matter of consideration in any future application. The proposal's range of dwelling types and sizes in close proximity to services will facilitate future consideration of affordable housing on the site.

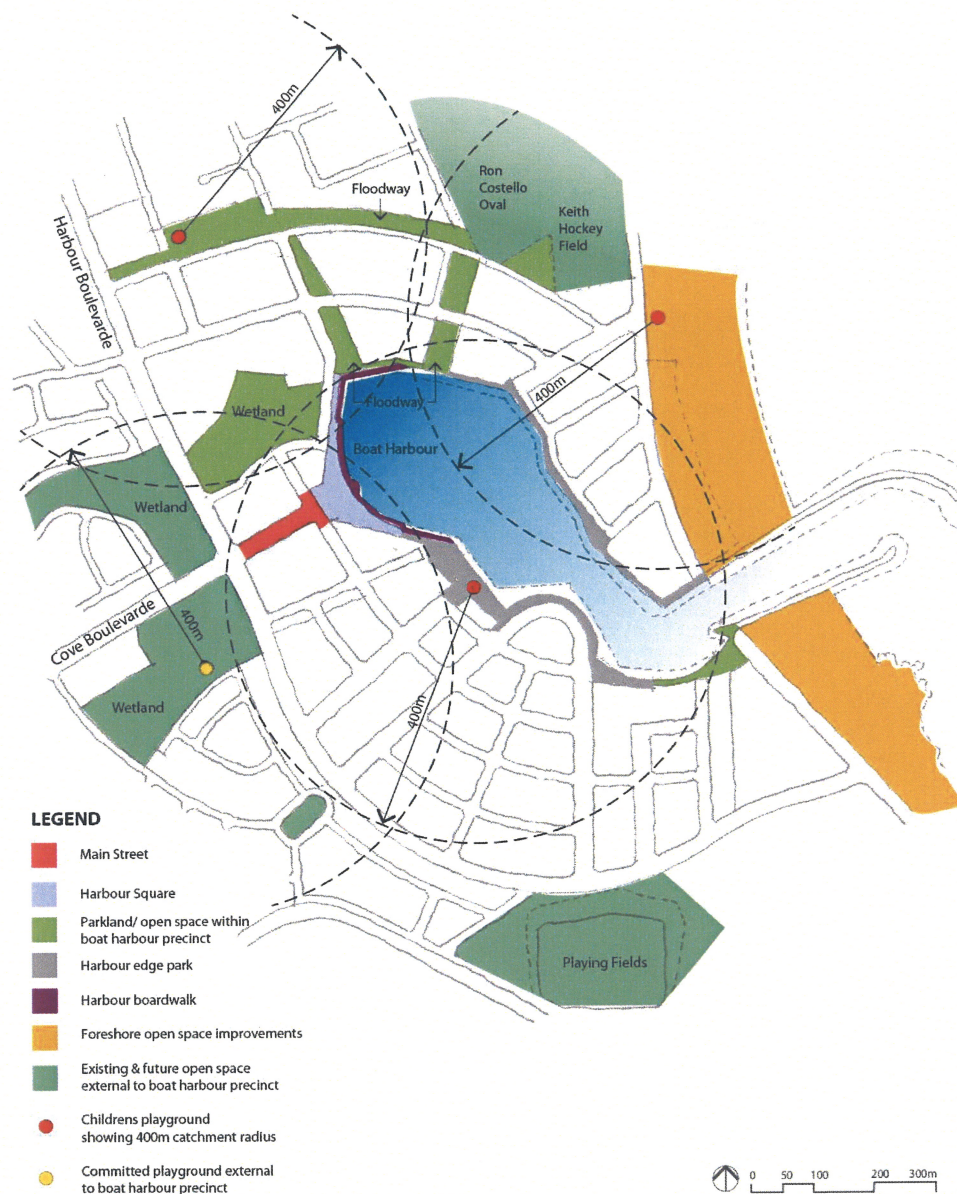
The proponent has advised that the long term planning of the Shell Cove project includes the provision of a community centre within the BHP. An interim community centre providing a range of activities has been provided within the existing residential stage.

The proponent has advised there are three child care centres within the wider Shell Cove project area: Blue Cove pre-school; Shell Cove pre-school; and Mission Australia Early Learning Centre. The proponent's social infrastructure assessment identifies a need for child care facilities within the site in the short term. Council's Section 94 Contributions Plan covers such facilities and the payment of contributions are recommended with future applications. The Department considers the proposal is acceptable in regards to the provision of social infrastructure.

