

ASSESSMENT REPORT

Section 75W Modification

Trinity Point Mixed Use Development, Trinity Point Road, Morisset Park, Lake Macquarie Local Government Area MP 06_0309 MOD 5

1. BACKGROUND

1.1 Proposed Modification

This report is an assessment of a request to modify the land based component of the Trinity Point Mixed Use Concept Plan (MP 06_0309 MOD 5). The request has been lodged by Johnson Property Group Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The modification seeks approval to:

- increase the total gross floor area across the site from 23, 790 m² to 29, 482 m²;
- reconfigure the building envelopes and reduce the overall building footprint to facilitate the construction of a hotel/marina building, a function centre and eight apartment buildings ranging in height between two and four storeys;
- revise the configuration of the public domain;
- increase the capacity of the hotel, the function centre and café and tourist and residential accommodation;
- permit the use of a temporary marquee adjacent to the hotel and function centre; and
- revise the Urban Design Controls to reflect the proposed changes to the built form and landscape concept.

1.2 Subject Site

The site is comprised of Lot 31 in Deposited Plan 1117408, Part Lot 32 and Lots 31 and 34 in Deposited Plan 1117408 and Part of Crown Reserve 10121129, and is located on Lake Macquarie's south-western shoreline approximately 118 kilometres (km) north of Sydney and 50 km south-west of Newcastle (see **Figures 1** and **2** overleaf).



Figure 1: Location Plan



Figure 2: Extent of Site Area

1.3 Site History

1.3.1 Concept Plan Approval

On 5 September 2009, the then Minister for Planning granted Concept Approval (MP 06_0309) for a mixed use development comprised of a 188 berth marina, 150 accommodation units (75 tourist and 75 residential units), a restaurant, café, function centre, shops and offices, and car parking and public domain treatments.

On 1 April 2014, the Director, Industry, Key Sites and Social Projects approved a section 75W modification (MP 06_0309 MOD 1) to amend the lapsing provisions in Schedule 1 of the Concept Plan to provide consistency with requirements of Schedule 6A of the EP&A Act.

On 1 October 2013, the Proponent lodged a request for Secretary's environmental assessment requirements (SEARs) for a section 75W modification request (MP 06_0309 MOD 3) to permit the creation of a heliport at the marina. SEARs were issued for this request on 2 December 2013, however to date no application has been lodged.

On 26 August 2014, the Director, Industry, Key Sites and Social Projects approved a second section 75W modification (MP 06_0309 MOD 4) to amend the lapsing provisions in Schedule 1 of the Concept Plan to provide consistency with requirements of Schedule 6A of the EP&A Act. This modification request was determined to ensure that the amendments to the lapsing provisions were valid as the Proponent had not obtained all of the consent of all of the relevant landowners prior to the determination of MP 06_0309 MOD 1.

On 9 April 2015, the Planning Assessment Commission (the Commission) approved a section 75W modification (MP 06_0309 MOD 2) permitting the following changes to the water based component of the development:

- revisions to the marina staging to facilitate its construction over five stages;
- revisions to the marina layout to respond to the requirements of Term B2;
- the berthing of two vessels up to 30 metres (m) in length;
- deletion of the slipway, boat lift, maintenance and associated oily bilge pump out facilities;
- conversion of the vessel hard stand, boat lift and maintenance facility to a car park;
- a reduction in the building setback to the unnamed bay from 30 m to 28 m; and
- revisions to Term C12 to provide flexibility in the modelling requirements for Petite Lake.

The Concept Plan, as amended, currently permits:

- the construction of a 188 berth marina with a 165 m boardwalk and associated office facilities;
- 150 accommodation units, with no more than 50 per cent of the units being used for residential purposes;
- a restaurant, café, function centre and shops;
- car parking for the land and water based components of the development; and
- landscaping associated with the land and water based components of the development.

1.3.2 Development Approvals

On 22 June 2015, the Joint Regional Planning Panel (JRPP) approved development application (DA) 1503/2014 for the first stage of the marina which comprises:

- construction and operation of 94 marina berths;
- construction and operation of a single storey land based office, chandlery, lounge and amenities building with five car parking spaces;
- construction and use of 47 at-grade car parking spaces; and
- construction of vehicle access arrangements, landscaping, earthworks, and stormwater management infrastructure.

The Proponent has also lodged two additional development applications with the Council (DA 1731/2014 and DA 496/2015). The development proposed under these applications is summarised below.

DA 1731/2014:

- construction of a hospitality building (300 seat function centre, 200 seat restaurant, 40 seat café and outdoor dining);
- construction of a 65 room hotel building (incorporating marina uses from approved DA 1503/2014 and associated day spa, shops and commercial premises and ancillary uses);
- associated access and car parking facilities;
- associated pedestrian facilities and landscaping; and
- installation of stormwater management and utility infrastructure.

DA 496/2015:

- construction of four accommodation buildings, comprised of 140 apartments (91 serviced apartments and 49 dual use residential and serviced apartments);
- associated access and car parking facilities;
- associated pedestrian facilities and landscaping; and
- installation of stormwater management and utility infrastructure.

DA 1731/2014 and DA 496/2015 have been publicly exhibited, however the Council has deferred referring these applications to the Hunter and Central Coast Joint Regional Planning Panel (JRPP) for determination until the current modification request has been determined.

