

UPDATED MODIFICATION 2 TO MP 06_0309 TRINITY POINT MARINA AND MIXED USE DEVELOPMENT

SUMMARY RESPONSE TABLE TO PUBLIC SUBMISSIONS

Notes to Table:

- LMCC Submission - This table excludes summary and response to LMCC response dated 9 September 2014, which is subject to a specific and separate response.
- Group Submissions - DPE website differentiates group submissions by name and date. As such, only the recent group submissions have been addressed below (previous group submissions were addressed previously in JPG submission response dated 19 February 2014 as was relevant at that time).
Five (5) new group submissions, relevant to Amended Mod 2, including Bonnells Bay Progress Association, Morisset Park & District Action Group, Sunshine Progress Association, Southlake Business Chamber and Community Alliance and Lake Macquarie Tourist Association (as accessed from DPE website 25/9/14).
- Individual Submissions - DPE website does not differentiate between public submissions made during the original phase of Mod 2 and those received during the second phase (and following the August 2014 JPG update to details and content of Mod 2), and these are not traceable by date or name. Given this, all public submissions have been addressed below (noting the previous community submissions were addressed previously in JPG submission response dated 19 February 2014). In combination a total of 80 individual submissions were received for both consultation phases, consisting of 75 objections, 4 comments and 1 letter of support. Due to the exclusion of names and dates, it is likely that individuals are counted twice in these total if they provided a submission to both exhibitions (as accessed from DPE website 25/9/14).
Eighty (80) individual submissions across 2 exhibition periods (note: if individual made submissions each time, they will be counted twice within the tally and total)

TABLE 1 ISSUE RAISED OF DIRECT RELEVANCE TO MODIFICATIONS SOUGHTS VIA UPDATED MODIFICATION 2 (August 2014)

Issue Raised directly relating to Mod 2 technical matters	Groups Tally	Individuals Tally	Summary of Issue Raised	Response
15m shift in floating breakwater	3	32	Amended layout has resulted in minimal effect on footprint into Bardens Bay. Outer break wall is now closer to the shoreline and the total area of water occupied by the marina may now be greater than previous. Measurements have been taken from the opposite shoreline. The break wall will be built to maximum extent in Stage 1.	Mod 2 only includes a minor change (15m shift in breakwater siting) from that endorsed by DPE under Condition B1 (and which now forms part of the concept approval). The design under Condition B1 was determined by Secretary DPE to provide improved environmental performance (arising from change to floating breakwater and change in the siting and shape of the outer breakwater and inclusion of the landward boardwalk closer to the shoreline).
	1		Breakwater protrudes too far into Bardens Bay and	

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	2	23	<p>should be redesigned</p> <p>Revised design has minimal environmental improvement and can impact on sea grass beds.</p> <p>Changed design will adversely impact wave patterns and result in greater siltation around existing jetties.</p>	<p>The minor 15m shift in the breakwater under Mod 2 has minimal effect on footprint in Bardens Bay, minimal effect on total footprint of the marina layout and minimal impact on the distances to near and opposite shorelines (with an improvement in distance from nearest residential shoreline by minor reduction in its western extent). The main effect, determined in review by DPE to be positive, was achieved under the Condition B1 changes, a process built into the concept approval itself. Given the minimal effect, inclusion of the shift is sought to facilitate AS compliant internal marina design.</p> <p>The minor 15m shift has limited (if any) impacts to wave patterns, impact on seagrass beds, siltation as raised in submissions. All of these issues were considered and assessed by consultants in the preparation of the Environmental Impact Statement recently submitted to Council. Results concluded that the change in breakwater location (by 15m) from that approved via Condition B1 provided negligible effects on the environment. This view is supported in the attached letter from marina designers, Royal Haskoning</p>
	1	4	Visual Impact of new floating breakwater (15m location change) from Pillapai Road	The 15m shift has limited impact to properties along Pillapai Road, which are identified in visual impact assessment as distant viewpoints (greater than 1000m). Those properties, many of whose dwellings are not elevated to look out and over a marina unlike other shorelines, will not have the marina extend across the full width of their view of the bay and whilst the marina forms a new element to the view and reduces the perception of extent of open water visible in part of the view, the 15m shift will have negligible impacts in itself and will not cause view blocking.
Exclusion of past details relating to	1		Want to ensure that previously shown 'temporary works' will be permanently deleted	The updated Mod 2 documentation clearly confirms that those temporary works have been abandoned, with permanent land based works to be included within development applications. It is not

