



Variation of conditions attached to approval

Shute Harbour Marina, Shute Bay, Queensland (EPBC ref 2006/2939)

This decision to vary conditions of approval is made under section 143 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).


Approved action

approval holder	Shute Harbour Marina Development Pty Ltd ACN: 081 285 832
approved action	To develop and operate a marina facility with associated infrastructure, and an onshore development comprising tourism, commercial and residential elements at Shute Harbour, Qld [See EPBC Act referral 2006/2939].
period for which the approval has effect	This approval has effect until 2054

Variation

variation of conditions attached to approval	The variation is: Delete condition 17 and 29 and substitute with conditions 17 and 29 specified in the table below. Revoke condition 19(b).
date of effect	This variation has effect on the date this instrument is signed.

Person authorised to make decision

name and position	Brendan Linton-Smith, Acting Branch Head, Environment Assessments (Vic, Tas) and Post Approvals Branch
signature	
date of decision	24 January 2025

date of decision	conditions attached to approval
	Disturbance limits
<i>Original dated 9 January 2014</i>	1) To minimise impacts to the habitat of EPBC listed species, the approval holder must not disturb, destroy or remove more than: (a) 28.28 ha of marine, intertidal and terrestrial land within the area shown in Annexure A (the project site);

	<p>(b) 12.7 ha, or the amount identified in pre-construction surveys required under condition 17, whichever is larger, of seagrass; nor</p> <p>(c) 0.94 ha of terrestrial habitat for Proserpine Rock-wallaby (<i>Petrogale Persephone</i>), and the Northern Quoll (<i>Dasyurus hallucatus</i>).</p>
Proserpine Rock-wallaby	
<i>Original dated 9 January 2014</i>	<p>2) To ensure the protection of the Proserpine Rock-wallaby, the approval holder must ensure that construction-related traffic does not travel along Shute Harbour Road between Airlie Beach and Shute Harbour between sunset and sunrise.</p>
Fauna relocation	
<i>Original dated 9 January 2014</i>	<p>3) To ensure the protection of EPBC listed species, the approval holder must not undertake disturbance of vegetation, excavation or reclamation within the project site while EPBC listed species are within the area to be disturbed, excavated or reclaimed. The approval holder must ensure that EPBC listed species are relocated from the Shute Harbour Marina site to nearby suitable habitat at least 500 metres away from the disturbance area. The relocation process must include but not be limited to:</p> <p>(a) completion of a reconnaissance survey for EPBC listed species prior to construction in any area of the site; and</p> <p>(b) engaging a suitably qualified expert to complete the relocation process.</p>
Receiving Environment Monitoring Program	
<i>Original dated 9 January 2014</i>	<p>4) To ensure the protection of Matters of National Environmental Significance (MNES), the approval holder must develop and implement a Receiving Environment Monitoring Program (REMP) to identify, describe, monitor and respond to any adverse impacts to:</p> <p>(a) surface water quality;</p> <p>(b) water flows;</p> <p>(c) aquatic flora and fauna; and</p> <p>(d) any receiving waters.</p>
<i>Original dated 9 January 2014</i>	<p>5) The REMP must include periodic monitoring for the effects of any release on the receiving environment as a result of contaminant releases to waters from the site.</p>
<i>Original dated 9 January 2014</i>	<p>6) The REMP must:</p> <p>(a) assess the condition or state of receiving waters spatially within Shute Bay (the REMP area), considering background water quality characteristics based on accurate and reliable monitoring</p>