1.3.3 Proposed Modification

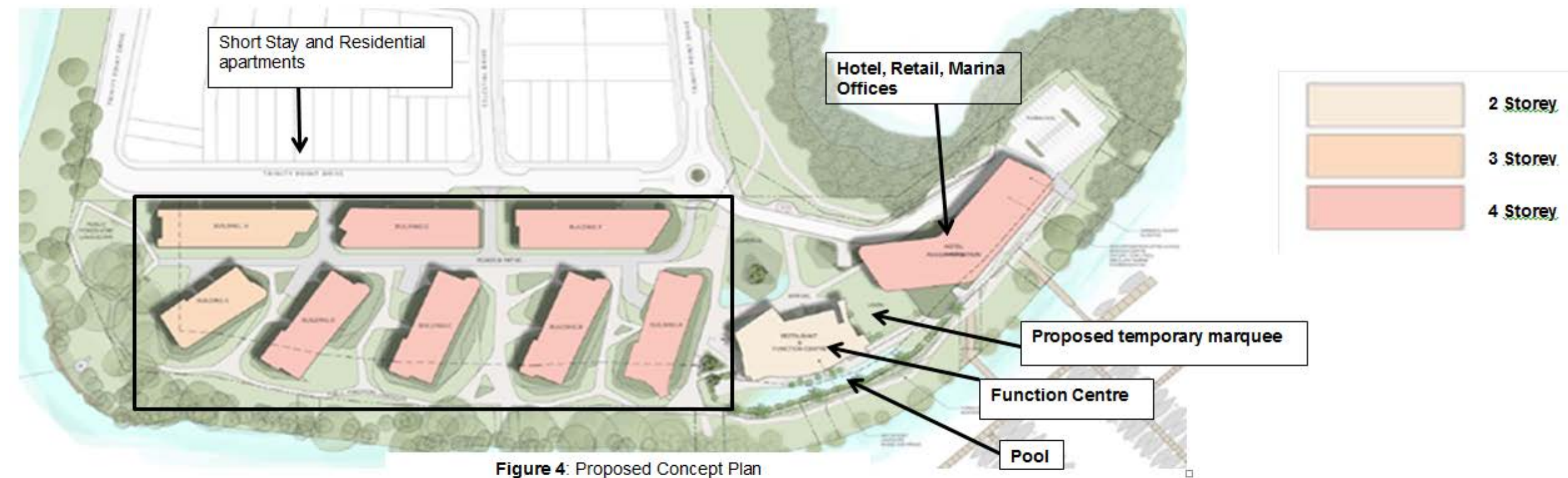
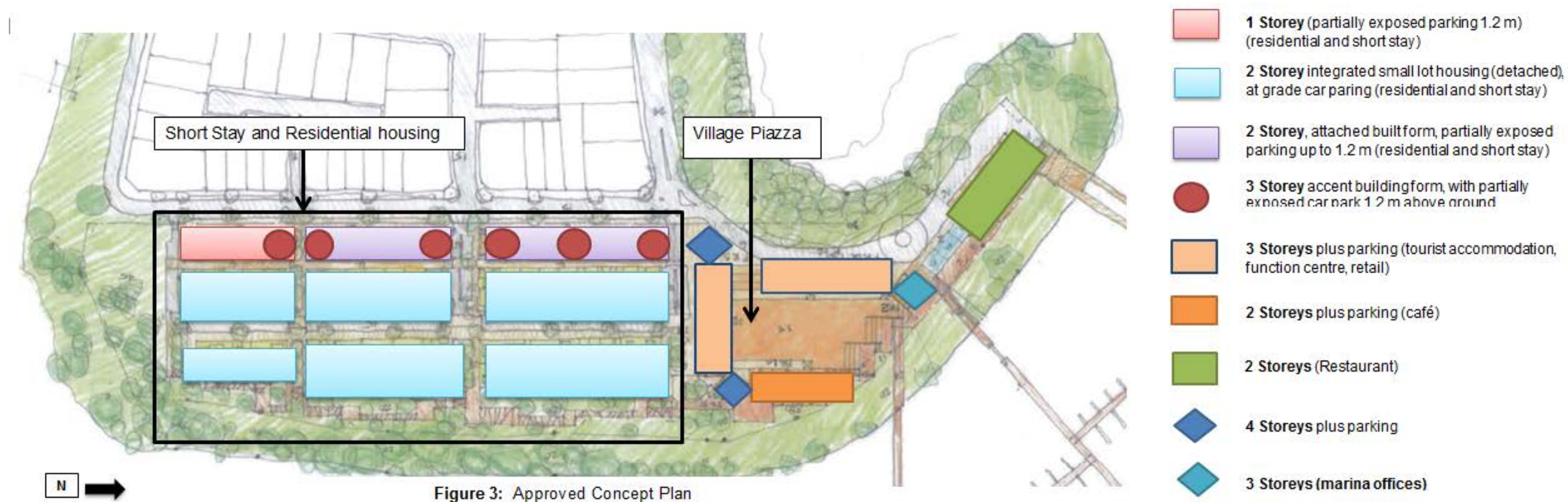
The modification request seeks approval to:

- reconfigure the development blocks, road layout and pedestrian links through the site;
- increase the maximum GFA from 23,790 m² to 29,842 m²;
- increase the height of development within the tourism and residential precinct from a maximum of three storeys to a maximum of four storeys;
- convert the 'integrated small lot housing' lots to eight residential flat buildings containing serviced and residential apartments;
- increase the publicly accessible open space from 23,113 m² to 25,609 m²;
- increase the total number of apartments from 150 to 315, with no more than 50 per cent of the apartments being used for residential purposes;
- increase the number of seats in the café from 30 to 40;
- permit basement level car parking associated within the hotel building and apartment building envelopes;
- permit the operation of a temporary marquee adjacent to the proposed hotel and function centre; and
- modify the urban design controls and principles approved under Term B5 of the Concept Plan to reflect the proposed changes to the built form.

A summary of the key changes to the approved Concept Plan is provided in **Table 1** and a comparison of the approved and proposed built form is provided at **Figures 3 and 4** overleaf.

