

1 October 2013

The Director General
NSW Department of Planning & Infrastructure
GPO Box 39
SYDNEY NSW 2001

Dear Mr Haddad,

Section 75W Modification Application – Addition of Helipad

*Trinity Point Marina & Mixed Use Development Concept Approval (MP 06_0309)
Lot 31 DP 1117408, Pt Lot 32 DP 1117408, Pt Lot 33 DP 1117408, and Pt Crown Land (the Lake)*

1. INTRODUCTION

This Section 75W modification application seeks to modify Concept Approval (MP 06_0309) which was granted by the former NSW Minister for Planning on 5 September 2009. The Trinity Point marina and mixed use development concept approval includes the following:

- A 188 berth marina (to be constructed in 2 stages), associated maintenance and club facilities;
- 150 accommodation units comprised of 75 tourist units and 75 residential units;
- Restaurant, café, function centre, shops and office; and
- Parking, landscaping and boardwalk.

The proposed modification to the Concept Approval is:

- the addition of a helipad off the marina, and
- the insertion of appropriate conditions that outline the how the helipad is to be assessed for future Part 4 Approvals.

A helipad formed part of the original Part 3A Concept Plan approval and was assessed within the Environmental Assessment Report. However, the helipad was removed from the proposal prior to the issue of the Preferred Project Report.

The proposed modification is now essential to facilitate the development of the concept plan approval and is addressed in detail in Section 3 of this Section 75W modification application.

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2. ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

On 1 October 2011, Part 3A of the EP&A Act 1979 was repealed by the *Environmental Planning & Assessment (Part 3A Repeal) Act 2011 No. 22*. Despite this, Part 3A continues to apply to the project based on the transitional provisions identified in Clause 2 and 3 of Schedule 6A of the EP&A Act 1979 as follows:

Schedule 6A

"2 Transitional Part 3A projects

- (1) *The following are, subject to this Schedule, **transitional Part 3A projects**:*
- (b) *a project that is the subject of an approved concept plan (whether approved before or after the repeal of Part 3A),*
 - (5) *A transitional Part 3A project extends to the project as varied by changes to the Part 3A project or concept plan application, to the concept plan approval or to the project approval, whether made before or after the repeal of Part 3A."*

Clause 3 of Schedule 6A of the EP&A Act 1979 states that the provisions of any State Environmental Planning Policy (SEPP) implemented under Part 3A continue to apply in respect of a transitional Part 3A project:

"3 Continuation of Part 3A—transitional Part 3A projects

- (1) *Part 3A of this Act (as in force immediately before the repeal of that Part and as modified under this Schedule after that repeal) continues to apply to and in respect of a transitional Part 3A project.*
- (2) *For that purpose:*
- (a) *any State environmental planning policy or other instrument made under or for the purposes of Part 3A, as in force on the repeal of that Part and as amended after that repeal, continues to apply to and in respect of a transitional Part 3A project,"*

Clause 3C of Schedule 6A of the EP&A Act 1979 confirms that Section 75W continues to apply for the purpose of the modification of an approved concept plan as follows:

"3C Modification of concept plans

- (1) *Section 75W continues to apply for the purpose of the modification of a concept plan approved before or after the repeal of Part 3A, whether or not the project or any stage of the project is or was a transitional Part 3A project.*
- (2) *This clause applies despite anything to the contrary in this Schedule (other than provisions to approval for the carrying out of a project or stage of a project that is given in connection with an approval to modify a concept plan)."*

Based on the above legislation, it is established that the proposed modifications to the approved concept plan can be assessed as a Section 75W application. Section 75W of the EP&A Act states:

"75W Modification of Minister's approval

- (1) *In this section:*
- Minister's approval** *means an approval to carry out a project under this Part, and includes an approval of a concept plan.*

modification of approval means changing the terms of a Minister's approval, including:

- (a) revoking or varying a condition of the approval or imposing an additional condition of the approval, and
- (b) changing the terms of any determination made by the Minister under Division 3 in connection with the approval.
- (2) The proponent may request the Minister to modify the Minister's approval for a project. The Minister's approval for a modification is not required if the project as modified will be consistent with the existing approval under this Part.
- (3) The request for the Minister's approval is to be lodged with the Director-General. The Director-General may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.
- (4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.
- (5) The proponent of a project to which section 75K applies who is dissatisfied with the determination of a request under this section with respect to the project (or with the failure of the Minister to determine the request within 40 days after it is made) may, within the time prescribed by the regulations, appeal to the Court. The Court may determine any such appeal.
- (6) Subsection (5) does not apply to a request to modify:
 - (a) an approval granted by or as directed by the Court on appeal, or
 - (b) a determination made by the Minister under Division 3 in connection with the approval of a concept plan.
- (7) This section does not limit the circumstances in which the Minister may modify a determination made by the Minister under Division 3 in connection with the approval of a concept plan."