### 7.14 Provision of Public Open Space

The Department raised issues concerning the amount and useability of open space within the site and the wider Shell Cove project. The proponent subsequently identified open space areas outside the site, including Ron Costello Oval, the Keith Hockey field and proposed ovals to the south, wetland areas, and foreshore zones adjoining Shellharbour South Beach (see **Figure 16** overleaf). There will be a series of wetland areas and floodways within the site capable of recreational use.

The level of public open space and number of playgrounds is acceptable particularly given the large areas of playground and oval areas just outside the site. The continuous walkway around the harbour and the proximity of Shellharbour South Beach will provide reasonable amenity and availability of public open space for site's future residents.



**Figure 16:** Provision of Public Open Space

## 8 PUBLIC INTEREST

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The BHP Concept Plan will provide significant benefits to the community, including:

- a range of housing types in a coastal environment complemented by commercial, retail and employment uses;
- employment opportunities for around 2,800 people;
- a commercial/retail hub to support the wider Shell Cove project;
- land-based service and facilities to support the approved marina; and
- public access around the marina with pedestrian links to the existing Shellharbour village.

The Department considers the project is in the public interest and should be approved subject to conditions.

## 9 CONCLUSION

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The Department has reviewed the Environmental Assessment and the Preferred Project Report and considered advice from public authorities, as well as issues raised in public submissions. All relevant environmental issues associated with the proposal have been extensively assessed.

In balancing the strategic outcomes with the key issues, the Department considers that recommended further assessment requirements will ensure that future environmental impacts are acceptable and manageable. The proponent has undertaken through a Statement of Commitments to a range of measures to ensure future development proceeds appropriately and does not adversely impact on environmental amenity.

The proposal is consistent with the *Illawarra Regional Strategy* which recognises the importance Shell Cove will play in meeting housing and population targets for the Illawarra Region. The *Illawarra Urban Development Program* identifies Shell Cove as a major residential release area with dwellings to be provided around the approved harbour. The proposal project satisfies a key priority in the *NSW Government State Plan (2010)* by supporting business investment and jobs.

The draft recommended terms of approval address comments from the proponent and Council. The Department considers the project will have positive economic and social benefits and increase housing supply in the region, and recommends it for approval.



## 10 RECOMMENDATION

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It is recommended that the Deputy Director-General Development Assessment and Systems Performance under delegation from the Minister:

- (A) consider the findings and recommendations of this report; and
- (B) approve the Concept Plan application, subject to conditions, under Section 75O and 75P of the *Environmental Planning and Assessment Act 1979*; and,
- (C) sign the Instrument of Approval (**Tag A**).

Prepared by:

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*per. Jf.*

Thomas Mithen  
Planner

For Approval:



Chris Wilson  
Executive Director  
Major Projects Assessment

Endorsed by:



Joanna Bakopanos  
A/Director  
Regional Projects



Richard Pearson  
Deputy Director-General  
Development Assessment & Systems  
Performance

## **APPENDIX A. ENVIRONMENTAL ASSESSMENT**

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See the Department's website at <http://www.majorprojects.planning.nsw.gov.au>



## APPENDIX B. SUBMISSIONS

The following is a summary of the submissions provided during the exhibition period

Issue raised	Percentage (%) of submissions objecting that raised the issue
Environmental Impacts	55
Excessive height of the hotel building	44
Loss of wetland areas and saltmarsh	33
Traffic safety	33
Lack of public transport	33
Residential development not providing jobs	22
Lack of community consultation	22
Lack of public open space	22
Reliance on motor vehicle use	22
Lack of rehabilitation of the natural environment	22
Poor street layout and lot orientation	22
Traffic impacts associated with use of Harbour Boulevard intersection with Shellharbour Road	22
Visual impact	22
Impact on water quality	22
Climate change and sea level rise	22
Lack of public access	22
Inadequate pedestrian and cycling access ways	22
Erosion and on-going maintenance costs along South Shellharbour Beach	11
Contaminated land	11
Non-compliance with NSW State Plan 2010 and planning guidelines for walking and cycling	11
Adverse impact on aboriginal heritage	11
overdevelopment	11
Adverse impact on the Bass Point Quarry	11
Loss of natural beauty	11
Rehabilitation costs associated with foreshore reserve	11
Lack of economic justification in terms of job creation	11
Financial costs to the community associated with upkeep of marina/public facilities, roads, open space	11
Burden on infrastructure	11

## **APPENDIX C. PROPONENT'S RESPONSE TO SUBMISSIONS**

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See the Department's website at <http://www.majorprojects.planning.nsw.gov.au>



## APPENDIX D. CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

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The Department has considered the project against the relevant provisions of the following relevant environmental planning instruments:

- State Environmental Planning Policy (Major Projects) 2005 – now State Environmental Planning Policy (Major Development) 2005;
- State Environmental Planning Policy No. 71 – Coastal Protection;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No. 50 – Canal Estate Development;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy Infrastructure;
- Illawarra Regional Environmental Plan No. 1; and
- Shellharbour Local Environmental Plan, 2000.