Table 1: Comparison of Key Changes to the Concept Plan

Component	Concept Plan (Approved)	Concept Plan (Proposed)
Development Footprint	13,487 m ²	10,991 m ²
Total Gross Floor Area	23,790 m ²	29,482 m ²
Floor Space Ratio	0.65:1	0.8:1
Total Number of Building Envelopes	16	10
Building Height: Tourist and Hospitality Precinct	2 to 4 storeys within seven building envelopes	2 to 4 storeys within two building envelopes
Building Height: Tourism and Residential Precinct	9 Building envelopes 1 to 3 storeys.	8 Building envelopes 3 to 4 storeys
Total Tourist Accommodation Units	75 accommodation units	Total of 315, with a maximum of 50 per cent of apartments permitted for residential use
Total Residential Apartments	75 residential apartments	
Average Area per Unit	145 m ²	50 to 120 m ²
Approximate Number of Bedrooms	525 bedrooms	545 bedrooms
Function Centre	300 seats	300 seats
Café	30 seats	40 seats
Restaurant	200 seats	200 seats
Temporary Marquee	N/A	100 patrons
Pool	N/A	One pool located inside the hotel and one outdoor pool located adjacent to the function centre
Total Publicly Accessible Open Space	23,113 m ²	25,609 m ²



1.3.4 Proponent's Justification

The Proponent has advised that the modification is required to ensure the long-term viability of the tourism and hospitality uses on-site. In particular, the Proponent has advised that further economic analysis undertaken by Price Waterhouse Coopers (PWC) identifies that the residential population within the site's catchment is not sufficient to support the year round operation of ancillary tourist uses (restaurants/cafes/day spa) that are required to provide a competitive tourism offering in the locality. In particular, PWC notes that in comparison to tourism destinations providing a similar offering, the site is at a significant disadvantage due to the lower population densities on the western side of Lake Macquarie (a population density of 138 people/km², compared to between 500 and 770 people/km² surrounding the northern and eastern areas of the lake).

In this regard, one of the primary drivers of the modification is the need to increase the residential accommodation on-site, and improve the design quality of the tourism and residential components of the development to ensure the long-term viability of the site as a tourism precinct.

Further, the Proponent has advised that increasing the overall density and quality of the development will assist in strengthening the local economy and improving the interface between the tourism precinct and the surrounding residential development, consistent with the strategic goals and objectives of *NSW 2021*, the *Lower Hunter Regional Strategy*, the *City of Lake Macquarie-Lifestyle 2030 Review*, and the *Hunter Regional Action Plan*.

3. STATUTORY CONTEXT

3.1 Section 75W

Part 3A of the EP&A Act, as in force immediately before its repeal on 1 October 2011, and as modified by schedule 6A to the EP&A Act, continues to apply to section 75W modification requests to Part 3A projects.

The modification request has been lodged with the Secretary pursuant to section 75W of the EP&A Act. The Minister's approval is not required if the project, as modified, remains consistent with the original approval. As the application seeks to modify the approved site layout, building height, gross floor area, and the terms of approval, the Minister's approval is required.

The Department is satisfied that the proposed changes constitute a modification, and are within the scope of section 75W of the EP&A Act on the basis that the application will not result in any adverse environmental or amenity impacts in comparison to the existing approval. On this basis the modification request does not constitute a new application and the Minister (or his delegate) may determine the modification request.

Consequently, this report has been prepared in accordance with the requirements of Part 3A of the EP&A Act and the *Environmental Planning and Assessment Regulation 2000*. The Minister (or his delegate) may approve or disapprove of the modification of the project under section 75W of the EP&A Act.

3.2 Approval Authority

On 14 September 2011, the then Minister for Planning delegated his responsibility for the determination of Concept Plan applications to the Planning Assessment Commission (the Commission) where:

- the local relevant council objects to the application;
- a political donation disclosure statement has been made; or
- there are 25 or more public submissions received in the nature of objections.

The application is being referred to the Commission for determination as more than 25 public submissions of objection were received.

4. CONSULTATION

Under section 75X(2)(f) of the EP&A Act, the Secretary is required to make the modification request publicly available. After accepting the modification request, the Department:

- publicly exhibited the modification request from Wednesday 19 November 2014 until Friday 19 December 2014 (31 days) on the Department's website and at:
 - the Department's Information Centre;
 - Lake Macquarie Council's administration office; and
 - the Morisset Library;
- advertised the exhibition in the Sydney Morning Herald, Newcastle Herald and The Lakes Mail; and
- notified previous submitters, relevant State government agencies and Council by letter.

During the exhibition period, the Department received a total of 138 submissions comprising:

- 5 submissions from public authorities; and
- 128 submissions from the general public, and
- 5 submissions from special interest groups.

A summary of the issues raised in the submissions is provided below.

4.1 Public Authorities

Lake Macquarie City Council (Council) raised no objection to the modification request, however it advised that the Proponent should address the following issues raised by the Council's SEPP 65 Review Panel:

- the landscape scheme should be revised to reflect the character of the area, remove the tropical planting, and incorporate sub-temperate species typical of the locality;
- opportunities should be explored for set downs in the slab to accommodate larger trees between buildings where possible; and
- the Proponent should consider developing public domain treatments that promote interaction between the serviced apartment guests and the permanent residents.

The Department requested that the Proponent address the issues raised by the Council's SEPP 65 Review Panel in its Response to Submissions (RTS).

Roads and Maritime Services (RMS) objected to the modification request on the basis that the proposed increase in density would trigger the need for additional upgrades beyond those currently identified for the Macquarie Street/Fishery Point Road intersection. In this regard, the RMS requested that the Proponent enter into a Deed of Agreement with RMS to provide an equitable contribution toward the upgrade of the Macquarie Street/Fishery Point Road intersection consistent with the deeds of agreement in place with other developers in the locality.

The Department has reviewed the comments provided by RMS and notes that Principle 10 of the Urban Design Guidelines currently requires the Proponent to pay a contribution toward the upgrade of the Macquarie Street/Fishery Point Road intersection. Notwithstanding, the Department requested that the Proponent quantify the impacts of the proposed increase in the density on the local road network, and identify all mitigation measures required to offset these impacts in its RTS.

The **NSW Office of Water (NOW)** raised no objection to the modification request, however it requested that the Proponent identify the impacts associated with the construction of future basement car parks on the existing groundwater resources.

The Department notes that whilst the Concept Approval does not permit construction works, it is important to determine whether the proposed basement car parks will result in any adverse impacts on existing groundwater resources prior to determining the modification request. As such, the Department has requested that the Proponent address this issue in its RTS.