No provisions of Section 75W prohibit or restrict the proposed modifications to the concept plan approval. It is considered that the proposed modifications remain consistent with this section of the EP&A Act 1979.

3. PROPOSED MODIFICATIONS & ENVIRONMENTAL ASSESSMENT

This Section 75W application seeks approval to add a helipad off the marina (as originally proposed) and to outline the acoustic assessment methodology to be used for future Part 4 Approvals.

3.1 Proposed Modification - Addition of a Helipad off the Marina

It has been identified by the Johnson Property Group (JPG) that the inclusion of a helipad at the Trinity Point development is essential to the success of the tourism aspect of the project. The helipad formed part of the original concept plan application but was later withdrawn by the Preferred Project Report. Notwithstanding, it is noted that this element of the application was subject to significant assessment and it is likely that compliance with the relevant noise criteria can be achieved.

Investors into the Trinity Point project have confirmed that there is strong demand for high quality tourist related facilities with a helipad and consequently Johnson Property Group believe that establishment of a helipad within the development.

It is noted that the development of the helipad will **Not** form a 'Designated Development' and a separate Part 4 Development Application will be required to be undertaken in due course prior to its establishment. However, amending the approved concept plan (MP 06_0309) to include a provision for the helipad is considered essential at this time to ensure that a future Development Application for a helipad will remain 'generally consistent' with the terms of approval of the concept plan, refer to condition A6 which states:

"A6 Determination of Future Applications

The development of future applications is to be generally consistent with the terms of approval of Concept Plan MP06_0309 as described in Part A and subject to the recommended modifications and conditions of approval set out in Parts B and C of Schedule 2".

This Section 75W application will confirm this arrangement. The Section 75W application will also seek approval for acoustic assessment criteria. Proposed acoustic assessment criteria is explained later on in this submission.

The details and location of the helipad primarily remain the same as was originally proposed in the concept plan application (prior to its removal before determination of the concept plan application). The details of the helipad include:

- 25m x 25m steel helicopter landing pontoon located to the east of the marina.
 - An access gangway to the helipad will extend directly from the breakwater walkway.
 - No night time movements (except emergency services).
 - No re-fuelling.
 - A maximum of 6 movements per week.
- It is noted that this represents a reduction to the helicopter movements that were proposed as part of the original application which included a maximum of 28 movements per week (14 flights).
- Provided in Attachment A is a plan showing the location of the proposed helipad.

The helipad is not intended to be tied into any particular stage of the marina. It is acknowledged that when proposed, appropriate connection to the marina and land will be required.

Environmental Assessment – Addition of Helipad off the Marina

It is noted that significant Environmental Assessment of the helipad was undertaken as part of the original Environmental Assessment Report for the concept project (prior to the helipad component of the concept plan being removed by the Preferred Project Report (PPR)). This information included:

- Helipad Design & Operation Report (prepared by Heli-Consultants Pty Ltd); and
- Assessment of Acoustic Impacts from Helicopter operations.

Helipad Design & Operation Report

In order to ensure that the helipad was designed in accordance with relevant standards and to determine the best location for the helipad for safe operations, 'Heli-Consultants Pty Ltd' were engaged to prepare a 'Location and Concept Design Report' for the proposed helipad. This document was submitted with the original EA Report.

Four locations were considered as part of the design process, and ultimately the location shown to contain the helipad (see Attachment A) was determined to be the most suitable location having regard to helicopter types, the presence of marine craft and people within the vicinity, final approach and take off area, ground effect area, landing and lift off area, flight paths and relevant design criteria.

The helipad will be constructed in accordance with the criteria in the report.

Acoustic Impacts from Helicopter Operations

The acoustic assessment that was prepared to accompany the original EA Report is currently being reviewed by an acoustic consultant. An updated acoustic assessment that considers the acoustic impacts from the helicopter operations is currently being worked on, based on the below acoustic assessment methodology and will be supplied as an addendum to this Section 75W application.

Preliminary advice suggests that compliance with relevant standards will likely be able to be achieved.

Following completion of the revised acoustic assessment, updated principles for inclusion in the concept plan for the operation of the helipad will be supplied as an addendum to this Section 75W application.

Acoustic Assessment Methodology

The acoustic consultant proposes to conduct an assessment of the environmental noise impact for the proposed helipad using the following methodology:-

Helicopter Flight

- The 24 hour equivalent continuous sound level of typical helicopter flight operations at nearby residential premises will be calculated based on:-
 - The design information contained in the report by Heli- Consultants Pty Ltd dated November 2007.
 - Information supplied by the applicant as to the number of flights per week the Helicopter Landing Site (HLS) will generate
 - The type of Helicopters considered likely to regularly use the HLS.
 - Noise emission information for Helicopters either obtained from manufacturers or if suitable ASEL information matching the proposed flight profiles cannot be obtained then the sound emission levels will be measured for the proposed flight profiles of the nominated helicopters.