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Stage 1 temporary works				intended to pursue temporary works, and DA 1503/2014 show the proposed permanent access, carpark, building and infrastructure works.
Deletion of Repairs Facility and replacement with carparking	3	33	Support removal of slipway, travel lift, vessel hardstand and minor repair & maintenance facility. Now that they have been removed, this must be permanent and not re-proposed in a new application at a later date.	Support for this component welcome and noted. These aspects are sought to be removed permanently from the concept approval via Mod 2 and will not be revisited as this part of the land is now to be used for an alternative permanent activity. It is noted that Stage 1 Marina DA (1503/2014) proposes a carparking area in the location of the vessel hardstand and the marina will be reliant on the use of that carpark for its ongoing operation.
	1	4	With deletion of boat maintenance facility, do other facilities have capacity to handle the increased demand of up to 188 boats.	There are a number of existing facilities around Lake Macquarie which provide boat maintenance services with slipways including Lifestyle Marine, Green Point Yacht Club, Mark Point Marina and Marmong Point Marina. Additionally, the boating community is known to also access facilities external to Lake Macquarie, such as Newcastle, depending on their needs. Marmong Point Marina has confirmed that they currently operate their boat lift facility and repair hardstand area at approximately 60% capacity, and they would welcome additional custom that would reinforce the marina associated industry and employment of that existing facility.
	1		Carpark will require considerable fill to raise above flood level. This will generate adverse visual impact from Bardens Bay and the opposite shoreline.	The carpark requires no more fill than that required for the vessel hardstand area it is replacing. To meet flood planning requirements, DA 1503/2014 documents the levels (which is primarily <400mm and not 'substantial' as stated) and the edge treatment, as well as landscaping. The carpark will not have any adverse visual impact from the bay nor the opposite shoreline (quite a distance away) (and less than what might have been for the vessel hardstand and boat lift facility), with very effective existing vegetation providing a dense screening edge to the unnamed bay and properties across it.
Change to Oily Bilge	4	33	Oily bilge facility should be provided, regardless of removal of boat repair facility. Oily bilge absorption	As outlined in the Mod 2 update, the removal of the boat lift and repair/maintenance facility, was a trigger to review oily bilge

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Management Practices incl deletion of oily bilge pump out			pads are an unacceptable replacement measure.	<p>management.</p> <ul style="list-style-type: none"> • NSW Maritime identifies the use of absorbent pads in the bilge to clean up oily water (and appropriate disposal of those) in their educational material titled "Leave Only Water in your Wake". The direct extract is "Keep your bilges clean in order to prevent pollutants being discharged overboard. Use an absorbent pad in the bilge to clean up oily water and always dispose of the absorbents appropriately". • Oily bilge pump out facilities is not an environmental requirement through the MIA Clean Marina program and accreditation levels (a program that encourages best environmental practices within marina across Australia and is supported by NSW DPI and NSW DPE and NSW EPA). • No other public or private facilities on Lake Macquarie include an oily bilge pump out facility. It is notable that these are absent from facilities that have been subject to comprehensive environmental assessment and approvals in recent years (including Marmong Point, Lake Macquarie Yacht Club). At Marmong Point (which includes boat lift and repair and maintenance facilities) it accesses the services of a mobile vacuum pump out truck if a boat requires it. • Other projects through NSW that have been subject to comprehensive environmental assessment and approvals in recent years do not include oily bilge pump out systems. For example, Rose Bay marina in Sydney, approved through the Land and Environment Court, does not include an oily bilge

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				<p data-bbox="1289 407 1919 464">pump out facility and is conditioned to rely on a mobile system.</p> <ul data-bbox="1247 500 1919 951" style="list-style-type: none"> <li data-bbox="1247 500 1919 951">• It is understood that there are oily bilge pump out facilities typically associated with large scale purpose built facilities catering for large commercial operations such as Baileys at White Bay 6 on Sydney Harbour, a purpose built \$7M fuel facility. In terms of oily bilge management at leisure marinas (particularly those they have no hardstand or servicing facilities), contact was made with all Certified Marina Managers and Certified Marina Operators in Australia. The general feedback received is that even the best practice and environmentally awarded marinas, do not include oily bilge pump out facilities of the nature implied (particularly when no on shore servicing forms part of the marina operation), and that requirements for bilge pads are the common response and are cost effective ways to manage oily bilge water. <p data-bbox="1199 987 1919 1227">It is agreed that marina operators should offer boat owners options to manage oily bilge water in an environmentally responsible manner. This can be achieved without the need for an oily bilge pump out by encouraging/educating clients to practice “good housekeeping onboard”, recommending an approved and qualified trade waste contractor, referring any bilge issues to a qualified marine mechanic, issuing oil absorbent materials to clients and by informing clients that any discharge into open water is an offence.</p> <p data-bbox="1199 1263 1919 1343">The Trinity Point Marina EIS (DA 1503/2014) outlines the intent to provide oily bilge absorption materials to marina clientele, and to provide information and education to clients on a range of matters</p>