-
- data that takes into consideration temporal variation (e.g. seasonality);
- (b) establish parameters to be monitored including but not limited to turbidity and Total Suspended Solids (TSS), nutrients, metals and metalloids and justify:
 - (i) the parameters chosen, and
 - (ii) assumptions and choices made in preparation of the REMP.
 - (c) be designed to facilitate assessment against water quality objectives for the relevant environmental values that need to be protected;
 - (d) detail monitoring locations and water quality indicators pertinent to the sensitive receptor types and locations that have been designed to:
 - (i) determine the baseline condition of water quality and sensitive receptors (i.e., corals and seagrass meadows) within the zone of influence to a sufficient resolution to be capable of reliably detecting lethal and sublethal (stress) impacts,
 - (ii) develop or adopt locally-relevant trigger values for key water quality indicators including turbidity, and
 - (iii) provide on-line real-time monitoring capability for key sediment plume-related indicators (including but not limited to turbidity, pH, EC).
 - (e) specify the frequency and timing of sampling required in order to reliably assess ambient conditions and to provide sufficient data to derive site specific background reference values in accordance with the Environmental Protection (Water) Policy 2009 (Proserpine River, Whitsunday Island and O'Connell River Basins Environmental Values and Water Quality Objectives) (DEHP 2013);
 - (f) include monitoring of metals/metalloids in sediments (in accordance with **ANZECC & ARMCANZ 2000** and/or the most recent version of Australian Standard 5667.1);
 - (g) apply procedures and/or guidelines from **ANZECC and ARMCANZ 2000** and other relevant guideline documents;
 - (h) describe sampling and analysis methods and quality assurance and control; and
 - (i) justify all assumptions and choices made in preparation of the REMP.
-

	7) The REMP must be approved by the Minister in writing prior to its implementation.
	8) The REMP must be implemented for a minimum of 12 months prior to commencement of construction and must not cease prior to expiry of this approval.
	9) A report outlining the findings of the REMP, including all monitoring results and interpretations must be prepared annually and made publicly available on the approval holder's website. All annual reports must remain publicly available for the duration of the approval. The first report must be published prior to the commencement of construction , and all future reports must be published on the anniversary of the commencement of construction . Each report must include, but not be limited to, an assessment of measured water quality in the REMP area compared against the water quality objectives outlined and/or established in the REMP at condition 6(c).
Water quality	
<i>Original dated 9 January 2014</i>	<p>10) After at least twelve months of implementation of the REMP, as required under Conditions 4-9, the approval holder must set discharge criteria for relevant parameters, against which future discharges from Shute Harbour Marina to Shute Bay must be monitored. The discharge criteria must:</p> <ul style="list-style-type: none"> (a) be developed with reference to Queensland Water Quality Guidelines Environmental Protection (Water) Policy 2009 (Proserpine River, Whitsunday Island and O'Connell River Basins Environmental Values and Water Quality Objectives) (DEHP 2013); (b) not be inconsistent with discharge criteria developed or approved under state or local government approvals; and (c) be approved by the Minister in writing prior to commencement of construction.
<i>Original dated 9 January 2014</i>	11) To ensure the protection of MNES , the approval holder must not discharge, irrigate or otherwise release potable water, wastewater, stormwater, harvested water, bilge water or sewage effluent into Shute Bay unless the discharge complies with discharge criteria defined for the site and approved by the Minister as required under condition 10.
<i>Original dated 9 January 2014</i>	12) The approval holder must construct the marina to ensure at least 85% flushing of water within the marina basin within a 24 hour period at neap tide . Actual flushing rates within the marina basin must be measured prior to commercial occupation of the marina to demonstrate compliance with this condition. Results confirming marina flushing requirements have been met must be published in the next due annual report as required under condition 25.