The **Office of Environment and Heritage (OEH)** raised no objection and advised that the modification request would not result in any additional impacts on Aboriginal cultural heritage in the locality.

The **Rural Fire Service (RFS)** raised no objection to the modification request and advised that the proposed modifications to the Concept Plan would not result in any adverse bushfire safety impacts.

4.2 General Public

The Department received 133 public submissions including 78 objections from local residents (of which 49 were pro-forma letters), five objections from special interest groups, 49 submissions of support (of which 24 were pro-forma), and one submission providing comments. A summary of the public submissions is provided below.

Traffic, Access and Car Parking

- the construction and operational phases of the project will decrease the levels of service at the surrounding intersections and will reduce the efficiency of the local road network;
- insufficient car parking is proposed on-site; and
- the impacts of additional traffic on emergency bushfire egress have not been addressed.

Built Form/Urban Design/Amenity

- the proposed increase in density and associated changes to the built form are not supported;
- it is likely that the short stay accommodation will be converted to residential units in the future;
- the requirements of SEPP 65 have not been addressed;
- public access along the foreshore should be maintained;
- the application will increase overshadowing across the site; and
- the application does not include a wind impact assessment.

Temporary Marquee

- the noise impacts associated with the operation of the temporary marquee have not been assessed; and
- the operation of the temporary marquee will increase anti-social behaviour and crime in and around the site.

Visual

- the photomontages do not accurately reflect the bulk and scale of the proposed development.

Soil and Water

- the proposed modifications will increase erosion and pollution and will result in adverse water quality impacts; and
- the proposed modifications will increase energy and water consumption on-site.

Landscaping

- native species should be planted and the removal of the Casuarina trees and Angophora gums is not supported.

Aboriginal Cultural Heritage

- the proposed modification will impact on Aboriginal scar trees and Aboriginal cultural heritage values.

Process

- the modification is outside the scope of section 75W; and
- the Proponent has not undertaken sufficient community consultation.

Those in support of the project stated that the proposal would provide economic growth and stability and improved lifestyle outcomes for the local community. In addition, the proposed modifications

were considered to benefit small businesses in the locality, and provide a superior design outcome in comparison to the approved development.

The Department requested that the Proponent address the issues raised in the public submissions in its RTS.

4.3 Response to Submissions

The Proponent provided a Response to Submissions (RTS) on 27 April 2015. The RTS proposes minor design revisions to the building envelopes within the tourism and residential precinct, and includes revisions to the technical reports which respond to the issues raised in the public and agency submissions. These revisions are outlined below:

Design Changes:

- revisions to the building envelopes and the internal road configuration to improve the relationship between the future buildings, the internal landscaped area and adjoining foreshore reserve, and to reduce the protrusions into the 20 m foreshore setback;
- revisions to the Urban Design Guidelines to reflect the proposed modifications to the building envelopes and setback requirements; and
- the removal of all references to the number of short stay apartments and hotel rooms to provide greater flexibility as the design is refined prior to the lodgement of development applications with the Council.

Supplementary Technical Information:

- additional SEPP 65 design analysis;
- additional flooding and stormwater modelling;
- clarification of the impacts of the proposed building envelopes on acid sulphate soils;
- quantification of the excavation depths required to implement the proposed car parking scheme;
- an analysis of the proposed change in the extent of public/publicly accessible open space; and
- a comparative analysis of the approved and proposed visual, overshadowing, noise, air quality, traffic, and excavation impacts.

The Department referred the RTS to the Council, RMS, DPI, OEH, RFS, the Hunter-Central Rivers Catchment Management Authority (CMA), Crown Lands and the Mine Subsidence Board (MSB). Those members of the public who made a submission on the application were also invited to comment on the RTS.

The Department received submissions from the Council, RMS, the CMA, NOW and the RFS. 8 public submissions (six in objection), including three from special interest groups (all of which objected to the modification) were also received. These submissions are summarised below.

Council raised no objection and advised that the RTS addressed the design issues raised by its SEPP 65 Design Review Panel. No additional comments were provided.

RMS withdrew its previous objection, subject to the Department imposing a condition requiring the Proponent to provide a \$769,494 contribution toward the Fishery Point Road/Macquarie Street intersection, prior to the issue of the first Occupation Certificate for the short stay or residential accommodation.

The Department has recommended modifications to Term C7 of the Concept Plan to ensure that the Proponent enters into an agreement with RMS to pay a monetary contribution toward the upgrade of the Fishery Point Road/Macquarie Street intersection prior to the issue of the first Occupation Certificate for short stay or residential accommodation on-site.

The **Hunter-Central Rivers CMA** raised no objection, however it advised that:

- a 40 m buffer is required to protect the environmental values of the foreshore;
- the foreshore should be vegetated with natives; and

- suitable buffers should be incorporated into the development to address issues such as sea level rise.

The Department has reviewed the CMA's comments notes that the RTS:

- has reduced the extent of the encroachments within the foreshore setback area;
- confirms that the foreshore reserve will be revegetated with native species consistent with the Vegetation Management Plan required under Term C9A of the Concept Approval, and
- confirms that future developments on-site are capable of being designed to accommodate sea level rise.

An assessment of the proposed reduction to the foreshore reserve setback is discussed in greater detail in **Section 5** of this report.

NOW raised no objection, however it raised the following concerns:

- the modification request does not identify the extent of underground works proposed, or the extent of annual groundwater take arising from the underground works;
- on-going take of groundwater through underground car parks or basements is not supported and all underground structures should be fully tanked;
- the modification request should include calculations to identify whether the annual groundwater take will exceed 3 ML/year. In the event that annual groundwater take exceeds this threshold, the Proponent will need to obtain a licence under Part 5 of the *Water Act 1912*; and
- the Vegetation Management Plan needs to be updated to reflect the changes proposed under the modification request and the recent changes to the *Guidelines for Controlled Activities on Waterfront Land*.

As the Concept Approval does not permit construction works, or provide the final details for the basement designs, the Department considers that it is appropriate to require the Proponent to provide details of the groundwater take with each future development application. The Department has recommended modifications to term C20 to address this issue.