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				<p>including oily bilge management. Additionally, it will be reinforced within a condition of the marina berthing contract that it is an offence to discharge or pollute the waters and that clientele are financially responsible for any such offence.</p> <p>As an additional responsible management practice, the marina (as proposed within DA 1503/2014) will have capacity to manage small quantities of oil and oily waste water to cater for any needs. The current DA (DA 1503/2014) incorporates a 1000L waste oil tank and a 1000L waste water tank (on prefabricated bunding system) within the marina operation, for disposal to appropriate waste recycling facilities.</p>
Change to Building Setback	1	32	Reduced setback to the unnamed bay is unacceptable as it was purchased by LMCC for public recreation. This area is also an environmentally sensitive area.	The siting of the proposed marina building (which sits on the inside of the concept approved western accessway and hardstand area) and the minor modification sought under Mod 2 to its siting, has limited (if any) impact on the acknowledged environmentally sensitive area nor the current or future use of the adjoining land for public recreation. Refer to DA 1503/2014 (for which LMCC provided landowners consent for), which documents the installation of public footpaths in this space to enhance the land purchased by Council for public recreation and environmental purposes.
Allocation of public access (water) and clarification of casual public berthing	4	35	Objection to closing off public access to the outer breakwater arm, exclusion of general public not supported. Not practical nor a security measure and not reasonable to enable tourists but not general public, particularly if tourist boats will be able to use breakwater. This will also not be a practical arrangement and cannot be considered a security measure. Not providing public casual berths until stage 1b is also not supported.	Nowhere else on Lake Macquarie is unrestricted public access provided over privately owned and constructed marine structures that are not owned, managed, insured and maintained by public authorities. Other recent marinas approved in Lake Macquarie do not include any public access out along marine structures. Noting recent expansions at Lake Macquarie Yacht Club, contact with the Club has confirmed that the marina has strictly no access to the public from the land (with arrangements in place for temporary/casual public boat visitation and access under club rules).

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				<p>Notwithstanding this, the modified design does not propose to fully exclude public access from the proposal.</p> <p>It provides for public access to, from and over the water on a lineal floating pontoon boardwalk (3m wide and 120m long), connected to the land via two connections (in ultimate marina concept) with fixed jetty and gangways of additional 27m length each, and land based boardwalks, connected into a lineal shared pathway system to be constructed as part of the marina project.</p> <p>This delivers public access over some 174m of marine structure (linked into shore based public access as well), which is a first for the lake on a fully privately funded, privately leased and privately managed marine structure.</p> <p>It is relevant to note that the original marina concept did not include the more accessible lineal floating pontoon boardwalk, and therefore public access to any part of the water was solely via the outer breakwall. The inclusion of the boardwalk component in the concept approval as it now stands (via the Condition B1 determination) and allocation of public access to and along it, represents a reasonable and balanced outcome for public access and public amenity. It is noted that presently the undeveloped site provides no formal public water or land access. Therefore this proposal still represents a significant improvement. JPG are not backing away from the commitment to provide public access, it is simply refining what can be practically and safely provided as public access as the project moves from concept phase into design, delivery and operational phase.</p> <p>Without wanting to sound negative, it is important to understand the potential consequences of not supporting the balanced outcome on</p>

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				<p>pedestrian public access on marine structures put forward through Modification 2. It would likely require further review of the marina layout and expansion of the marina footprint again and discussion on options for contribution towards construction, leasing, management, responsibility and liability with Council on behalf of the wider general public for the structure to operate as an unrestricted public jetty or wharf. As a worse case, if no marina is built, the approx 170m of public access offered under the current proposal (in combination with the public access facilities proposed to be fully funded on the land for public access) won't exist.</p> <p><i>Casual Public Berthing:</i></p> <p>The proponent is willing to incorporate a temporary casual public berthing length (approximately 2 casual berths) on the internal marina edge of the landward floating boardwalk as part of Stage 1a (which would be removed in Stage 1b, with casual public berthing in Stage 1b as outlined in updated Mod 2). This opportunity has been identified within DA 1503/2014 (pg 38 EIS), and is marked up on attached concept plans.</p> <p>Some submissions appear to assume that only tourist boats will be able to access the casual public berthing, that is not the case - it is to be available for all general boat users. The clarification that the use of the casual public berths to be subject to the control and management of the marina operator is not unreasonable and is not about the general public boat users not being welcome. Such management controls is not all security related, but also linked to the responsibilities that go with the marina structure (including insurances), and the need to control inappropriate misuse, length of stay and encourage users to abide by marina rules and responsibilities. The requirement for contact to be made with the</p>