### **State Environmental Planning Policy (Major Projects) 2005 – now State Environmental Planning Policy (Major Development) 2005**

The Major Projects SEPP was amended on the 1 July 2009. Under *State Environmental Planning Policy (Major Development) 2005* (Major Development SEPP), the proposal is a project to which Part 3A of the Act applies being a development for marina facilities that stores more than 80 vessels and a tourist, convention and entertainment facility with a CIV more than \$100m or employs more than 100 people.

### **State Environmental Planning Policy No. 71 – Coastal Protection**

SEPP 71 applies to the land and development within the coastal zone (clause 4) as defined by the *Coastal Protection Act 1979*. The subject site is located within the coastal zone. SEPP 71 provides aims of the Policy (clause 2) and matters for consideration (clause 8) when assessing development proposals. The Policy has been made to ensure that development in the NSW coastal zone is appropriate and suitably located, there is a consistent and strategic approach to coastal planning and management and there is a clear development assessment framework for the coastal zone. The major themes of SEPP 71 include retention of visual amenity, protection of the coastal foreshore in relation to amenity, public access, wildlife corridors, water quality, views, and items of heritage and suitability of development within the area.

The proposal is considered to be generally consistent with the provisions of SEPP 71 as follows:

- It will provide opportunities for public access around the full perimeter of the boat harbour;
- The aboriginal shell midden and artefact sites identified along the foreshore will not be disturbed;
- It will provide visual amenity by adopting a permeable road layout with view corridors to the harbour;
- It will ensure diversity in design to avoid uniform and uninteresting development;
- The foreshore will be protected by precluding development except for rehabilitation works.

### **State Environmental Planning Policy No. 65 – Design of Residential Flat Buildings (SEPP 65)**

The aim of SEPP 65 is to ensure a high quality standard of flat design. The proposal seeks Concept approval for the number of dwellings and indicative floor space and height in terms of storeys. The layout design is generally consistent with the ten design principles, in that:

- The area has been identified as suitable for future growth and development under the *Illawarra Regional Strategy*;
- The design incorporates open space and pedestrian links;

- There will be a range of housing types; and
- The building design will adopt a graduating scale to maintain views and amenity.

### **State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)**

The aim of SEPP 55 is to provide for remediation of contaminated land for the purpose of reducing the risk of harm to human health or the environment and requiring that any remediation work meets certain standards and notification requirements. A Phase 2 Site Contamination Assessment was submitted with the preferred project report.

### **State Environmental Planning Policy No. 50 – Canal Estate Development (SEPP 50)**

*Canal estate development* is defined at cl 3 of SEPP 50, as follows:

- '(a) incorporates wholly or in part a constructed canal, or other waterway or water body, that is inundated by or drains to a natural waterway or natural water body by surface water or groundwater movement (not being works of drainage, or for the supply or treatment of water, that are constructed by or with the authority of a person or body responsible for those functions and that are limited to the minimal reasonable size and capacity to meet a demonstrated need for the works), and
- (b) includes the construction of dwellings (which may include tourist accommodation) of a kind other than, or in addition to:
  - (i) dwellings that are permitted on rural land, and
  - (ii) dwellings that are used for caretaker or staff purposes, and
- (c) requires or includes:
  - (i) the use of a sufficient depth of fill material to raise the level of all or part of that land on which the dwellings are (or are proposed to be) located in order to comply with requirements relating to residential development on flood prone land, or
  - (ii) excavation to create waterways primarily for the purposes of providing water access to dwellings, or both.'

Clause 5 of the SEPP prohibits canal estate development. At cl 6(b) of SEPP 50, the prohibition does not apply to, relevantly:

- '(a) ...
- (b) canal estate development:
  - (i) that could be carried out with development consent under an environmental planning instrument in force immediately before the date of commencement of this Policy, and
  - (ii) that is the subject of a development application made, but not finally determined, before that date, and
  - (iii) for which development consent is granted after that date.'