The Department has reviewed NOW's request to reference the *Guidelines for Controlled Activities on Waterfront Land* in the Concept Plan, and does not support the inclusion of these guidelines for the following reasons:

- the *Guidelines for Controlled Activities on Waterfront Land* apply to developments within 40 m of a lake edge that require a controlled activity permit under the *Water Management Act 2000*;
- the approved Concept Plan already permits building envelopes within 40 m of the lake's edge (envelopes within 26 m are currently permitted); and
- section 75V of the EP&A Act, which applies to transitional Part 3A projects, specifies that an authority cannot refuse an authorisation required under the *Water Management Act 2000* if it is consistent with the requirements of an approved Concept Plan.

RFS raised no objection, however it advised that future applications for the visitor/tourist accommodation must obtain a Bushfire Safety Authority in accordance with the provisions of section 100B of the *Rural Fires Act 1997*.

The Department has reviewed the comments provided by the RFS and notes that the modification request relates to an approved Concept Plan which does not permit the carrying out of works. In this regard, the Department has recommended modifications to Term C17 ensure that the Proponent obtains a Bushfire Safety Authority prior to the determination of each development application for tourist/visitor accommodation.

General Public/Special Interest Groups

The submissions provided by members of the general public and special interest groups reiterated the following concerns:

- the increase in floor area and changes to the built form controls are not supported;

- the stormwater, traffic, car parking, social and visual impacts of the proposed modifications have not been adequately addressed;
- the use of the proposed marquee not appropriate;
- the RTS did not address the community concerns; and
- the Proponent has not consulted appropriately.

5. ASSESSMENT

In its assessment of the modification request, the Department has considered the following:

- the Director-General's assessment reports for the original Concept Plan and earlier modification approvals;
- the Proponent's modification request (see **Appendix D**);
- all submissions received by the Department (see **Appendix E and G**); and
- the Proponent's RTS and supplementary information (see **Appendix F**).

The Department considers the key issues for the proposed modification are:

- urban design;
- visual impacts;
- compliance with SEPP 65;
- traffic and car parking; and
- Aboriginal cultural heritage.

These key issues are assessed in sections **5.1 to 5.5** of this report. All other issues are assessed in **Section 5.5**.

5.1 Urban Design

The modification request seeks approval to:

- consolidate the building envelopes within the Tourist and Hospitality Precinct to integrate the marina and hotel facilities within a single envelope, as well as provide a single envelope for the proposed function centre;
- delete the village piazza and replace it with a landscaped forecourt to the west of the proposed building envelopes for the hotel, marina, and function centre uses;
- reduce the number of building envelopes within the Tourist and Residential Precinct to facilitate the construction of eight apartment buildings;
- increase the maximum height of the buildings within the Tourist and Residential Precinct from three storeys to four storeys; and
- update the Urban Design Guidelines to reflect the abovementioned changes.

An assessment of the proposed changes to the built form is provided in **sections 5.1.1 to 5.1.4** below.

5.1.1 Height, Bulk and Scale

The approved built form was designed to concentrate the bulk and scale of the development within the Tourism and Hospitality Precinct to ensure the more intense tourist uses are located adjacent to the village piazza to activate the public domain, and to provide an appropriate transition between the tourist uses and the residential development immediately west of the site.

In addition, the Tourism and Residential Precinct was designed to provide a transition between the scale of the development within the Tourism and Hospitality Precinct and the residential development proposed along the western side of Trinity Point Drive.

The approved concept is depicted in **Figure 5** below.

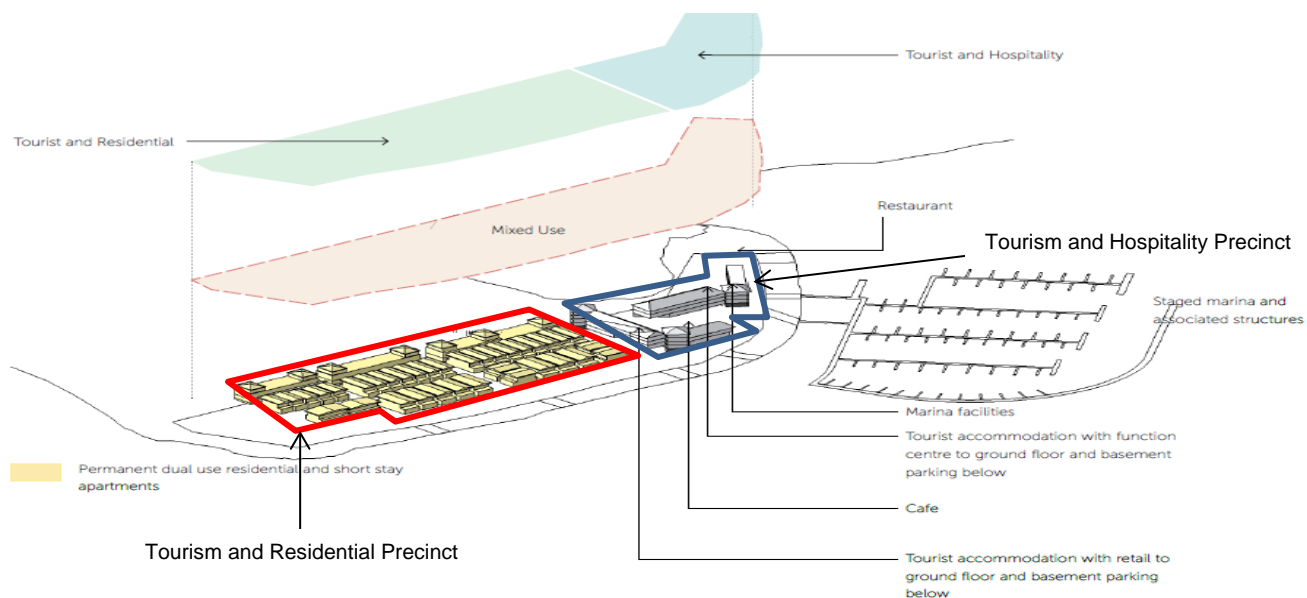


Figure 5: Approved Built Form

The modification request seeks approval to reconfigure the building envelopes and public domain within the Tourism and Hospitality and Tourism and Residential Precincts as follows:

Tourism and Hospitality Precinct:

- reduction in the number of building envelopes from seven to two;
- consolidation of the tourist accommodation and marina uses within a single building envelope up to four storeys in height;
- consolidation of the restaurant, café and function centre within a single envelope up to two storeys in height; and
- conversion of the village piazza to a landscaped forecourt.

