

5 August 2014



The Secretary  
NSW Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2001

Attention: Ms Nicola Chisolm

**Amendment Modification 2 (MOD 2)  
Relating to Trinity Point Marina & Mixed Use Development  
(MP 06\_0309)**

Dear Nicola,

**SUMMARY**

This correspondence provides an update to details requested to be assessed and determined as part of Modification 2 (Mod 2) to MP 06\_0309. It incorporates updates in marina concept details which have been concurrently progressing since Modification 2 was lodged ten months ago. Condition B1 was purposely applied to the concept approval to improve environmental performance, and the required review was undertaken and has been determined, such that it now forms part of the Concept Approval. That determination is acknowledged within this correspondence, as well as details of other modifications now sought.

Lodgement of a development application (including environmental impact statement) for the first 94 berths of the marina development (and associated land based components) is scheduled for early September. Final assessment and determination of that application will be reliant on determination of this modification application.

**1.0 BACKGROUND**

Since lodgement of Modification 2 to the Department of Planning in September 2013, Johnson Property Group (JPG) has been concurrently progressing with investigations and compliance with critical conditions of the Concept Plan approval, as part of further development of the marina concept and in preparation for lodgement of a development application for the first 94 berths (with accompanying environmental impact statement).

As a result, the concept marina design has continually been reviewed, improved and further developed, and does not now specifically reflect the concept layout that originally accompanied the Modification 2 request ten months ago (as was reported in the DOPE assessment report of June 2014).



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## 1.1 Compliance with Condition B1 of Concept Approval

Condition B1 required a review of the concept marina to improve its environmental performance, and to be accepted by the Director General of Department of Planning, as a precursor to lodgement of a development application.

By way of background, the basis for this condition was specifically identified in the Director General Department of Planning assessment report in 2009 which stated “*changes be made to the proposal that further mitigate the impact of the proposal on the lake and its environs and reduce the visual impact of the development*” and that “*support for the proposal is contingent on the marina being satisfactorily amended*” (p5). This position was also acknowledged in the Planning Assessment Commission review dated 27 August 2009. Condition B1 was therefore ‘in-built’ into the approval to guide a review and amendment to the concept layout. As such, the concept approval relates (in part) to a 188 berth marina as amended by Condition B1.

A summary of the Condition B1 review and resulting changes to the concept marina design was submitted to Department of Planning and Environment (DoPE) on 16 May 2014. This was accompanied by a technical report provided by coastal process and marine experts RHDHV. These submissions noted that the Condition B1 concept layout would still be further developed, tested and evaluated through the Part 4 development application process (including environmental impact assessment).

Correspondence from DoPE dated 9 July 2014 confirmed that the marina review and concept design is to the satisfaction of the Secretary (formerly Director General), providing compliance with Condition B1. As anticipated by the inclusion of Condition B1, and given that it was deemed to be satisfied, the concept approval now incorporates that amendment.

The key components that the Condition B1 review and concept design was found to specifically achieve Condition B1 satisfaction were:

- Change to a floating breakwater;
- Change in the general shape of the breakwater; and
- Reduction in extent to which concept marina footprint extends into Bardens Bay.

The combination of these three features was accepted to achieve improvements sought via Condition B1 to:

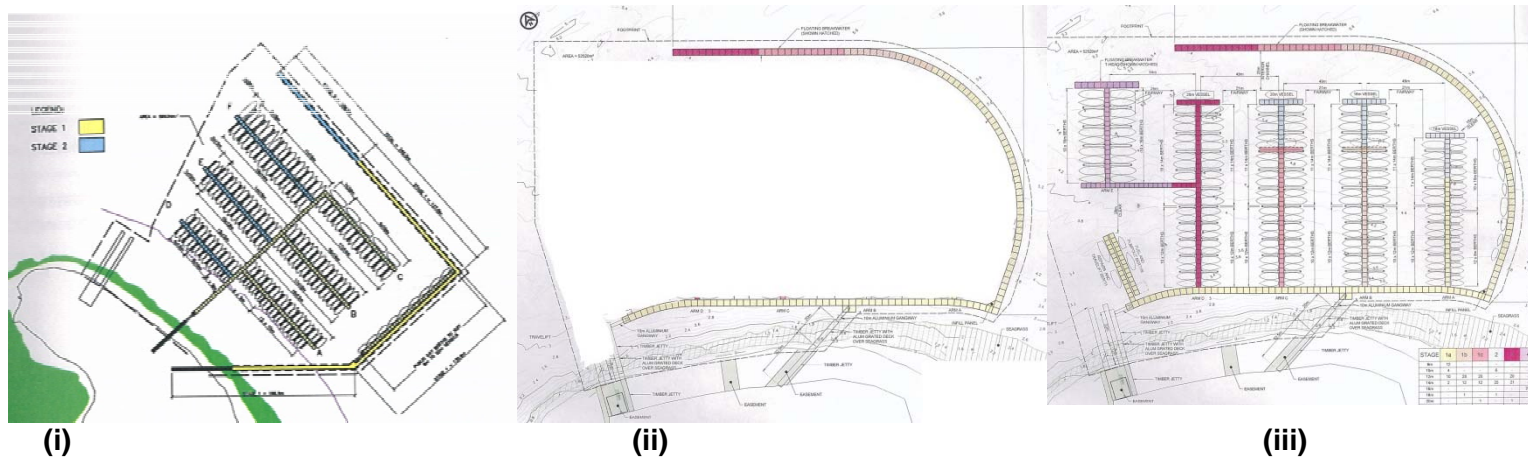
- Minimise changes to water flow in and around marina;
- Minimise change to flushing characteristics and water quality of Bardens Bay;
- Minimise wave bounce re: impacts to seagrass meadow;
- Ensure appropriate movement of seagrass wrack;
- Minimise visual impact; and
- Ensure adequate protection from southerly weather patterns.

The internal marina layout (and staging) was shown on the Condition B1 concept plan. In hindsight, these features may have been best excluded from the plan. The RHDHV technical report identified that they were largely included for indicative purposes only and

were not core matters for consideration under condition B1 nor critical in satisfying the tests of improving the performance of the marina included within condition B1. The RHDHV technical review stated that modification to the internal layout was anticipated during the further development of the concept during the development application process.

Figure 1 provides images of (i) the 188 berth concept marina layout was provided with Preferred Project Report with the concept approval, (ii) the modified 188 berth concept marina layout incorporated into the approval by virtue of Condition B1 (with internal layout and staging excluded) and (iii) the modified 188 berth concept marina layout included with Condition B1 documentation (showing indicative internal layout and staging). Figure 2 includes a comparison image comparing these.

**FIGURE 1 – CONCEPT MARINA LAYOUTS**



**(i) 188 berth concept marina layout not endorsed via concept approval**

**(ii) 188 berth concept marina layout endorsed through Condition B1 (excluding internal layout and staging)**

**(iii) 188 berth concept marina layout endorsed through Condition B1 (showing indicative internal layout and staging)**

**FIGURE 2 – COMPARISON IMAGE BETWEEN (i), (ii) & (iii)**



## **1.2 Part 4 Development Application**

In May 2014, JPG requested **environmental assessment requirements** (EARs) for the preparation of an Environmental Impact Statement (EIS) for lodgement of a development application for the construction and operation of the first 94 berths in the marina and associated land based works (noting a desire for sub-staging being sought through Mod 2). The request included a concept marina layout arising from the concurrent condition B1 review (which at that time had not been submitted). The request highlighted modification 2, Condition B1 review and that further development of the layout was anticipated through the EIS/DA process. The EARs were provided on 16 June 2014.

An EIS is currently under preparation, and a specialist project team has been engaged to further test and develop the marina concept, internal marina layout and associated aspects of the project as approved under condition B1.

