

7 January 2019

16075

Matthew Todd-Jones  
Team Leader  
Independent Planning Commission  
Level 3, 201 Elizabeth Street  
Sydney NSW 2000

Dear Matthew,

## **Shell Cove Section 75W Concept Plan MP 07\_0027 (Mod 1) Removal of Acoustic Mounds and Draft Condition B1**

This letter has been prepared by Ethos Urban on behalf of Frasers Property Australia (Frasers). Frasers is generally supportive of the Department's assessment report and draft conditions in relation to the Shell Cove Boat Harbour Precinct Concept Plan Modification. The purpose of this letter is to request the Independent Planning Commission (IPC) reconsider Department's draft Condition B1 which requires a 5 metre landscape buffer within the Boat Maintenance Facility (BMF) site.

### **Concept Plan**

The Concept Plan for the Shell Cove Boat Harbour Precinct (the Boat Harbour Precinct) was approved under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act) in February 2011. The Concept Plan development consists of residential, commercial and community development that includes retail, hotel accommodation, a business park, dry boat storage facilities, open space and wetlands.

Condition No. 3 provided a set requirement for an acoustic mound between the dry boat storage and adjoining areas. Specifically, this condition stated:

*A detailed Noise Management Assessment identifying:*

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

Acoustic modelling determined that the provision of mounding and landscaping to provide an acoustic buffer would have a width of approximately 40 metres and would result in the potential loss of a minimum of 20 residential land lots. The impact of this requirement would effectively prohibit Precinct A being developed in accordance with the Concept Approval.

Accordingly, Concept Plan Mod 1 sought to remove the requirement for a landscape mound for the dry boat storage and marina activities.

### **DPE Assessment and Draft Condition**

The DPE in their assessment has recommended the following draft condition of consent:

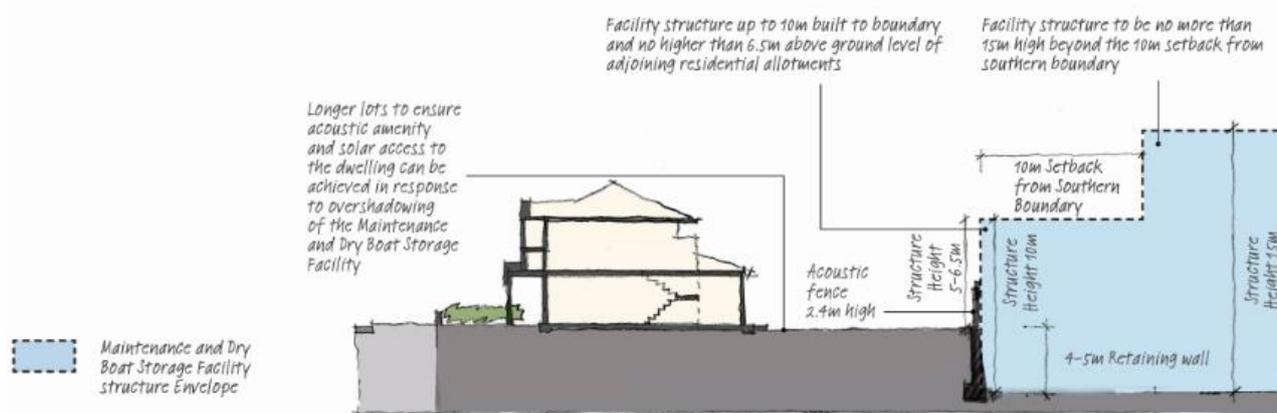
*B1. a landscape buffer, with a minimum width of 5m, is to be provided between the marina / commercial land use and the residential properties to the south. The landscape buffer is to be:  
(a) provided on land associated with the marina / commercial land use and be located south of the acoustic wall;*

- (b) must include appropriate planting to screen the acoustic wall from the residential properties to the south; and
- (c) must have the same ground level as the residential properties to the south.

The Department’s Assessment Report explains that the intent of this condition is to minimise the overshadowing and visual impact of the acoustic wall on the adjoining residential properties.

### Precinct A Urban Design Guidelines

As part of the development of the controls for Precinct A the Urban Design Guidelines required an acoustic wall and landscape setback to the BMF. A typical cross section between the BMF and the residential dwellings to the south is shown in **Figure 1**.



**Figure 1 Indicative Residential and BMF Built Form (refer Attachment 2 for larger version)**

Source: Frasers

Additionally, please refer to Attachment 1 for a more detailed analysis of the level differential between the BMF and residential land lots proposed to the south.