Site Environmental Management	
<i>Original dated 9 January 2014</i>	13) The approval holder must appoint a suitably qualified environmental professional to be onsite during all construction activities to ensure compliance with the conditions of approval. A monthly audit adequate to demonstrate levels of compliance with the conditions of approval must be completed and certified by the environmental professional and published on the approval holder's website within 10 business days of the end of each calendar month and must remain there for at least 12 months.
Financial assurance	
<i>Original dated 9 January 2014</i>	14) To ensure the protection of MNES , the Minister may require a bond , to meet the cost(s) of ensuring that discharges from Shute Harbour Marina Resort meet discharge criteria pursuant to condition 10 in the event the approval holder is unable to provide ongoing management of Shute Harbour Marina. The approval holder must provide adequate justification for the scope of works required and costs associated to meet the objective of this condition. The form of the bond and its financial value must be approved by the Minister in writing within six weeks of the Minister requesting a bond.
Educational material	
<i>Original dated 9 January 2014</i>	15) To ensure the protection of MNES , the approval holder must install signage at a minimum of five locations within the Shute Harbour Marina, informing marina users that the surrounding area includes the Great Barrier Reef World Heritage Area (GBRWHA) and habitat for EPBC listed threatened and migratory species, and providing advice about how to minimise impacts on MNES from boating activities (including boat strike), vehicle travel between Shute Harbour Marina and Airlie Beach, fishing and pets. Each sign must be installed in a high traffic area of Shute Harbour Marina prior to commercial occupation of the marina and be not less than 1.5 square metres in size.
<i>Original dated 9 January 2014</i>	16) To ensure the protection of MNES , the approval holder must provide educational material to marina users and staff about the values of MNES in the vicinity of Shute Harbour Marina. Educational material must include, but is not limited to, advice about how to minimise impacts on MNES from boating activities (including boat strike), vehicle travel between Shute Harbour Marina and Airlie Beach, fishing, pets and other recreational activities. Educational material must be provided to marina users and staff upon commencement of accommodation or commencement of employment, and must be made available to all visitors to Shute Harbour Marina.
Seagrass monitoring	

*As varied on the date
this instrument was
signed*

- 17) To ensure the protection of **Marine Turtles** and Dugongs (*Dugong dugon*), **the approval holder** must undertake seagrass surveys within the project site and within 500 metres of the project site to identify the total area and density of seagrass in this area in the month of November and not more than 36 months prior to **commencement of construction**. **The approval holder** must report the results of the seagrass to the **Department** and include statements of the measured extent of seagrass within the project area (in ha) and the area of substrate capable of supporting seagrass within the project area (in ha). The results of seagrass surveys must be provided to the **Department** prior to the **Minister** approving the offsets plan required under condition 19.

*Original dated 9
January 2014*

- 18) To ensure the protection of **Marine Turtles** and Dugongs, **the approval holder** must undertake seagrass monitoring of the area within 500 metres of the project site annually from the commencement of construction until 5 years after **construction is completed**. After this period, monitoring must be undertaken not less than once every 10 years. Monitoring effort must be sufficient to detect changes in area and density of seagrass within 500 metres of Shute Harbour Marina including but not be limited to undertaking seagrass surveys in the month of November. Reference sites must be identified and monitored concurrently. Results of each monitoring event must be reviewed by an **independent expert** prior to publication and must be published on **the approval holder's** website within three months of each monitoring event, and must remain available for the duration of the approval. The approval holder must develop contingency and/or offset measures which must be approved by the **Minister** in writing prior to **commencement of construction**, and must implement these measures within 12 months of an observed decline or degradation of seagrass that may be attributable to the construction and/or operation of Shute Harbour Marina.

Environmental offsets

*As varied on the date
this instrument was
signed*

- 19) **The approval holder** must prepare an offset plan to address significant residual impacts to **MNES**. Impacts to **MNES** that must be offset include:
- (a) The loss of 17.1 ha of seagrass and potential seagrass habitat, or an area otherwise agreed to in writing by the **Minister** following reporting required under condition 17;
 - (b) Revoked
 - (c) road-strike injury and mortality of the Proserpine Rock-wallaby;
 - (d) boat strike injury and mortality of **EPBC listed marine species**; and
 - (e) additional impacts to the outstanding universal value of the Great Barrier Reef World Heritage Area (GBRWA) arising from