Significantly, a successful marina operator on Lake Macquarie has been engaged and is involved in the further development of the project (including layout, design and staging but also the construction and operational aspects of the marina), providing a practical and pragmatic perspective in shifting from a concept marina phase to a DA level phase with a focus on construction and operation of a marina.

Lodgement of the development application (DA) is anticipated for September 2014.

## **2.0 REASON FOR UPDATE TO MODIFICATION 2**

JPG had intended to document and justify the further development of the concept marina design via the EIS/DA process, which may or may not have triggered additional modifications to the Concept Approval. However, with the recent confluence in timing of:

- (I) the Condition B1 determination;
- (II) the further advancement of DA level marina layouts (and involvement of a successful marina operator in the project);
- (III) the consideration by the Planning Assessment Commission (PAC) of the historical modification 2 (without the benefit of any reference to above); and
- (IV) the desire of the DoPE, via modification 2, to physically allocate staging, sought via modification 2, on a concept layout plan

JPG have taken the decision to update Modification 2 to reflect the further development of the concept marina design. It is hoped that this decision will reduce confusion that has arisen from the concurrent processes and the refinement and detailed design process associated with the impending development application lodgement.

This correspondence provides an amendment to Modification 2 for assessment and determination.

For reference, attached are the following plans:

- Marina Concept Layout Stage 1a (LB011 Rev B) – 72 berths
- Marina Concept Layout Stages 1a&1b (LB021 Rev B) – 94 berths
- Marina Concept Layout Fully Developed (LB031 Rev B) – 188 berths

## **3.0 PROPOSED AMENDMENTS**

### **3.1 Condition B1 Concept**

The Concept Approval now incorporates the key changes made through satisfactory compliance with Condition B1 (refer Section 1.1 above).

- The Concept Marina Layout now included in this Modification 2 Update retains both the floating breakwater and the general shape of the floating breakwater consistent with Condition B1 determination; and
- The Concept Marina Layout included in this Modification 2 update proposes a minor change (15m) in the location of the floating breakwater footprint and its extent into Bardens Bay compared with Condition B1 determination, as illustrated in Figure 3 overpage (note the distances shown are to the proposed outer breakwater edge). The minor 15m change is associated with further development of the floating breakwater details and internal marina layout. It still represents a reduction in the footprint extending into the Bay from the original layout. The minor change has negligible implications on the parameters which guide Condition B1. Minimising distance into the Bay was identified in past DG assessments of the concept plan as a desired outcome to primarily minimise visual impact to properties to the north along Pillapai Road (based on the extent to which the marina extends into their view of the bay and



given that the dwellings are not elevated). The 15m change has limited impact to those properties.

**FIGURE 3 – COMPARISON OF EXTENSION INTO BARDENS BAY**



### 3.2 Land Based Works

Since the Modification 2 request ten months ago, the identification of land based works and their details associated with the first stage marina has also been concurrently progressing. As such the indicative 'stage 1' temporary on shore works for access, parking and buildings included in the original modification request have all now been abandoned. Details of permanent land based works will be documented and assessed through the first stage marina development application.

The Condition B1 review and determination was silent on all land based works and did not alter the concept approval relating to them.

- The Concept Approval includes a slipway, travel lift, vessel hardstand and minor repairs and maintenance facility as part of the marina. The approval included conditions to reduce the size of the travel lift on the basis of concern about potential noise impacts and its industrial nature. The DG Assessment Report (p70) also expressed concern about the activities that might be undertaken as part of that facility and required that future applications would need to fully demonstrate the type of activities to ensure minimal impact to surrounding residential development and the lake environs (as well as to the other tourism and residential land uses within the Concept Approval).

After seeking further input and advice, JPG have decided to exclude this aspect of the approval, not only from their first marina development application, but from the concept

approval altogether. Clients of the marina will be able to access minor and major repairs and maintenance from other facilities around the Lake and elsewhere. The Concept Marina Layout now included in this Modification 2 Update excludes all references to the slipway, travel lift and associated connections. This negates the need for the associated vessel hardstand and repair facilities on the land, including the first flush and washdown water collection and treatment systems that were to be included as well as the oily bilge pump out facility.