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				marina operator (either prior to or on arrival) is simply a management tool that is not about denying access, simply managing it. This is no different to arrangements that exist for example at Lake Macquarie Yacht Club where vessels are invited to temporarily moor for up to 4 hours at no cost but any such boats are still subject to certain club rules (seaworthiness, insurance, length of stay, contact details, length of time vessel to be unattended, responsibility for damage in breach of rules, marina rules and similar). The request is no different in principle to shopping centres who provide their car park access to the general public (typically with access control) which is under their control and management and terms.
	1	5	Casual berthing should be taken into account in the total number of marina berths – this is a means to add berths in addition to the total number approved. Restrictions for use including user timeframes for casual berthing needs to be confirmed. Recommended 24 hours duration for any vessel in any week.	<p>The concept approval identified casual public berthing <u>in addition</u> to the 188 berths, and that principle is retained. The provision of casual public berthing is <u>not</u> to increase the marina berths, but to provide capacity for casual public berthing.</p> <p>The comments about the need for restrictions for use of casual public berthing highlights the point above that the berths need to be subject to the control and management of the marina operator (otherwise, how would any such restrictions be monitored and enforced).</p>
Location of public access (land)	-	-	-	-
Concept marina layout including siting of wharf		2	Depth of bay is too shallow; in particular marina boats will not be able to access sewerage pump out / fuel wharf. Is dredging required?	<p>The depth of the bay is not too shallow and no dredging is required.</p> <p>The sewage pump out and fuel wharf has been positioned to provide boat access and will comply with relevant Australian Standard requirements. Its location as part of Stages 1a/1b is assessed within the EIS accompanying DA 1503/2014.</p> <p>A range of marina layout comments and responses are also included</p>

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				in Table 2, as many were not specific to modification 2, but more broadly about the marina generally and its impacts.
	1	2	Fuel / sewerage pump out wharf is located too close to the shore and existing residences.	<p>It is unclear under what standard the wharf is judged to be located too close to the shore.</p> <p>In terms of existing residences, the wharf is a greater distance from existing residences than the travel lift and vessel hardstand (now to be removed) was originally. Whilst no position for fuel/sewage pump out was allocated under the concept approval, it was likely to be on the western side of the marina for ease of access to the broader public as well as marina clientele and operational surveillance.</p>
		1	Revised design should stay as concept and not approved under MOD 2 until EIS is assessed.	Mod 2 relates to a concept approval. Under the terms of the approval and the Act (requiring general consistency), Mod 2 needs to be determined prior to the final assessment and determination of DA 1503/2014 (which includes EIS for Stages 1a and 1b, and hydrodynamic modelling for 188 berth concept as required by Condition C12).
	1		Inadequate internal marina configuration	The internal marina configuration will need to be compliant with AS 3962-2001 Guidelines for Design of Marina, and that will be confirmed through the DA, design development/CC and prior to construction.
Deletion of restriction to boats up to max 20m length	3	39	Concern about deletion of 20m limit - will result in larger boat motors creating increased wash, erosion, turbulence and noise, greater visual impacts, increased aquatic ecology impacts, depth of bay unsuitable for deep hull boats (with potential for lake bed damage). Reliant upon dredging of Swansea Channel. Will result in increased safety concerns for recreational lake users.	<p>The concept approval currently includes the opportunity for occasional berthing of large tourist vessels on the outside of the outer breakwater, and this is to be maintained and not sought to be modified.</p> <p>Lake Macquarie as a waterway has no restrictions in place to limit the use by a >20m vessel if its owner accepts any limitations such as Swansea Channel. There are already yachts on Lake Macquarie of this size. Additionally, not all >20m length vessels are likely to have a draught of >2.8m as suggested. Whilst yachts may, longer cruisers (which are the potential market) do not have that sort of draught, and</p>

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				<p>typically drafts for say a 25m power boat are 1.8m.</p> <p>The Trinity Point Marina project itself is not reliant upon the details of dredging of Swansea Channel. The observations relating to Swansea Channel were provided to indicate that situations do change, and what was the case five years ago, may not be the case in another five or another ten years time.</p> <p>The future operator believes it is appropriate to provide a robust and flexible marina concept that has the option and ability to cater for changes over time, and it is their view that the option to berth several vessels greater than 20m in length may arise over the course of the life of the marina, particularly given the co-location with the tourist and mixed use development within the overall Trinity Point project, and that an arbitrary limitation enforced now was questioned in that regard only.</p> <p>The proposal does not include a concept marina design that caters for a large or substantial number of vessels greater than 20m in length. Under staging and with a fully developed marina layout, there may be the opportunity for berthing of a >20m vessel at possibly 2 locations (the location would change as staging progresses). Additionally, were more than that sought in the future, changes to length of marina arms (and reduction in total number of berths) could be investigated.</p> <p>The proponent would still like to see the blanket restriction on vessels >20m removed from the concept approval if that can be supported by DPE or the decision maker. If necessary and to provide a balanced outcome without the need for substantial additional analysis at this phase of the project, they would accept a restriction for say up to 2</p>