The boat harbour adjacent to the site was approved in 1996, and SEPP 50 came into force on 10 November 1997. Furthermore, SEPP 50 does not apply to the proposed wetlands in the northern part of the site as they will be for drainage and stormwater purposes.

### **State Environmental Planning Policy Infrastructure (2007)**

The Policy aims to provide the RTA an opportunity to make representations. The application was referred to the RTA which raised no objection to the proposal subject to comments generally on access, road works, tree planting, street lighting and pedestrian pathways. These have been included as conditions in the approval.

### **Illawarra Regional Environmental Plan No. 1**

IREP 1 provides a framework for planning within the Illawarra region to ensure efficient use of land resources and improvement in the quality of life, protection of regional interests and a stable investment climate.

The Boat Harbour Precinct is generally consistent with the relevant planning objectives because:

- It is the centrepiece of the wider Shell Cove project which has been extensively planned and developed for urban development;
- It will provide supporting land based facilities for the boat harbour and marina and a range of residential and employment uses; and
- It will provide a range of dwelling types including detached houses, townhouses and residential flat buildings to satisfy demand for varying household types;
- Future development will be precluded at the foreshore fronting South Shellharbour Beach;
- Public access will be provided around the full perimeter of the harbour;
- A tourist facility will be encouraged in a mixed use zone at the harbour entrance and proximate to South Shellharbour beach and a landmark hotel will be provided in the retail/commercial hub.

### Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)

The approved Boat Harbour development and associated shore based land development was referred to the (then) Department of Environment, Water, Heritage and Arts, and considered under the EPBC Act. The proponent received advice from the Commonwealth Department that the proposal was not a 'controlled action' and no assessment or approval was required by the Minister for the Environment, Water, Heritage and Arts. See section 7.12 of this report.

### Shellharbour Local Environmental Plan 2000

Shellharbour Local Environmental Plan 2000 (LEP 2000) sets the broad planning framework for development in the Shellharbour local government area and establishes permissible forms of development and land use. Relevant special provisions are considered in the table below.

Provision	Proposal	Complies
<p><b>25 Controls to promote commercial hierarchy within Zones 2 (e) and 2 (f)</b></p> <p><i>Despite any other provision of this plan, the Council may consent to commercial or retail development (or mixed commercial and retail development) on land within Zone 2 (e) or 2 (f) only if, in the opinion of the Council, it will promote the commercial hierarchy for the Shellharbour City local government area presented in Schedule 4.</i></p>	<p>The existing Shellharbour village to the north of the site and the Shell Cove commercial precinct (combined) has been identified as a District Centre of up to 10,000m<sup>2</sup> in area. The amount of retail/commercial floor space proposed equates to about 8,000m<sup>2</sup> comprising of a supermarket, offices and shops. An additional 7,000m<sup>2</sup> is proposed for a hotel, tourist facility and community facilities. The proposal is generally consistent with the commercial hierarchy for the Shellharbour Local Government Area. See also section 7.3 of this report.</p>	
<p><b>26 Development within the quarry buffer area in Zone 2 (f)</b></p> <p><i>(1) Despite any other provision of this plan, a person shall not develop land in Zone 2 (f) identified as "quarry buffer area" on the map for any purpose other than general agriculture; drainage; light industries and industries associated with and including boat manufacture and repair; open space; recreation areas; roads; shops and commercial premises in accordance with Schedule 4; utility installations (other than gas holders or generating works),</i></p>	<p>The south eastern part of the site is affected by a Quarry Buffer zone which restricts use of land in the vicinity of the quarry to general agriculture; drainage; light industries and industries associated with and including boat manufacture and repair; open space; recreation areas; roads; shops and commercial premises; utility installations (other than gas holders or generating works), and warehouses.</p> <p>The QBZ affected land will be used for a</p>	



and warehouses.

- (2) *The Council shall not grant development consent in respect of any development for a purpose specified in subclause (1) unless:*
- (a) *the development will not be unduly affected in an adverse manner by proximity to the Bass Point Quarry, having regard to the normal course of the quarry's operations, and*
  - (b) *the applicant for that consent is aware of the nature of the operation of the quarry and its likely impact on the land within the quarry buffer area and has notified the Council in writing of his, hers or its acceptance of that impact, and*
  - (c) *the development will not pose a restriction on the nature of operations within the quarry.*

business park and open space which are permissible with Council's consent. See also section 7.13 of this report.