It is now proposed to utilise the site area that was to be vessel hardstand and repairs/maintenance as a marina carpark. This will facilitate the provision of an appropriately designed and constructed marina carpark with the first stage of the marina development. This carpark will be designed to meet flood planning levels, stormwater management and landscape requirements and will integrate with other land based marina building, works and operations and interface with the adjoining public reserve. Details will be documented and assessed through the first stage marina development application.

- The Concept Approval identifies a range of development parameters that must be complied with for buildings across the site. Project Architects, Squillace, have developed a concept for a marina building and ancillary components within the northern part of the site, in the area generally shown for marina buildings in the Concept Approval. The intent is for the building to be of good architectural quality with appropriate materials, colours and interfaces, whilst also meeting flood planning height controls. The building, and surrounds will include offices, chandlery, marina user facilities (ensuite (eg shower, toilet, vanity), laundry, marina lounge) as identified in the concept approval as well as public toilets, pathways, emergency spill shed and screened marina operations yard. Details will be documented and assessed through the first stage marina development application. It is intended that the proposed marina building will integrate into other land based components over time.

It is proposed that as part of that application, the buildings will be consistent with (lower) than 2 storey height parameter, consistent with 8m setback to north-eastern foreshore with public lands (with terrace and roof line with setback) and exceed the minimum 35m setback to the northern tip of the site. Whilst the buildings will generally be consistent with a 30m setback from the unnamed bay to the west (from the point identified within the Concept Approval being the edge of 6(1) zoned land), some minor components of the proposed marina building (corner of an enclosed emergency spill shed and small corner of the marina office) by Squillace are intended to sit slightly within the 30m setback by less than 2m (with roof line extending further into the setback). Notwithstanding this, the majority of the marina building and its facade is setback by 30m (or more). Whilst it is our view that minor encroachments into the setback could be deemed, on merits through the development application process, to still be generally consistent with the terms of the approval, it is proposed to remove that doubt through this modification. As such, it is proposed to seek provision for merits assessment of variations to the setback to the unnamed bay for marina buildings, or alternatively, to modify the numerical setback from 30m to 28m. It is noted that, in the absence of a Concept Approval, local planning controls would establish a minimum 6m setback from a council foreshore reserve.

### 3.3 Public Access

The Concept Approval identifies that public access is to be provided along the breakwater, that the breakwater is to be publicly accessible from the shore in a manner that does not restrict access along the foreshore and that public access across the travel lift (where it crosses the foreshore and during its operation) is to be safely managed. The Concept Approval also identifies the provision of public access around the eastern/north-eastern edge of development adjoining the foreshore.

The Condition B1 review and determination was silent on public access and did not alter the concept approval relating to it. It did introduce an additional floating arm parallel to the foreshore that connects to the walkways to the shore.

JPG remain committed to the provision of improvements to public access around and through parts of the site (it is considered important by JPG to the success of the project), noting that currently there is no formalised public access or facilities currently on, through or around the site and foreshore.

The involvement of an experienced marina operator and further development of the project to DA level involving that operator as well as project architects and landscape architects has instigated the need to have greater clarity around certain components of public access associated with the marina development. The operator has sought a balance between appropriate and reasonable public access and the need to achieve safety and security and to address management, insurance and operational concerns, particularly as it relates to the breakwater.

Based on the concept marina layout now included in this modification 2 update (and having regard to the concept approval relating to public access and the marina development specifically), public access is clarified as follows:

- With deletion of the slipway and boat travel lift, the requirement to manage public access across it is removed. The design of other connections across the 6(1) zoned land will provide for access across them as required by the Concept Approval (noting that a previous concept to potentially elevate one of the crossings is not being pursued). Discussions are progressing with Council, as owners and managers of the 6(1) zoned land, to locate and construct a public path along part of the north eastern foreshore. If agreed to, this will replace full public access within the corresponding part of the development site frontage as otherwise identified in the Concept Approval; and
- The connections from the foreshore to the water will be publicly accessible (whilst under marina management), as will the floating boardwalk (introduced via the Condition B1 review) that runs parallel to the foreshore. The arms and outer breakwater will be secured and not publicly accessible and will be under marina management.