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				vessels up to 30m in length at any one time (within the 188 berth allocation).
Staging of Marina		23	Future stages should not be approved until appropriate environmental, ecological and recreational studies undertaken to demonstrate that the marina is operating in an environmentally sustainable manner.	Mod 2 seeks sub-staging options, whilst retaining the approved 94 berth 'hold point' and retaining the trigger for certain conditions (including C14 and C29 as raised in submission) at the same berth numbers as the current approval. It is noted that the DA currently before Lake Macquarie City Council, as referenced in this submission, is for 94 marina berths, in two sub-stages, and then having a hold point before a future DA is lodged for the remaining 94 berths (also to include sub-staging).
		1	Marina 'hold point' (condition C14) and second snapshot analysis (condition C29) should be at completion of sub stage 1a.	
	1	10	Environmental controls/monitoring should be implemented progressively at each stage of marina development. What happens if adverse environmental results are monitored?	Specifically, Condition B2 is sought to be modified simply to enable sub-staging (rather than forcing construction in only two stages), without changing its intent relating to what is to be demonstrated in development applications. Mod 2 seeks no other change to the existing conditions which are in place as they relate to any approval for the second 94 berths (ie Condition C14). Condition C29 relating to recreational boating impact monitoring remains in place. There are no grounds to alter the timing of those conditions, which relate to berth numbers.
				Agreed that generally environmental controls and environmental monitoring (construction) should be implemented progressively at each stage of marina, including relevant sub-stages if construction occurs separately.
		12	Concern that first stage excludes appropriate sewerage disposal, oily bilge pump out, toilets, lighting and standard environmental requirements which can result in lake pollution.	The first stage will include all these facilities including sewage pump out wharf, other than oily bilge pump out (refer above).
		2	The staged approach will result in only minor employment creation numbers – only a couple of	The main impact on employment arising out of Mod 2 is the reduction in staff by the removal of the repair and maintenance facility. To

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			positions will be available at the marina.	operate and manage a marina, there is a base staff of 3-5 staff, and there is likely to be limited increases in staff as additional berths are introduced or during peak periods. Other aspects of the approved concept approval will be responsible for more significant employment creation.
	1	18	Questions who is responsible for removal / rehabilitation of structures if the marina business fails (ie. Stage 1 full break wall)?	The project, inclusive of the details within Mod 2, is being progressed to provide for a successful marina business. Notwithstanding, the construction and operation of the marina is managed by a lease with NSW Trade and Investment (Crown Lands), and that includes provisions relating to these matters, and many more.
		1	Must be a timetable to complete.	A timetable to complete is inappropriate for the concept approval given the nature of conditions which exist between stages 1 and 2.
	1	5	Design of the outer break wall should occur commensurate with construction stages, not entirely as part of Stage 1.	<p>The design of the outer breakwater is proposed to occur commensurate with the main stages (ie between the first and the second 94 berths).</p> <p>The extent of the Stage 1 (1a and 1b) breakwater has been determined to achieve the appropriate internal design climate for boats within Stages 1a and 1b based on weather and wind patterns. Construction efficiency (and management of construction impact) has identified that sub-staging the outer breakwater between Stages 1a and 1b) is not desirable.</p>
Timing of conditions C3, C9 and C19	-	1	No modification should be considered until JPG complies with all requirements including studies and all conditions are met.	Whilst these general statements are made, no case is made to rebut the rationale for the modifications to the timing of certain conditions (or the staged completion of them) being reasonable.
		1	All land and water based environmental studies must be completed before any work is undertaken	For stage 1 marina, it is relevant to note that in addition to the concept approval, the DA/EIS is additionally subject to a set of Secretary's Environmental Assessment Requirements to further guide the pertinent environmental assessment issues and studies.
Deletion of	2	22	Petite Lake should not be excluded from Baseline	It is agreed that impact assessment of the marina on Petite Lake is still