Tourism and Residential:

- reduction in the number of building envelopes from nine to eight;
- conversion of the attached and semi-detached dwellings to eight apartment buildings ranging in height between two and four storeys; and
- reconfiguration of the approved street network and public domain to reflect the proposed modifications to the building envelopes.

The proposed modifications will also result in an overall increase in the total gross floor area (GFA) approved within the northern and southern precincts (23,790 m² approved, 29,482 m² proposed). The proposed modifications to the Concept Plan are depicted in **Figure 6**.

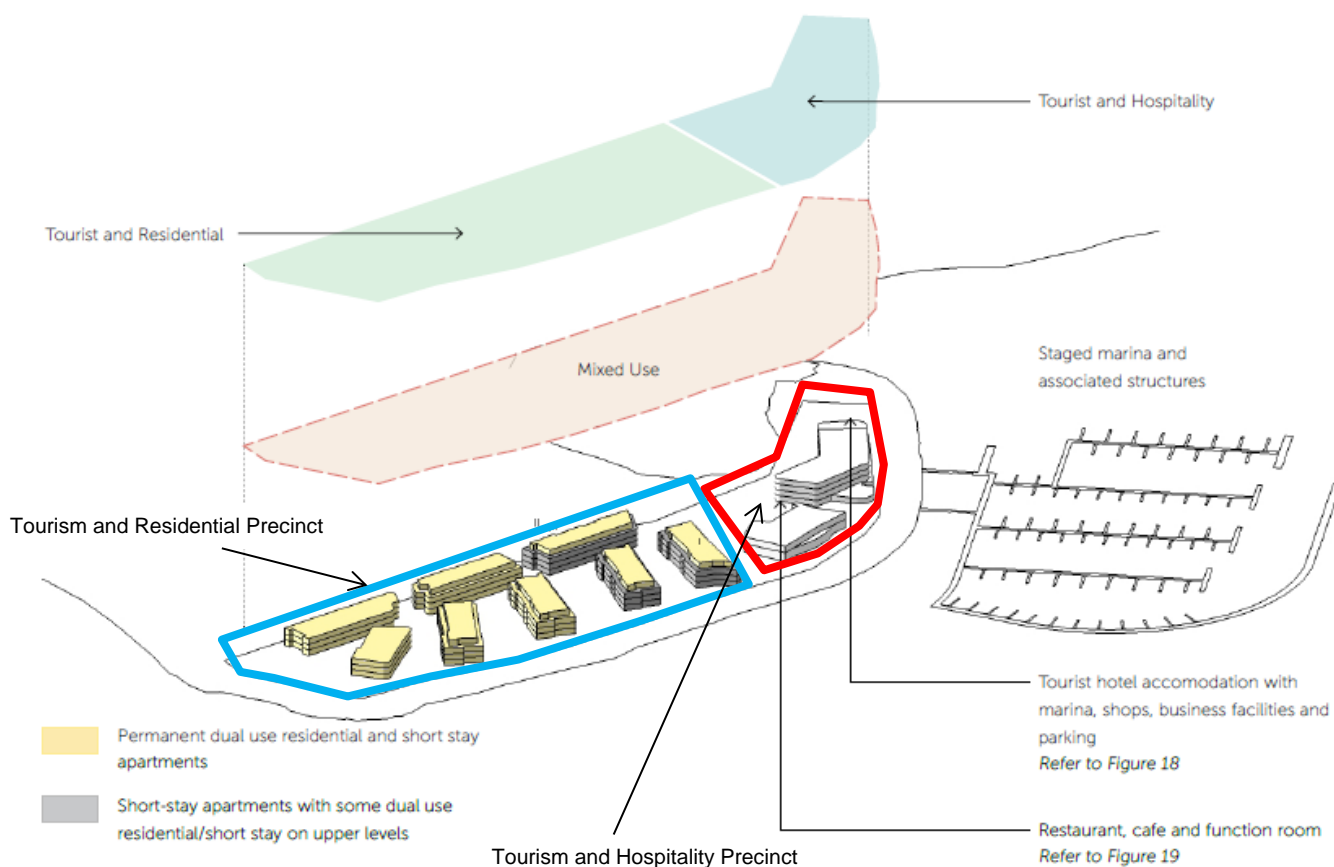


Figure 6: Proposed Built Form

The proposed modifications are sought to:

- concentrate the tourism and recreation uses along the waterfront to activate the area adjacent to the marina;
- improve pedestrian links and permeability through the Tourism and Residential Precinct, and provide additional connections to the foreshore reserve;
- expand and create new visual linkages through the site and to the lake;
- improve the quality of the overall design; and
- reduce the extent of at-grade car parking.

The Department notes that Council supports the proposed revisions to the building envelopes, however a significant number of public submissions raised concern with the height, bulk and scale of the proposed building envelopes, particularly in relation to the visual impact of the proposed building envelopes within the surrounding visual catchment.