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#### **75A Development affecting places or sites of Aboriginal heritage significance**

*Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance, or that will be carried out on an archaeological site of an Aboriginal object that has Aboriginal heritage significance, the consent authority must:*

- (a) *consider the effect on the heritage significance of the place or site and any Aboriginal object known or reasonably likely to be located at the place or site, and*
- (b) *except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) of its intention to do so and take into consideration any comments received in response within 21 days after the relevant notice is sent.*

The Department considers the aboriginal heritage significance of the site has been adequately investigated and that the requirements associated with the existing AHIP and the boat harbour consent will ensure appropriate management of aboriginal relics/artefacts during the excavation and construction of land surrounding the approved boat harbour. Refer to section 7.8 of this report.

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#### **75B Development affecting archaeological sites of relics of non-Aboriginal heritage significance**

- (1) *Before granting consent for development that will be carried out on an archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is also the site of an Aboriginal object of Aboriginal heritage significance), the consent authority must:*
  - (a) *consider a heritage impact statement explaining how the proposed development would affect the conservation of the site and any relic or Aboriginal object known or reasonably likely to be located at the site, and*
  - (b) *notify the Heritage Council of its intention to do so and take into consideration any comments*

Refer to discussion above.

*received in response within 28 days after the notice is sent.*

- (2) This clause does not apply if the proposed development:*
  - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics or Aboriginal objects would not be adversely affected by the proposed development, or*
  - (b) is integrated development.*

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## **APPENDIX E. OTHER RELEVANT REPORTS OR DOCUMENTS**

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The proposal has been considered against the following non-statutory documents:

- 1) Illawarra Regional Strategy;
- 2) NSW Coastal Policy 1997;
- 3) NSW Coastal Design Guidelines;
- 4) Shellharbour Local Government Area Retail/Commercial Study and Employment Study;
- 5) NSW Government State Plan 2010; and
- 6) Shellharbour City Council Development Control Plans and Policies.

### **Illawarra Regional Strategy**

The primary purpose of the Regional Strategy is to ensure that there is a framework in place to accommodate additional population and employment opportunities in the Region. It will do this by ensuring that land is available in existing urban areas to sustainably accommodate the projected population growth and associated housing, employment and environmental needs over the next 25 years. The Strategy identifies the need to attract economic opportunities and provide additional housing whilst protecting the natural environment.

The proposal is consistent with the strategy in that it will contribute to provision of employment lands and provide residential accommodation accessible to existing public bus transport. The strategy identifies Shell Cove as a town with small to medium concentrations of retail, including supermarkets, health and other services with some residential uses.

### **NSW Coastal Policy 1997 and NSW Coastal Design Guidelines**

The *NSW Coastal Policy 1997* responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk.

The *NSW Coastal Design Guidelines* aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context.

The proposal is consistent with the relevant provisions. The recommended conditions will ensure minimal environmental impact on the adjoining foreshore and harbour from stormwater runoff, erosion and sedimentation control, and access.

## **Shellharbour Retail/Commercial Study and Employment Study**

Council's *Retail and Commercial Centres Study* (Hill PDA, March 2008) indicated that there is likely to be an impact from further competition in the long term associated with the retail/commercial development at Shell Cove. It is likely the new commercial/retail precinct will affect some local business operators in Shellharbour village due to increased competition. However, Shell Cove will primarily serve the needs of residents of the wider Shell Cove project.

## **NSW Government State Plan 2010**

The project satisfies a key priority in the *NSW Government State Plan (2010)* by supporting business investment and jobs.

## **Shellharbour City Council Development Control Plan and Policies**

### Landscape Guidelines Development Control Plan (DCP)

The policy seeks to create a pleasant environment and ensure that development blends in with the streetscape and neighbourhood. The proposal incorporates open space and public access around the harbour to soften the built form and harbour edge interface, and is generally consistent with the DCP.

### Stormwater Policy

The policy aims to encourage consideration of Ecologically Sustainable Development and to improve the water quality of receiving waters and minimise impacts on existing public infrastructure. A proponent's Stormwater Quality Management Strategy adequately addresses the policy's aims.

### Contaminated Land Policy

This is addressed in Section 7.7 of this report.

### Floodplain Risk Management Development Control Plan

The DCP has been addressed in the proponent's Flood Management Assessment.

### Medium Density Development Control Plan & Residential Development Control Plan

Whilst some of the guiding principles in these DCPs are applicable, the requirements are not directly relevant to the BHP given it has been extensively developed and planned since the 1980s.