Additionally, the Concept Approval incorporates provision for public day berthing for part of the inside edge of the breakwater and for occasional berthing of tourist boats on the outside eastern edge of the breakwater, over and above the 188 berths within the marina operation.



The involvement of an experienced marina operator and further development of the project to DA level involving that operator has instigated the need to have greater clarity around this casual berthing.

The operator has sought a balance between appropriate and reasonable casual berthing (over and above the 188 berths) accessible by the boating public who do not berth within the marina, and safety, security, management, insurance and operation requirements, particularly as it relates to the breakwater. They have no desire or intent of precluding the opportunity for tourist boats and the public to casually visit and berth at the breakwater and make arrangements with the dock master to access the land and the public, tourist and other facilities that will be available landside. However, they are equally concerned if these matters are not clarified, that they do not have control and management of the breakwater for which they are responsible for (and to manage instances where the casual berthing and access is not reasonable or abused).

With the redesign of the breakwater under Condition B1, as well as internal marina configuration and clarity to public pedestrian access through this modification, the ultimate layout will facilitate the provision of approximately 100-150m length on the inside of the breakwater for casual public berthing (as clarified above under the control and management of the marina operator). No modification is proposed to the opportunity for occasional tourist berthing as established under the Concept Approval.

All other public access components of the Concept Approval remain unmodified as part of this modification 2 update.

### **3.4 Marina Services and Internal Marina Configuration**

#### *Sewage Pump Out Facilities*

The Condition B1 review and determination was silent on sewage facilities and did not alter the Concept Approval relating to them.

JPG remain committed to the provision of sewage pump out facilities (available to the public under marina management) as part of the first stage of the marina development. The Concept Approval did not specify a location of those facilities within the concept layout. The plans provided with Condition B1 provided an indicative location (which has subsequently changed).

The location of this facility and how it will change between stages is incorporated into the concept marina layout now included in this Modification 2 Update. As part of Stage 1 (up to 94 berths) it is proposed to locate the sewage pump out facilities on a separate fuel and sewage wharf that has its own connection to the land. The land and services connection will remain in the same location in the ultimate 188 berth concept layout, but it is proposed that the wharf will be realigned generally parallel to the shore. For clarification, it is not proposed to have sewer connected to each berth (consistent with the Concept Approval). The location of the sewage pump out facility (in both Stage 1 and ultimate layout) is conveniently located for navigation to and from it by both marina clientele and the public.

### *Oily Bilge Facilities*

The Condition B1 review and determination was silent on oily bilge facilities and did not alter the Concept Approval relating to them.

The involvement of an experienced marina operator, in conjunction with the further development of the concept marina layout and the EIS process, has instigated a review of oily bilge facilities within the marina. The Concept Approval provides for an oily bilge pump out facility connected to a holding tank on land for disposal. Previous modification 2 recommendations intended to require this as part of stage 1 marina development.

The removal of the travel lift, vessel hardstand and repairs/maintenance facility means that one of the biggest potential users of an oily bilge pump out facility is removed (to extract oily bilge water from boats before they are lifted out of the water and onto the hardstand). Additionally, a review of recent marina approvals and best practice operations reveals an oily bilge can and is to be managed via marina management practices and the availability of oily bilge absorption pads to marina clientele rather than pumps and holding tanks. Modification to the Concept Approval is sought to provide for the same management practices and to exclude oily bilge pump out facilities and tank from the proposal.

