

Shellharbour City Council received Development Consent No. 95/133 from the then Minister for Urban Affairs and Planning on 26 November 1996 for the construction of the following:

- a 350 berth boat harbour/marina at South Shellharbour Beach
- enhancing and enlarging a wetland at Shadforth land
- the removal of land fill material from the boat harbour site and placement of treated contaminated landfill in a series of mounds used for acoustic mitigation adjacent to a realigned haul road to the Bass Point quarry operated by Pioneer Construction Materials Pty Ltd.

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.

Surrounding the Boat Harbour and Marina is the Boat Harbour Precinct. On 2 April 2007 the Boat Harbour Precinct project 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. Figure 4.1 below details the outline of the approved boat harbour.

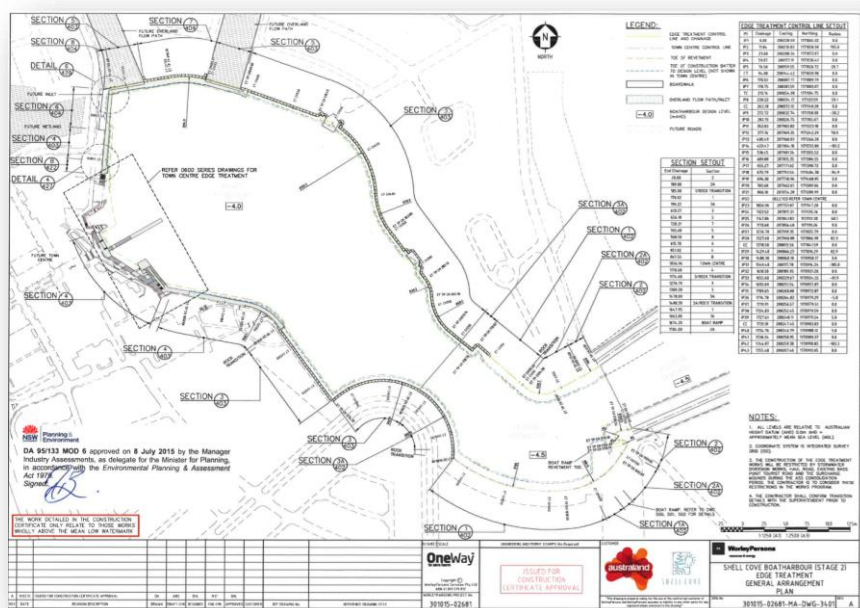


Figure 4.1 – Approved general arrangement plan for Boat Harbour MP095/133

Boat Harbour Precinct (BHP) Concept Approval (MP07_0027)

On the 15 February 2011 the Boat Harbour Precinct Concept Plan Approval No. MP07_0027 (Concept Approval) was approved by the Deputy Director General of the then Department of Planning under the now superseded arrangements of repealed Part 3A of the *Environmental Planning and Assessment Act 1979*. This Concept Approval sits outside the Boat Harbour Approval as shown in **figure 4.2** below. Boat Harbour under ministerial consent shown in white, Concept Approval Area shown in orange.



Figure 4.2 – Aerial plan showing interface between Concept Approval and Boat Harbour Consent.

The Concept Approval is for a mixed development comprising residential, commercial, community, retail, hotel, business park, dry boat storage facility, open space and wetlands.

The Concept Approval comprised 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
- location of open space and wetlands.

The Concept Approval was enacted by works approved as DA0411/2013 approved by Council in November 2013 for site preparation and servicing works for the Concept Plan site and the creation of 88 residential lots, 14 superlots, parkland, open space links, local streets and laneways in Precincts B1 and C1.

A subsequent modification to the Concept Approval (formally known as s75W) was submitted and approved by the Independent Planning Commission on 18 March 2019 (MP07_0027 MOD 1) and resulted in some fundamental changes to the layout, built form and floor space proposed. The proposed modification includes:

- a. An increase to the maximum number of dwellings from 1,238 to 1,566;
- b. Revised housing densities, typologies and building heights in certain areas of the Boat Harbour Precinct;
- c. Amendments to the hotel building, including relocation to the northern edge of the Town Centre and an increase to the maximum building height; and
- d. A revised road pattern and layout.

Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017

The above Regulations apply to this development application as the Shell Cove Boat Harbour Precinct Concept Plan was determined under the repealed Part 3A Major Projects provisions.

Under the transitional provisions, environmental planning instruments will apply but only to the extent that they are consistent with the approved Concept Plan. The provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan.

The Regulations also requires that a Consent Authority must not grant consent under Part 4 of the Act for the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan. [Schedule 2, clause 3B).

Subdivision of Site

The site was created by DA0287/2018 approved by the Panel in January 2020. This DA also included relevant roads infrastructure and drainage. **Figure 4.3** below details approved subdivision plan with proposed site highlighted. The subject proposal is the first development within the B2, C2 precinct.

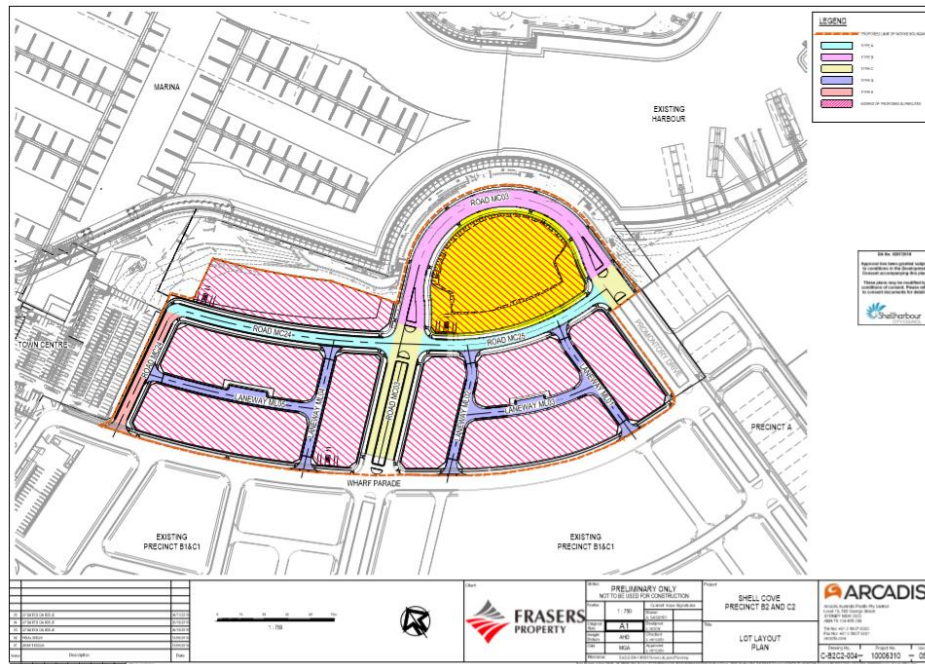


Figure 4.3 – DA0287/2018 – Approved subdivision plan (proposed site highlighted).

Lot 9009 DP1254656 (formally known as Lot 1091 DP 1254727) was registered after lodgement of DA0501/2019 and is shown on **figure 4.4** below.



Figure 4.4 - location map detailing lot 9009.