	the construction and operation of the Shute Harbour Marina including, but not limited to, water quality impacts, visual amenity impacts and impacts to habitats within the GBRWHA.
<i>Original dated 9 January 2014</i>	<p>20) The offset plan must include, but is not necessarily limited to:</p> <ul style="list-style-type: none"> (a) a detailed description of all affected values and the extent and likely timing of the impact/s on each; (b) detailed descriptions of how enhanced conservation outcomes for the affected MNES will be achieved in accordance with the EPBC Act Environmental Offsets Policy 2012, or as otherwise approved in writing by the Minister; (c) detailed costings for the measures that will be implemented to achieve these outcomes; (d) timeframes and key milestones for implementation of offsets including, but not limited to, beginning to implement the offset plan prior to commencement of construction; (e) discussion of the risks and uncertainties associated with proposed offsets; (f) mechanisms for monitoring and reporting of offset milestones and outcomes, including timing and frequency of monitoring and reporting; (g) legally binding mechanisms to ensure that offsets are maintained, protected and managed for the duration of the impacts; (h) provisions and measures to ensure that actions taken to conserve, manage and protect MNES have no detrimental impact on the habitat and populations of other EPBC Act listed threatened species and ecological communities or migratory species that are identified as occurring at the offset site; (i) corrective actions and contingency measures to be implemented (including the timing of implementation of these) where monitoring of the offset area/s under the offset plan shows that offset strategies are not effectively achieving a net benefit or key milestones are not being or are unlikely to be met; (j) corrective actions and contingency measures to be implemented (including the timing of implementation of these) where monitoring of seagrass within 500m of the project site as required under condition 18 shows that seagrass beyond the marina boundary may have been impacted by the construction and/or operation of Shute Harbour Marina; (k) the offset delivery mechanism(s) comprising one or more of: land-based offsets; direct benefit management plans; and/or offset payments; and

	(l) include textual descriptions and maps clearly defining the locations and boundaries of offset areas. These must be accompanied by a GIS Shapefile .
<i>Original dated 9 January 2014</i>	21) The offset plan must be developed in consultation with the Department , Great Barrier Reef Marine Park Authority and other relevant stakeholders.
<i>Original dated 9 January 2014</i>	22) The approval holder must give consideration to how offset funds will contribute to programs or incentives that align with the broader strategies and programs for the conservation and protection of the Great Barrier Reef including, but not limited to, Reef Trust 2050 .
<i>Original dated 9 January 2014</i>	23) The proposed offset plan must be approved by the Minister prior to commencement of construction.
<i>Original dated 9 January 2014</i>	24) The offset plan must be implemented prior to commencement of construction , or as otherwise directed in writing by the Minister .
General conditions	
<i>Original dated 9 January 2014</i>	25) The approval holder must publish a compliance report on their website annually, starting within one year of approval. The report must describe how the approval holder has implemented the conditions, or programs and plans required under conditions, including the outcomes of implementation of conditions/programs/plans and any nonconformances with and/or breaches of conditions. Reports must remain available on the approval holder's website for the duration of the approval. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the Department at the same time as the compliance report is published.
<i>Original dated 9 January 2014</i>	26) Upon the direction of the Minister , the approval holder must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister . The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister .
<i>Original dated 9 January 2014</i>	27) If the approval holder wishes to carry out any activity otherwise than in accordance with the program or plans as specified in the conditions, the approval holder must submit to the department for the Minister's written approval a revised version of that program or plan. The varied activity shall not commence until the Minister has approved the varied program or plan in writing. The Minister will not approve a varied program or plan unless the revised program or plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised program or