### *Internal Marina Configuration and Design*

The internal marina configuration has been progressively developed, in conjunction with the marina operator and as part of other issues and design refinement and resolution. As outlined in Sections 1.0 and 2.0 of this correspondence, various internal concept layouts have been provided at varying times across the last 10 months, including with the original Modification 2 application, with condition B1 documentation and during the EIS/DA process.

The Concept Marina Layout now included in this Modification 2 Update provides a current status of the internal marina configuration. It remains for a 188 berth marina, and incorporates the various modifications (where relevant) outlined elsewhere in this correspondence.

The concept layout, berthing pens and internal navigation channels is concept designed to Australian Standards AS3962-2001 (Guidelines for design of marinas), which will be documented through development applications and construction certificate processes.

For the ultimate 188 berth concept layout as now shown it includes:

- Two connections via gangway/jetties through pre-existing easements which exist across the foreshore lands and connect to the land based facilities (note: these are in the same location as the original concept and within existing easements established for these purposes. They differ from those indicatively shown in the B1 documentation as a result of deletion of the boat lift facility and consideration of siting of sewage and fuel facilities within stage 1);
- A publicly accessible landward boardwalk which under full development will connect to the two publicly accessible shore connections (providing a public access loop out over the water);
- A restricted access breakwater, with part of that utilised for berthing pens and ultimately part to be available for casual berthing under marina management;

- Restricted access floating marina arms (Arms A, B, C & D); and
- Fuel and Sewage Pump Out facilities (available to public under marina management).

This is in addition to the normal berth services (water, power and lighting), fire fighting equipment for the marina, land based facilities and operational management of the facility.

Staging of the concept marina layout is addressed in Section 3.5 below.

The Concept Approval provides a previously offered a limit on the marina to cater for boats up to a maximum length of 20m. This limit is sought to be removed as it reduces the flexibility for the operator to accommodate larger boats in the future, even if they are not common (where they can physically do so within the marina as designed and where maximum berthing numbers are not exceeded). The operator is of the view that previously the depth limits of Swansea Channel may have informed the offer to restrict the marina to exclude those boat sizes and that the recent funding and tender for a ten year dredging program for Swansea Channel means that the restriction is arbitrary and unnecessary.

For clarification, the Concept Marina Layout now included in this Modification 2 Update provides details relating to berth designs and sizes proposed under Australian Standards (not specifically boat sizes). This approach provides flexibility for the operator in accommodating various boat sizes and combinations in the future and in responding to demand seasonally and over time (where they can physically do so within the marina as designed and where maximum berthing numbers are not exceeded). For example, individual berthing pens designed as a 12m berth, can accommodate a range of boat sizes including 8 and 10m boats. For example, two berths shown on the end of internal arms or along internal floating breakwall could be used to berth one larger boat if it can do so and maintain navigation.

### **3.5 Marina Staging**

The Concept Approval includes a marina 'hold point' at the first ninety four (94) berths, to provide for a demonstrated demand via occupancy and satisfactory environmental performance of the marina before approvals can be sought for a second ninety four (94) berths. That hold point is reflected in Condition B2 (which provides for two marina stages of maximum 94 berths each and subject to separate applications) and Condition C14 (which establishes what must be demonstrated for the second 94 berths to be approved).

Modification 2 as originally submitted did not seek to abandon the established 94 berth 'hold point', but simply to enable additional staging within that hold point, to provide flexibility for the marina to proceed in smaller stages if the applicant chose to (whilst still being subject to the 94 berth 'hold point' and its associated requirements). The original Modification 2 application was also specific in its description of each stage, which has since been superseded by Condition B1 design review and determination and via ongoing development of the marina design (as outlined above).

Given this, and the concept marina layout now included in this Modification 2 Update, staging is sought as follows:

- Retain the 94 berth 'hold point' that requires a separate application and approval to increase the marina beyond the first 94 berths and what that separate application must demonstrate (noting also Condition C14); and
- Provide the opportunity for construction and use of the marina to occur within both the first and second 94 berths, in up to a total of five (5) stages, to a total maximum of 188 berths. This provides for the principle of staging (whilst protecting the 94 berth trigger) irrespective of how staging is applied spatially to any concept or final marina layout over time.