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Petite Lake			Verification and Modelling and any future studies.	<p>a relevant consideration at development application stage (albeit of reduced significance due to the improvements made in the marina design as a floating breakwater). To that end, a qualitative description of the current water flow and flushing for Petite Lake and a qualitative assessment of Petite Lake hydro-dynamics is included within the EIS (DA 1503/2014). Additionally, the entrance to Petite Lake forms part of the Bardens Bay model and assessment, which concludes that the proposed marina will have a localised impact on circulation (and hence flushing) and not near Petite Lake, and that 'e-folding time' methodology for Bardens Bay indicates that overall flushing time of the bay would be expected to be increased by 1% or less as a result of the marina, with negligible effect on water circulation (and associated water quality) of the Bay (and hence also Petite Lake).</p> <p>In terms of moving to a solution on this matter, the request to delete the inclusion of Petite Lake from C12(1) remains, however, the proponent would agree to a modification, if considered really necessary, such as the following (bold represents addition):</p> <p><i>"3D numerical modelling of the current water flow and flushing characteristics in Bardens Bay. This modelling is also to be provided for the small inlet/unnamed bay at the southern end of Bardens Bay and Petite Lake. A qualitative assessment is to be included relating to Petite Lake.</i></p> <p>Similarly for Condition C11 (1), which does not specifically mention modelling, the proponent had previously sought Councils view to review the qualitative assessment provided for Petite Lake, and deem that to have been satisfied. Council were hesitant to do that, which led to the request for the deletion of that component. In light of the information now before Council, the applicant would request again</p>

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				<p>that Council assess the information provided and advise whether Condition C11 can be taken to have been met without modification. Given the reduced likely impact on Petite Lake arising since concept approval as a result of the B1 changes, and with the inclusion of the need for qualitative assessment in Condition C12 (as above), the deletion of Petite Lake from Condition C11 is considered reasonable. Alternatively, the proponent would agree to a modification, if considered really necessary, such as the following (bold represents addition):</p> <p><i>"...must provide verification of the following baseline data and where necessary provide new data in light of the review of the design:</i></p> <p><i>Current water flow and flushing characteristics in Bardens Bay, and the small inlet/unnamed bay at the southern end of Bardens Bay and Petite Lake. A qualitative description is to be included relating to Petite Lake, without the need for verified or new data.</i></p>
Letter of Support	-	1	<p>The letter of support confirms support of the project on the following grounds:</p> <ul style="list-style-type: none"> • Reduction in marina footprint on Bardens Bay. • Removal of slipway, travel lift, hardstand, and boat maintenance facility will reduce potential environmental impact. • Deletion of travel lift improves public access to the foreshore. • Providing a separate wharf for fuel/sewerage pump out, providing better access for users. • Provision of permanent vs temporary facilities. 	Support welcome and noted.

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			<ul style="list-style-type: none"> • Positive economic impacts to the local economy. • Provision of a marina facility for use by lake users and tourists. • Provision of a world class recreation facility in western Lake Macquarie, where there are few recreational facilities and amenities available compared with the rest of the LGA. 	

TABLE 2 ISSUES RAISED ON PROCESS OR NOT OF DIRECT RELEVANCE TO MODIFICATIONS SOUGHTS VIA UPDATED MODIFICATION 2 (August 2014)

Issue Raised not DIRECTLY relating to Mod 2 technical matter	Summary of Issue Raised	Response
Impacts of Helicopter	<ul style="list-style-type: none"> • Acoustic / amenity impacts on residences from taking off, landing and flight paths • Aquatic Ecology and flora and fauna impacts from helicopter movements • Pollution and waste problems will be created • Impact from rotor blades on water activities and use of bay by others • Safety issues – safe movement, landing, adverse weather conditions, and tall boat hazards. • Privacy impacts 	Not relevant to Mod 2
Provision of Helipad in Staged Marina	<ul style="list-style-type: none"> • Alternate locations are available in Morisset for a helipad • Helipad was removed due to adverse impacts on residents including impact on quality of life. • If a helipad is proposed it should be assessed separately and consider strategic justification, ecology, foreshore erosion, flooding, visual impact, public access, acoustic impact and any other impacts. • Consideration of helipad suitability on marina breakwater should be considered. • Viability of helipad is questionable • Concern restricting public access to the outer breakwater is to allow a future helipad to be constructed off the outer breakwater. If a helipad was ever approved in this location a number of permanent marina berths along the inner wall of the marina would need to be removed. • Helipad was only removed from the initial application so the rest of the application could gain approval. Should not be able to re-apply for a helipad. • The Concept Approval cannot be modified to include a helipad given that it did not form part of the approval. If a helipad is proposed in the future, it should be a separate, stand-alone application to LMCC. • MOD 4 shows a helipad off a marina with a different design to the one in 	<p>Not relevant to Mod 2</p> <p><u>Note:</u> The marina proposal to allocate public access to the landward facing boardwalk and marine connections to the land and exclude unrestricted public access from the outer breakwater (addressed in Table 1 above) <u>has not arisen</u> from the provision, or not, of a future helipad off the marina.</p>