	plan, that program or plan must be implemented in place of the program or plan originally approved.
<i>Original dated 9 January 2014</i>	28) If the Minister believes that it is necessary or convenient for the better protection of World Heritage Properties, Listed Threatened Species and Communities, Listed Migratory Species or the Commonwealth Marine Environment to do so, the Minister may request that the approval holder make specified revisions to the program or plans specified in the conditions and submit the revised program or plans for the Minister's written approval. The approval holder must comply with any such request. The revised approved program or plans must be implemented. Unless the Minister has approved the revised program or plan, then the approval holder must continue to implement the program or plan originally approved, as specified in the conditions.
<i>As varied on the date this instrument was signed</i>	29) If, at any time after 15 years from the date of this approval, the approval holder has not commenced the action, then the approval holder must not commence the action without the written agreement of the Minister .
<i>Original dated 9 January 2014</i>	30) Unless otherwise agreed to in writing by the Minister , the approval holder must publish all programs or plans referred to in these conditions of approval on their website. Each program or plan must be published on the website within 1 month of being approved.
<i>Original dated 9 January 2014</i>	31) The Minister may determine that a program or plan approved by the Queensland Government satisfies a program or plan required under these conditions.
date of decision	definitions attached to the approval
<i>Original dated 9 January 2014</i>	Adverse impacts: means a negative effect that goes against desired environmental conditions.
<i>Original dated 9 January 2014</i>	ANZECC & ARMCANZ 2000: The Australian and New Zealand Guidelines for fresh and marine water quality, Volume 1, The guidelines/Australian and New Zealand Environment and Conservation Council, Agriculture and Resource Management Council of Australia and New Zealand (October 2000).
<i>Original dated 9 January 2014</i>	Bond: means a bond, financial guarantee or similar arrangement, as approved by the Minister in writing
<i>Original dated 9 January 2014</i>	Commence/Commenced/Commence Construction/Commencement of Construction: means commencement of site preparation and clearing of vegetation, seismic and/or bathymetric surveying; earthworks, civil works, associated infrastructure (such as workshop, administration facilities, and amenities facilities) and marine works. Construction does not include: (a) minor physical disturbance necessary to establish monitoring programs; or

	(b) activities that are critical to project activities that are associated with mobilisation of plant and equipment, materials, machinery and personnel prior to the start of development or construction only if such activities will have no adverse impact on MNES .
<i>Original dated 9 January 2014</i>	Construction is completed: means construction of buildings for the Shute Harbour Marina is completed.
<i>Original dated 9 January 2014</i>	Commercial occupation of the marina: means any time that one or more marina berths is owned or occupied by a third party.
<i>Original dated 9 January 2014</i>	Construction activities: means all activities undertaken from commencement of construction until construction is completed.
<i>Original dated 9 January 2014</i>	Contaminant releases: means releases of any substance that may have adverse impacts to the receiving environment.
<i>Original dated 9 January 2014</i>	Department: means the Australian Government Department administering the Environment Protection and Biodiversity Conservation Act 1999.
<i>Original dated 9 January 2014</i>	Environmental professional: means a person suitably trained, qualified and experienced to oversee construction of the Shute Harbour Marina and identify non-compliance with these conditions of approval.
<i>Original dated 9 January 2014</i>	EPBC listed marine species: means the following species: <ul style="list-style-type: none"> • Loggerhead turtle (<i>Caretta caretta</i>); • Pacific Ridley turtle (<i>Lepidochelys olivacea</i>); • Green turtle (<i>Chelonia mydas</i>); • Leatherback turtle (<i>Dermochelys coriacea</i>); • Hawksbill turtle (<i>Eretmochelys imbricata</i>); • Flatback turtle (<i>Natator depressus</i>); • Humpback whale (<i>Megaptera novaeangliae</i>); • Dugong (<i>Dugong dugon</i>); • Irrawaddy dolphin (<i>Orcaella brevirostris</i>); • Indo-Pacific humpback dolphin (<i>Sousa chinensis</i>); • Saltwater crocodile (<i>Crocodylus porosus</i>); • Green Sawfish (<i>Pristis zijsron</i>); • Whale Shark (<i>Rhincodon typus</i>); and • Porbeagle Shark (<i>Lamna nasus</i>).
<i>Original dated 9 January 2014</i>	EPBC listed species: means the following species: <ul style="list-style-type: none"> • Proserpine Rock-wallaby (<i>Petrogale Persephone</i>); • Northern Quoll (<i>Dasyurus hallucatus</i>); • Spectacled Flying-fox (<i>Pteropus conspicillatus</i>); • Water Mouse (<i>Xeromys myoides</i>); • Bare-rumped Sheathtail Bat (<i>Saccolaimus saccolaimus nudicluniatus</i>); • Greater Large-eared Horseshoe Bat (<i>Rhinolophus philippinensis</i>); • Ornamental Snake (<i>Denisonia maculate</i>); • Yakka skink (<i>Egernia rugosa</i>); • Australian painted snipe (<i>Rostratula australis</i>); • Masked owl (northern) (<i>Tyto novaehollandiae kimberli</i>); • Red goshawk (<i>Erythrorchis radiates</i>);