The reduction from six stages in the original modification to five stages now reflects the input of the marina operator into the first 94 berth proposal (which is progressing to DA) on the basis that only two sub-stages are required.

Concept staging has been incorporated onto the concept marina layout which accompanies this update. The following is provided to explain the sub-staging shown on the concept plan, however it is requested that Condition B2 is approached in a similar high level way (with appropriate amendment) to that in the previous recommendation to amend Condition B2 (to provide appropriate flexibility for sub-staging decisions to be made through the development application process, particularly for Stage 2 which has a longer planning horizon).

### **First 94 Berths (Stage One)**

- **Sub-Stage 1a – 72 berths**
  - Publicly accessible landward floating boardwalk, with land connection (within easement C);
  - Floating breakwater (secure) catering for up to 31 berths on inside edge (including up to 23 berths within pens and up to 8 berths parallel and along the inside);
  - Floating Internal Arm A (secure) catering for up to 41 berths including end of tee head;
  - Separate fuel and sewage pump out wharf with land connection (within easement B);
  - Berth services including water, power and lighting;
  - Firefighting and other infrastructure; and
  - Associated marina building, carparking, stormwater management and landscaping (to cater for substage 1a requirements at minimum).
- **Sub-Stage 1b – 8 berths relocated from Stage 1a, 22 additional berth numbers – cumulative total 94 berths (plus casual public berthing)**
  - Conversion of parallel berthing along floating breakwater from Stage 1a to casual public berthing opportunities under marina management;
  - Floating Internal Arm B (secure) catering for up to 30 berths (being 8 berths relocated from Stage 1a plus an additional 22 berths including end of tee heads);
  - Berth services including water, power and lighting; and
  - Firefighting and other infrastructure and land based facilities and works.

### **Second 94 Berths (Stage Two)**

May proceed in up to three sub-stages (flexibility sought to determine sub-staging at time of further application/approval, noting also that with planning horizon, ultimate number of sub-stages may also be sought to be modified further in the future). Indicative stage two sub-staging may involve:



- **Sub-Stage 2a – 15 additional berths – cumulative total 109 berths**
  - Extension of Floating Internal Arm B (secure) and resiting of tee head catering for additional 15 berths; and
  - Berth services and other infrastructure and land based facilities and works.
- **Sub-Stage 2b – 47 additional berths – cumulative total 156 berths**
  - Extension of Floating breakwater (secure);
  - Relocation of fuel and sewage pump out wharf (maintain land connection, shift parallel to shore);
  - Extension of publicly accessible landward floating boardwalk to connect to relocated fuel wharf;
  - Floating internal Arm C (secure) catering for up to 47 berths including end of tee head; and
  - Berth services and other infrastructure and land based facilities and works.
- **Sub-Stage 2c – 32 additional berths – cumulative total 188 berths**
  - Floating internal Arm D (secure) and breakwater tee head, catering for up to 32 berths; and
  - Berth services and other infrastructure and land based facilities and works.

### 3.6 Conditions to Apply to First Marina Development Application

The original modification 2 application sought modifications relating to a number of conditions to allow the stage 1 marina development application to address only such matters as are relevant to its environmental impacts.

This was assessed and supported by DoPE other than for Condition C7 (traffic and parking), which DoPE determined should be considered as part of the first stage marina application. The recent recommendation from DoPE relating to Conditions C3, C7, C9 and C19 is accepted.

### 3.7 Baseline Verification and Modelling – Petite Lake

Condition C11 requires verification of baseline data (and where necessary provision of new data) on a number of baseline characteristics in a number of locations. It includes verification of current water flow and flushing characteristics in Bardens Bay, the small unnamed inlet and Petite Lake.

Condition C12 requires the final design to demonstrate negligible impact (via 3D numerical modelling) on (amongst other matters) current water flow and flushing characteristics in Bardens Bay, with modelling to also be provided for the small unnamed inlet and Petite Lake.