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	MOD 2.	
Demand for Marina, Financial Viability Location of Marina	<ul style="list-style-type: none"> The ultimate development may never occur due to demand and the developer's finances. The marina is in an unsuitable location. 	<p>Not relevant to Mod 2</p> <p><u>Note:</u> The concept approval supported the overall size of marina (total berth numbers, but with an occupancy hold point after 94 berths which is not proposed to be changed) and the general location of the marina, but sought an alternative marina design to improve its environmental performance, under Condition B1, which has now been satisfied.</p>
Credibility of Concept Approval 06_0309	<ul style="list-style-type: none"> ICAC investigations have identified corruption in major political parties during the past 8 years. How can the community trust the assessment process and credibility of the approval? 	<p>Not relevant to Mod 2</p>
Social / Economic Impacts	<ul style="list-style-type: none"> Positions of employment in the café / restaurant may never eventuate. 	<p>Not relevant to Mod 2.</p> <p><u>Note:</u> A separate DA including cafe and restaurant and other employment generating uses identified in the concept approval is under preparation, as part of the ongoing approval process for Trinity Point.</p>
Interaction with Overall Context and Details	<ul style="list-style-type: none"> The proposed modification changes the overall proposal from an iconic integrated tourist development to a staged marina – with no reference to the broader tourism / employment notions (ie. restaurant / café) used within the Concept Application and restriction of public access. The DoPI should consider the development as an integrated whole, not just a commercial marina. No context for the marina relative to the concept approved tourist / commercial / residential buildings is provided. No information is available on how height of marina buildings relate to future heights of tourist development (noting underground parking). The plans on JPG's website show an increase to the approved 150 (75 tourist / 75 residential) units. Clarification needed. This creates questions 	<p>Whilst not relevant to technical modification details specifically sought under Mod 2, a general response to these matters are included below:</p> <ul style="list-style-type: none"> Whilst Mod 2 relates to the marina aspects of the concept approval, that does not diminish the fact that it remains and sits within the context of an overall tourist outcome as per the concept approval (or as modified). The proposal to progress the marina component as an initial development application (DA 1503/2014) is consistent with approved Principle 19 which identifies

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	<p>regarding traffic & parking, encroachment on setbacks, site overdevelopment, height and visual impacts.</p>	<p>that the marina is not sequentially linked to staging of the remaining components of the proposal. The exclusion of unrestricted public access to the outer breakwater combined with the provision of unrestricted public access to a new landward boardwalk on water (addressed in Table 1) and connectivity into broader public access improvements does not diminish the iconic nor integrated tourism outcome for the total site.</p> <ul style="list-style-type: none"> • A separate modification application is currently under preparation relating to other modifications to the concept approval that <u>do not relate directly to the marina</u>. That will be subject to appropriate opportunities for public comment and assessment. The only land based site planning components proposed for variation as part of Mod 2 (and the marina) relates to a limited variation to one setback distance and the replacement of repair/maintenance facility with vessel hardstand with carparking area, which are addressed in Table 1 above. Those variations (and Mod 2) do not alter the context of the marina to the concept approval as it stands (or as will be sought to be modified). All other land based site planning components, under Mod 2 application, are unaltered.
<p>Process or General relating to Mod 2 (but not to the technical mods sought)</p>	<ul style="list-style-type: none"> • Inadequate notification and opportunity to comment and concern about availability of cohesive complete information on DPE website to enable proper assessment. 	<p>Not under the control of proponent</p>
	<ul style="list-style-type: none"> • Misnaming of Bardens Bay and failure to show opposite shore of Bardens 	<p>Updated Mod 2 has included graphics to show the relationship of</p>

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	Bay.	the 15m shift in breakwater and how that relates to the opposite shore of Bardens Bay which has been subsequently acknowledged in submission.
	<ul style="list-style-type: none"> Concern that proposal bears little resemblance to Part 3A Concept Approval. Inadequate exhibition of Condition B1 Compliance 	Modification to the concept approval as sought is an option available to the proponent under planning laws and Condition B1 was 'in built' into the concept approval in response to past assessment (and was a technical determination that did not provide exhibition processes relating it).
	<ul style="list-style-type: none"> Planning Assessment Commission meeting on 16 July 2014 was cancelled because further variations to MOD 2 application were needed – indicating uncertainty on design & JPG's lack of transparency. 	<p>It is agreed that the postponing of the PAC meeting was unwelcome by the community, and that the confluence in timing of that with Condition B1 determination and the ongoing development of the concept has created confusion.</p> <p>It is strongly refuted that the cancellation of the meeting nor the ongoing development of the marina concept and details (through to DA/EIS level) indicates the proponent is uncertain or lacking transparency.</p> <p>The decision to cancel the PAC meeting was made by PAC and DPE – not JPG.</p>
	<ul style="list-style-type: none"> How can EIS for Marina be lodged / assessed until MOD 2 is assessed and determined. 	The recently submitted Stage 1 marina DA/EIS (DA 1503/2014) has incorporated the outcomes sought under modification 2, and its final assessment and determination will be dependent on the outcomes of modification 2. This has been openly acknowledged within that application.
	<ul style="list-style-type: none"> Future EIS / DA Applications should be required to consider / clarify aquatic ecology/flora & fauna impacts, marina design (including staging), options for dealing with oily bilge waste, break wall staging, withdrawal of hardstand marina maintenance facilities, the marina operations yard, environmental impact on Petite Lake, size of boats intended to use the marina, emergency procedures, sewerage pump out, fuel wharf 	The recently submitted Stage 1 marina DA/EIS (DA 1503/2014) has incorporated environmental assessment as required by the concept approval (as sought to be modified) and Secretary's Environmental Assessment Requirements, and is currently on exhibition and will be assessed by Lake Macquarie City Council, with determination by JRPP.