The 24 hour equivalent continuous sound level will be calculated assuming that the noisiest helicopter from the selection likely to use the HLS makes all flights.

The 24 hour equivalent continuous sound level calculated will be compared to the Air Services Australia Criteria of 40dB(A) $L_{Aeq24hr}$ using a noise exposure contour overlaid on a map of the area.

If the calculated noise emission at nearby receivers are above the criteria of 40dB(A) $L_{Aeq24hr}$ then options of either restricting helicopter type, reducing flight numbers, or modification to flight paths or flight profiles will be examined in consultation with Heli-Consultants Pty Ltd.

Ground Operations

To make an assessment of the noise impact of ground operations the 15min equivalent continuous sound level emission at the closest and worst affected sensitive receivers will be calculated for each ground based noise source. Typical ground based sources include:-

- Helicopter start up, idle up, and shut down,
- General site noise including people and transport sources associated with the HLS operation.

The worst case 15 min equivalent continuous sound emissions from the site will be calculated assuming by a worst case operational scenario that would be typical for the operation. Worst case operational scenarios will be selected for day, evening, and night time operations. The predicted sound emissions at sensitive receivers from the HLS will be determined and compared with Target Noise Goals for the site that have been in accordance with Section 3 and Appendix B of the Industrial Noise Policy.

A typical 1min L_{A01} value will also be determined for noise emissions from ground based sources at the site and compared against sleep disturbance criteria determined having regard to the information available from NSW guideline documents.

Exceedance of acceptable emission levels will be identified and the use of appropriate engineering and management noise controls investigated in conjunction with the proponent.

All work will be carried out by experienced staff using the latest equipment in accordance with the relevant national and international standards.

Proposed Amendment to Concept Plan Approval (06 0309) Conditions to Facilitate Above Described Modification

The proposed amendment to the concept plan approval conditions are as follows (where whole conditions are stated, refer to the underlined section for suggested amendment):

- Part A Table to be updated to include 'helipad'.
- Conditions A1, A2, A3 to be updated to reference the s75W modification letter dated 1 October 2013 prepared by Johnson Property Group (and any subsequent documentation).
- Conditions A2 and A3 to be updated to reference plans 'Trinity Point Marina Ultimate Layout With Helipad' (130827-Ultimate Layout with Heli-SC-001) prepared by SMEC Australia.
- Additional conditions inserted describing the acoustic assessment methodology. Refer Acoustic Assessment Methodology.

4. LANDOWNER CONSENT

The proposed helipad will be located on the waterbody of Lake Macquarie. The Department of Lands is the landowner of the lake. They have reviewed this Section 75W modification and, as landowner, have consented to it being lodged.

5. CONCLUSION

The proposed modification under Section 75W of the EP&A Act 1979 include the addition of a helipad off the marina and to outline the acoustic assessment methodology to be used for future Part 4 Approvals.

It is considered that the proposed modification remain consistent with the original concept approval. The proposed concept approval amendments will not result in any adverse impacts on the surrounding environment (updated Acoustic Assessment pending) and it is considered that the Section 75W application can be supported.

The proposed modifications will result in the following:

- Align investor expectations for helipad as a critical component of overall project (through the concept approval of a helipad)

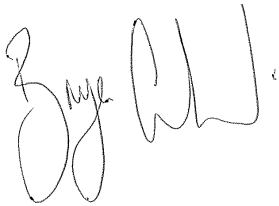
The proposed modifications will contribute to the realisation of the overall Trinity Point development which can be supported for a number of reasons including:

- The Trinity Point development represents the development of a world class recreational and tourism development on appropriately zoned land on the western side of Lake Macquarie.
- The development remains consistent with all current key town planning legislation and principles.

- The proposal will provide significant public access to the lake. The proposal will also provide opportunity for the public to not only enjoy the natural aspects of the lake, but also the features of the development itself (ie. patronage at the cafe overlooking the lake).
- All key constraints and sensitive environmental aspects of the site are well understood and any potential impacts can be managed with best practice environmental controls.
- The Trinity Point development will provide substantial initial and ongoing investment to the region, as well as construction employment opportunities and ongoing positions of employment in the future.

Should you wish to discuss the contents of this submission please do not hesitate to contact me on 0408 991 888 or email bryang@johnsonpropertygroup.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Bryan Garland', with a stylized flourish at the end.