A baseline verification report prepared by RHDHV, to comply with Condition C11, has recently been submitted to Lake Macquarie City Council (with supplementary correspondence providing a qualitative assessment of Petite Lake hydrodynamics). RHDHV have also re-established 3D models of Bardens Bay (excluding Petite Lake), verified them against collected and verified data, and have commenced modelling requirements under Condition C12, to incorporate into the first stage marina development application.

Due to the characteristics of Petite Lake (being a small waterbody, typical depth 1m with very narrow (8-10m long 0.8-1.0m deep) inlet, fed by a small creek)) combined with the very low current velocities verified within Bardens Bay, RHDHV have challenged the need to undertake any further quantitative data or verification actions relating specifically to Petite Lake, and

strongly question the value of calibrating or extending 3D numerical modelling to Petite Lake itself.

The 3D numerical model extends over the whole of Bardens Bay including past the narrow inlet of Petite Lake, and enables environmental assessment of the relationship of the marina proposal to flushing and current flow past Petite Lake to be rigorous without the need to undertake baseline verification data collection or to model Petite Lake itself.

Lake Macquarie Council has advised that this is a matter to be determined by DoPE as it relates to a condition of the Concept Approval. On that basis, and drawing on the advices of RHDHV as attached, it is requested that Condition C11 and C12 be modified to exclude references to Petite Lake.

#### **4.0 MODIFICATIONS TO CONCEPT APPROVAL**

In order to give effect to the above modifications, it is requested that MP 06\_0309 be modified as follows:

- Incorporate reference to this updated s75w documentation as required throughout (Conditions A1, A2, A3) and to supercede where relevant other conditions or documents;
- As previously recommended by DoPE (but updated for five instead of six stages), modify Condition B2 to provide for up to five stages to a maximum total of 188 berths whilst also specifically requiring any proposal over 94 berths to be subject to separate approval, and update Conditions C12, C14 and C29 to suit (and maintaining the 94 berth trigger);
- As previously recommended by DoPE, add definition of land based component and modify Conditions C3, C9 and C19;
- Modify Condition B3 to reflect deletion of travel lift and repairs and maintenance, and replacement with marina carparking, and delete Condition C16 given deletion of boat lift facility;
- Modify Condition C26 to clarify public access including along the marina breakwater as sought and to exclude boat lift references;
- Modify Condition C2, Development North of Trinity Point Drive, Building setback to unnamed inlet to the west, from 30m to either replace with '28m' or to include "exceptions – a variation to this setback for marina building may be sought and assessed on its merits"; and
- Modify Condition C11 and C12 to delete references to Petite Lake.

It is understood that previously Planning Assessment Commission challenged the validity of Condition B4 relating to amending the Statement of Commitments. Noting that the conditions override the Statement of Commitments by virtue of Condition A4, given the deletion of the

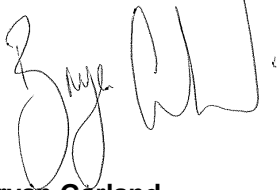
travel boat lift, given that residential use is controlled elsewhere in the approval and that Conditions C4-C6 repeat the limitations sought for short stay tourist accommodation, the applicant has no objection to retention or deletion of that condition if so sought.

## 5.0 CONCLUSION

We look forward to the Departments assessment of this updated Modification 2 application.

Should you wish to discuss the contents of this correspondence please do not hesitate to contact me on 0408 991 888 or email [bryang@johnsonpropertygroup.com.au](mailto:bryang@johnsonpropertygroup.com.au).

Yours sincerely  
Johnson Property Group



**Bryan Garland**  
Development Director

Enc

- Concept Marina Layout Plan - Stage 1a (LB011 Rev B);
- Concept Marina Layout Plan – Stages 1a&1b (LB021 Rev B);
- Concept Marina Layout Plan – Fully Developed (LB031 Rev B);
- RHDHV correspondence re: Petite Lake