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	<p>management, other relevant environmental studies, and all land based issues and public access to the foreshore.</p> <ul style="list-style-type: none"> • Does not comply with State Government and Council Legislation and Guidelines. • During community consultation, one JPG representative indicated no dredging whilst another representative indicated some dredging would be required. • During community consultation a different layout was shown than that included in Mod 2 • If design is indicative, when will final design be available for review/comment, plans are misleading and confusing. 	<p>The community consultation references in submissions relates to a community open session held during preparation of Stage 1 DA/EIS, as required by the EIS preparation requirements. As confirmed within the EA/EIS, no dredging is required. A final DA level layout is appropriately included in DA/EIS, which is conceptually and generally consistent with the concept marina layouts included in updated Mod 2. That DA/EIS (and its future CC/detailed design process) documents 'final design'.</p>
	<ul style="list-style-type: none"> • Recommend proposed modified conditions be published in one document. 	<p>This would typically be included by DPE as part of their assessment report for updated Mod 2.</p>
Process or General not relating to Mod 2 specifically	<ul style="list-style-type: none"> • The Concept was approved as a Part 3A when it should not have been considered a major project. • Given the reduced size of the proposed marina, it is not a Part 3A application and Council should be the approval authority. • Concern about privatising an area currently available for general public enjoyment. • Concern about scale of development, intrusion into Bardens Bay, visual impact (including visual impact of boats) and impacts on natural amenity. • Increase in motorised boats will increase foreshore erosion in the lake. • Aquatic ecology and flora and fauna impact; • Privacy impacts • Waste management and pollution impacts including minor boat maintenance on water (and what restrictions will be implemented) and how pollution amplified by little tidal movement; • Lack of emergency response provisions for spill (fuel, sewage), fuel management details and fire fighting details • Details should be provided on lifesaving devices to be implemented 	<p>The majority of these process or general comments are not directly relevant to the matters covered by Mod 2, including:</p> <ul style="list-style-type: none"> • matters that question original and modification process, which was and is subject to that available under planning legislation (including transitional projects, modifications to approved concept plan, approval pathway for DAs, triggers for regional development); • matters that were resolved via the original concept approval and not generally sought to be modified under Mod 2 (use of lake for marina; size of marina/number of boats, relationship to other boating facilities); • marina impact assessment matters that were resolved at concept level (and under Condition B1 review) and are subject to conditions to guide DA assessment, and which are, where relevant, to be addressed in DAs (including

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	<p>throughout the marina.</p> <ul style="list-style-type: none"> • Speed limit required for larger craft within 500m of marina; • Who is responsible for dredging of the lake entrance at Swansea? • Council must provide permission for use of public reserve land • Inadequate servicing infrastructure and marina services • The site is zoned for 'Environmental Conservation' and is a culturally sensitive Aboriginal landscape. • Inadequate public access integration with existing community. • Acoustic impact from place of public entertainment. • Concern regarding timing and standard of temporary shore based facilities and potential reuse for future development stages. • Public access to the marina environs and foreshore will be restricted • Poorly designed to winds/weather and does not account for poor or extreme weather conditions • Adverse flood impacts • Marina design is impractical for end users and too tight to allow safe movements • Security/anti-social behaviour issues • Design makes access to existing boat ramps, mooring and jetties more difficult and dangerous 	<p>details of hydrodynamic, design to AS and weather conditions, waste management, fuel management, pollution/spill management and responses, particle/pollution tracking, visual impact, provision of infrastructure, public access interaction; flood planning; security)</p> <ul style="list-style-type: none"> • matters which are not within the control of the proponent (eg speed limits outside marina lease, dredging of Swansea channel); or • impact assessment matters for non-marina development components, which will be subject to separate DAs and modification applications. <p>Additional notes:</p> <ul style="list-style-type: none"> • The site is not zoned for environmental conservation; • Temporary works abandoned; • The cultural values of the landscape are known and existing concept approval conditions exist relating to cultural heritage management and interpretation, which are not impacted upon or by Mod 2. • Council has provided landowners consent for works in community owned land proposed within Stage 1 marina DA/EIS (DA 1503/2014);