The Department has assessed the proposed revisions to the height, bulk and scale of the approved building envelopes and has concluded that:

- the maximum height of the buildings within the Tourism and Hospitality Precinct will remain at four storeys, and the building envelopes have been sited to ensure all future built form will remain below the crown height of the existing vegetation as per the intent of the approved Concept Plan (see **Figures 7 and 8**);
- Principle 5 of the Urban Design Guidelines has been revised to ensure that the upper level of the hotel is setback from the waterfront, and is clad with recessive colours to provide light and shade, and reduce the apparent bulk and scale of the building when viewed from the foreshore reserve and the lake;
- whilst the maximum height of the buildings within the Tourism and Residential Precinct will increase by between one to two storeys (two and three storey envelopes currently permitted, three and four storey envelopes proposed), the proposed modifications to Principle 3 of the

Urban Design Guidelines will ensure that potential visual impacts are mitigated via the use of upper level setbacks, and light weight and recessive building materials;

- the reduction in the total number of building envelopes, as well as the reorientation of the envelopes will provide visual relief (by removing the wall of buildings running north-south adjacent to the foreshore reserve) when viewing the site from the foreshore reserve and the lake in comparison to the approved project;
- the proposed building envelopes and building materials respond to the height and character of the developments approved along Trinity Point Drive, and will provide an appropriate transition between the urban character of the tourism and residential precincts and the adjoining residential development immediately west of the site (see **Figure 9**);
- the revisions to the building envelopes will reduce the overall site coverage and increase the extent of publicly accessible open space across the site (23,113 m² approved, 25,609 m² proposed); and
- the proposed block configurations will expand the approved east west view corridors and will establish a visual connection between Bluff Point and the Tourism and Hospitality Precinct (see **Figure 10**).

Given the above, the Department is satisfied that the proposed modifications to the built form provide an appropriate response to the site's desired future character as a tourism, hospitality and residential precinct, whilst respecting the height, bulk, scale and character of the residential development immediately west of the site and within the broader visual catchment. In addition, the Department is satisfied that the proposed modifications to the building envelopes will improve the relationship between the site and the adjoining public reserve by breaking up the built form along the eastern boundary of the site.

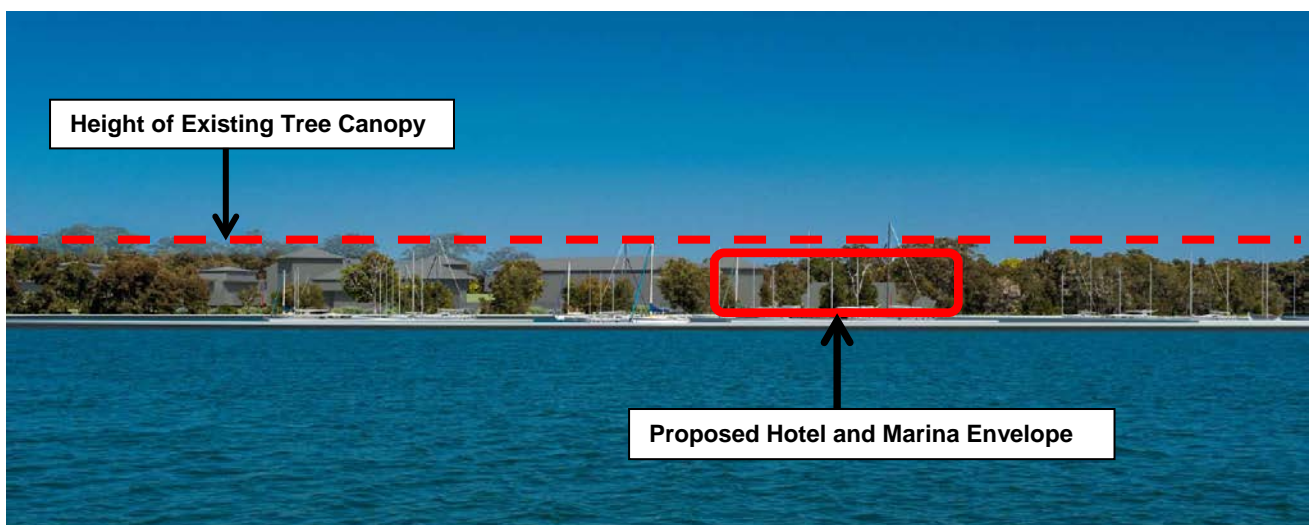


Figure 7: Subject Site as Viewed from the Lake (Approved Concept)

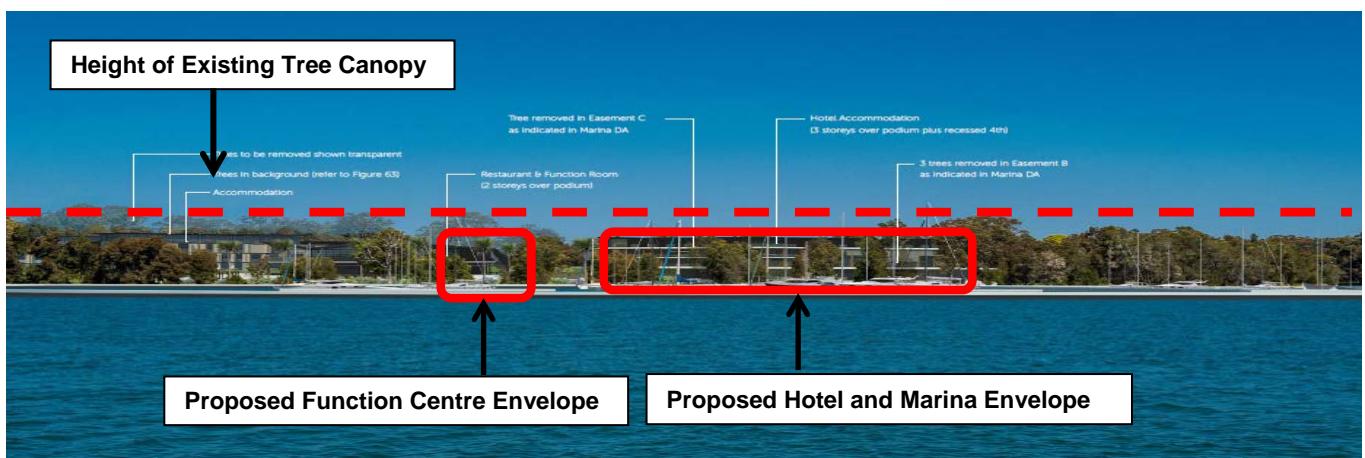


Figure 8: Subject Site as Viewed from the Lake (Proposed Concept)