Bryan Garland
Development Director
Johnson Property Group

Encl:

Appendix A – Plan showing location of proposed helipad

Appendix A

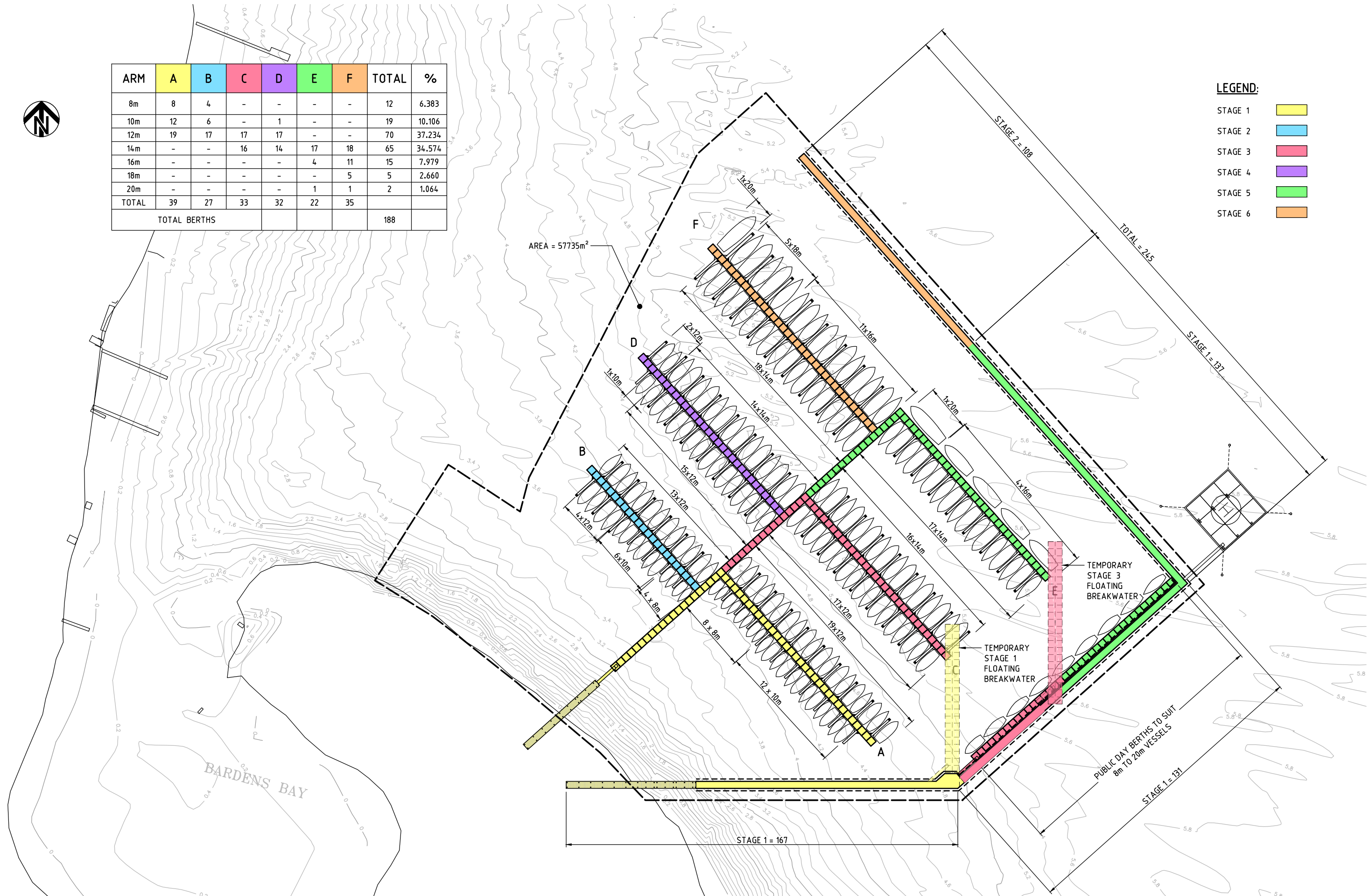
Plan Showing Location of Proposed Helipad



ARM	A	B	C	D	E	F	TOTAL	%
8m	8	4	-	-	-	-	12	6.383
10m	12	6	-	1	-	-	19	10.106
12m	19	17	17	17	-	-	70	37.234
14m	-	-	16	14	17	18	65	34.574
16m	-	-	-	-	4	11	15	7.979
18m	-	-	-	-	-	5	5	2.660
20m	-	-	-	-	1	1	2	1.064
TOTAL	39	27	33	32	22	35		
TOTAL BERTHS							188	

LEGEND:

- STAGE 1
- STAGE 2
- STAGE 3
- STAGE 4
- STAGE 5
- STAGE 6



NOT FOR CONSTRUCTION

SCALE 1:750

TRINITY POINT MARINA
ULTIMATE LAYOUT WITH HELIPAD

INFORMATION DOCUMENT
130902-ULTIMATE LAYOUT WITH HELI-SC-001