	<ul style="list-style-type: none"> • Squatter pigeon (<i>Geophaps scripta scripta</i>); • Loggerhead turtle (<i>Caretta caretta</i>); • Pacific Ridley turtle (<i>Lepidochelys olivacea</i>); • Green turtle (<i>Chelonia mydas</i>); • Leatherback turtle (<i>Dermochelys coriacea</i>); • Hawksbill turtle (<i>Eretmochelys imbricata</i>); • Flatback turtle (<i>Natator depressus</i>); • Humpback whale (<i>Megaptera novaeangliae</i>); • Blue whale (<i>Balaenoptera musculus</i>); • Dugong (<i>Dugong dugon</i>); • Irrawaddy dolphin (<i>Orcaella brevirostris</i>); • Indo-Pacific humpback dolphin (<i>Sousa chinensis</i>); • Saltwater crocodile (<i>Crocodylus porosus</i>); • Green Sawfish (<i>Pristis zijsron</i>); • Whale Shark (<i>Rhincodon typus</i>); and • Porbeagle Shark (<i>Lamna nasus</i>).
Original dated 9 January 2014	GIS Shapefile: means an ESRI Shapefile containing '.shp', '.shx' and '.dbf' files and other files capturing attributes of the Offset Area, including the shape, EPBC reference ID number and EPBC protected matters present at the relevant site. Attributes should also be captured in '.xis' format.
Original dated 9 January 2014	Independent expert: means a recognised expert in the relevant field, with demonstrated and documented qualifications and experience in relation to the matter for which they are appointed. The expert must not have been involved in the assessment of Shute Harbour Marina and must have no financial interest in the project.
Original dated 9 January 2014	Marine turtles: means the following species: <ul style="list-style-type: none"> • Loggerhead turtle (<i>Caretta caretta</i>); • Pacific Ridley turtle (<i>Lepidochelys olivacea</i>); • Green turtle (<i>Chelonia mydas</i>); • Leatherback turtle (<i>Dermochelys coriacea</i>); • Hawksbill turtle (<i>Eretmochelys imbricata</i>); and • Flatback turtle (<i>Natator depressus</i>).
Original dated 9 January 2014	Minister: means the Commonwealth Minister with administrative responsibility for the Environment Protection and Biodiversity Conservation Act 1999 and includes a delegate of the Minister.
Original dated 9 January 2014	Matters of national Environmental Significance/MNES: means the following: <ul style="list-style-type: none"> • The Great Barrier Reef World Heritage Area; • Proserpine Rock-wallaby (<i>Petrogale persephone</i>); • Northern Quoll (<i>Dasyurus hallucatus</i>); • Spectacled Flying-fox (<i>Pteropus conspicillatus</i>); • Water Mouse (<i>Xeromys myoides</i>); • Bare-rumped Sheath-tail Bat (<i>Saccolaimus saccolaimus nudiclunatus</i>); • Greater Large-eared Horseshoe Bat (<i>Rhinolophus philippinensis</i>); • Ornamental Snake (<i>Denisonia maculata</i>); • Yakka skink (<i>Egernia rugosa</i>); • Australian painted snipe (<i>Rostratula australis</i>); • Masked owl (northern) (<i>Tyto novaehollandiae kimberli</i>); • Red goshawk (<i>Erythrotriorchis radiates</i>); • Squatter pigeon (<i>Geophaps scripta scripta</i>); • Loggerhead turtle (<i>Caretta caretta</i>);

Original
dated 9
January
2014