### DA0619/2017 – Precinct A Subdivision

On the 17<sup>th</sup> December 2018, the Southern JRPP considered the subdivision of Precinct A (DA0619/2017). This DA encompassed the Torrens title subdivision of land in Precinct A, comprising 58 residential lots, six (6) super lots, one (1) lot for future boat maintenance facility, one (1) public reserve and three (3) residue lots. This development application was approved, subject to the imposition of the following conditions:

- That a 10m setback to the built form behind the boat maintenance facility be included in the 88B Instrument;
- That the 2.4m high acoustic wall be treated with public art to the satisfaction of Council's public art manager to mitigate visual impact of the wall into the public domain; and
- Appropriate landscaping of public domain to mitigate the visual impact of acoustic walls is designed and approved by council.

### Recommendation

We are of the opinion that that the inclusion of a 5 metre landscape buffer, within the BMF land but level with the residential land, is likely to result in confusion over the ownership and future maintenance of the landscape buffer. The landscaped zone is therefore much better located within a residential lot in order that the home owner can maintain the landscape buffer and effectively utilise the open space as part of their lot.

In light of this we would recommend that the IPC make the following amendments to Condition B1 consistent with the position adopted by Council and the Southern Joint Regional Planning Panel (Southern JRPP) as part of DA0619/2017:

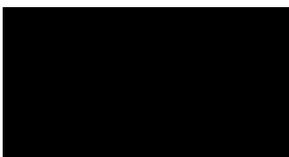
*a landscape buffer, with a minimum width of 5m, is to be provided between the marina / commercial land use and the residential properties to the south. The landscape buffer is to be:*

- (a) provided on land associated with the ~~marina / commercial land use~~ **residential land uses** and be located south of the acoustic wall;*
- (b) must include appropriate planting to screen the acoustic wall from the residential properties to the south; ~~and~~*
- (c) must have the same ground level as the residential properties ~~to the south;~~*
- (d) be included in the section 88B instrument as a restriction on built form within 5m of the acoustic wall; and***
- (e) be included in the section 88B instrument in the form of a positive covenant, requiring the maintenance of the vegetation specified in (b) above.***

In summary the alternative wording is a better planning outcome as:

- It provides for the same or better outcome in a manner that will ensure clarity in the ownership of the landscaped buffer;
- Will remove a design outcome in which the 5 metre landscape buffer is fenced in along both the northern and southern boundaries;
- Ensures that the landscape buffer is appropriately maintained by the residential property owners, via an enforceable instrument;
- Provides a better controlled setback between the residential properties and the BMF by retaining the 5m buffer in residential restricted land rather than absorption of the buffer into the BMF land title;
- Provides consistency with the approval of DA0619/2017 by the Southern JRPP; and
- Is appropriate given the amenity impacts on the residential dwellings have been appropriately mitigated through the allotment shape and development controls and will provide the dwellings with additional amenity through the use of the additional open space.

Yours sincerely,



**Michael Rowe**  
Director



## Attachment 1

### SITE SECTION SUMMARY / IMPACT OF BOAT MAINTENANCE FACILITY

The following information is shown within the below summary:

- Current Roof RL for the Southern Boundary of the Boat Maintenance Facility is RL13
- Current Roof RL for the Western Boundary of the Boat Maintenance Facility is RL18
- Height of retaining walls along the perimeter of Boat Maintenance Facility
- Height of retaining walls along the perimeter of Boat Ramp Car Park
- Height of Boat Maintenance Facility roof above surface level of each lot



#### Southern boundary of Boat Maintenance Facility

##### Section 8

##### **Lot 1045 / 1046 & Boat Maintenance Facility**

Surface level of Lot 1045 / 1046: RL 6.94 & design surface level for BMF: RL 2.94

- Retaining wall height = 4.00m
- RL of BMF roof adjoining boundary = RL 13
- BMF roof above ground level of Lot 1045 / 1046 = 6.06m (less than a 2 storey home)

##### Section 9

##### **Lot 1042 & BMF**

Surface level of Lot 1042: RL 7.57 & design surface level for BMF: RL 2.84

- Retaining wall height = 4.74m
- RL of BMF roof adjoining boundary = RL 13
- BMF roof above ground level of Lot 1042 = 5.43m (less than a 2 storey home)

## **Section 10**

### **Lot 1039 & BMF**

Surface level of Lot 1039: RL 7.77 & design surface level for BMF: RL 2.95

- Retaining wall height = 4.82m
- RL of BMF roof adjoining boundary = RL 13
- BMF roof above ground level of Lot 1039 = 5.23m (less than a 2 storey home)

## Attachment 2