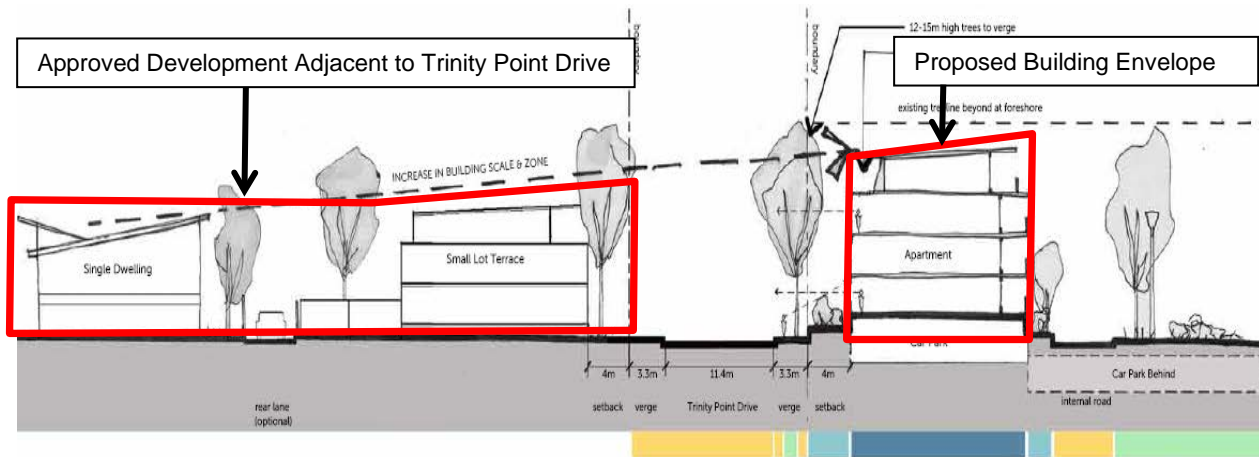


Figure 9: Relationship of the Built Form with the Adjacent Residential Development

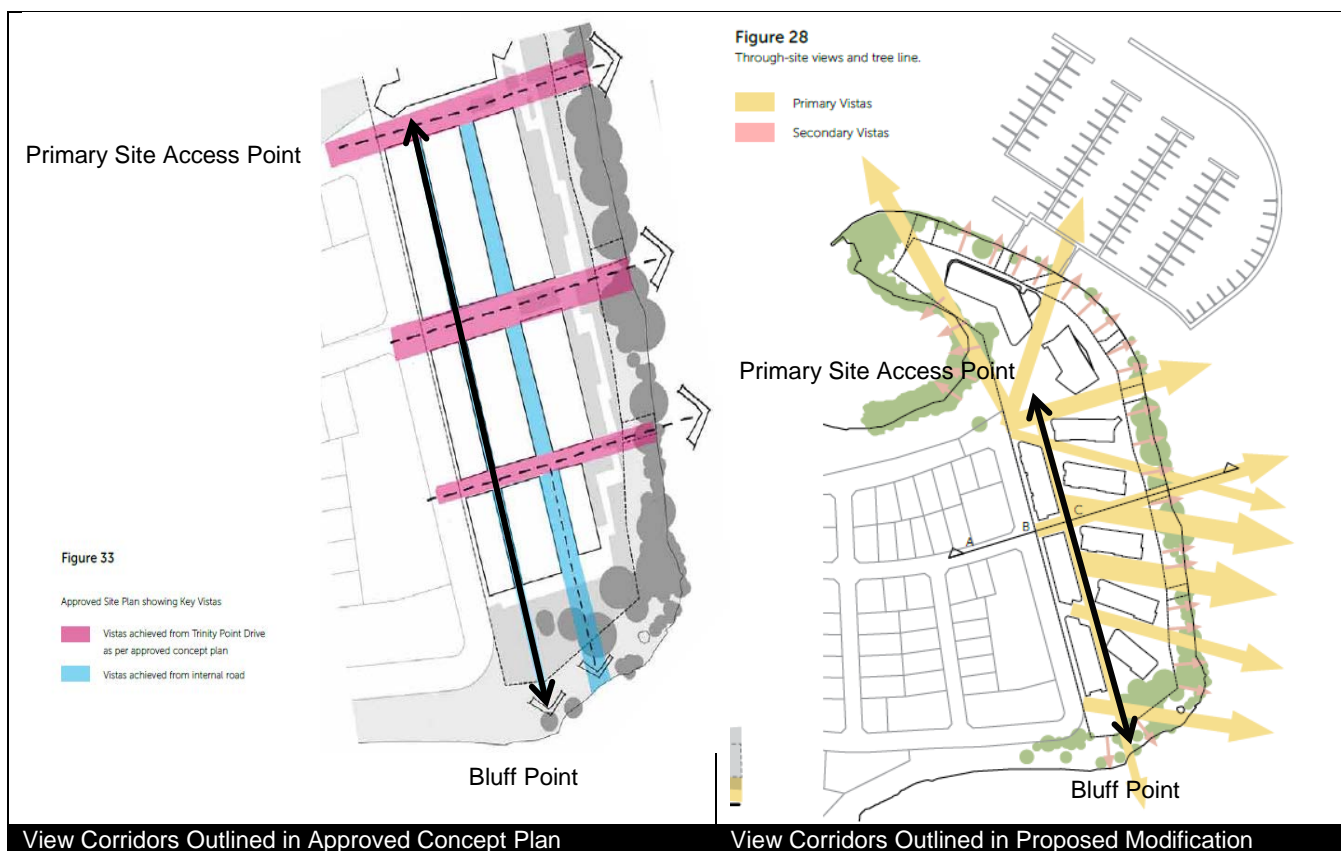


Figure 10: Comparison of Approved and Proposed View Corridors

5.1.2 Setbacks

Term C2 of the approved Concept Plan requires all development to achieve compliance with the following setback requirements:

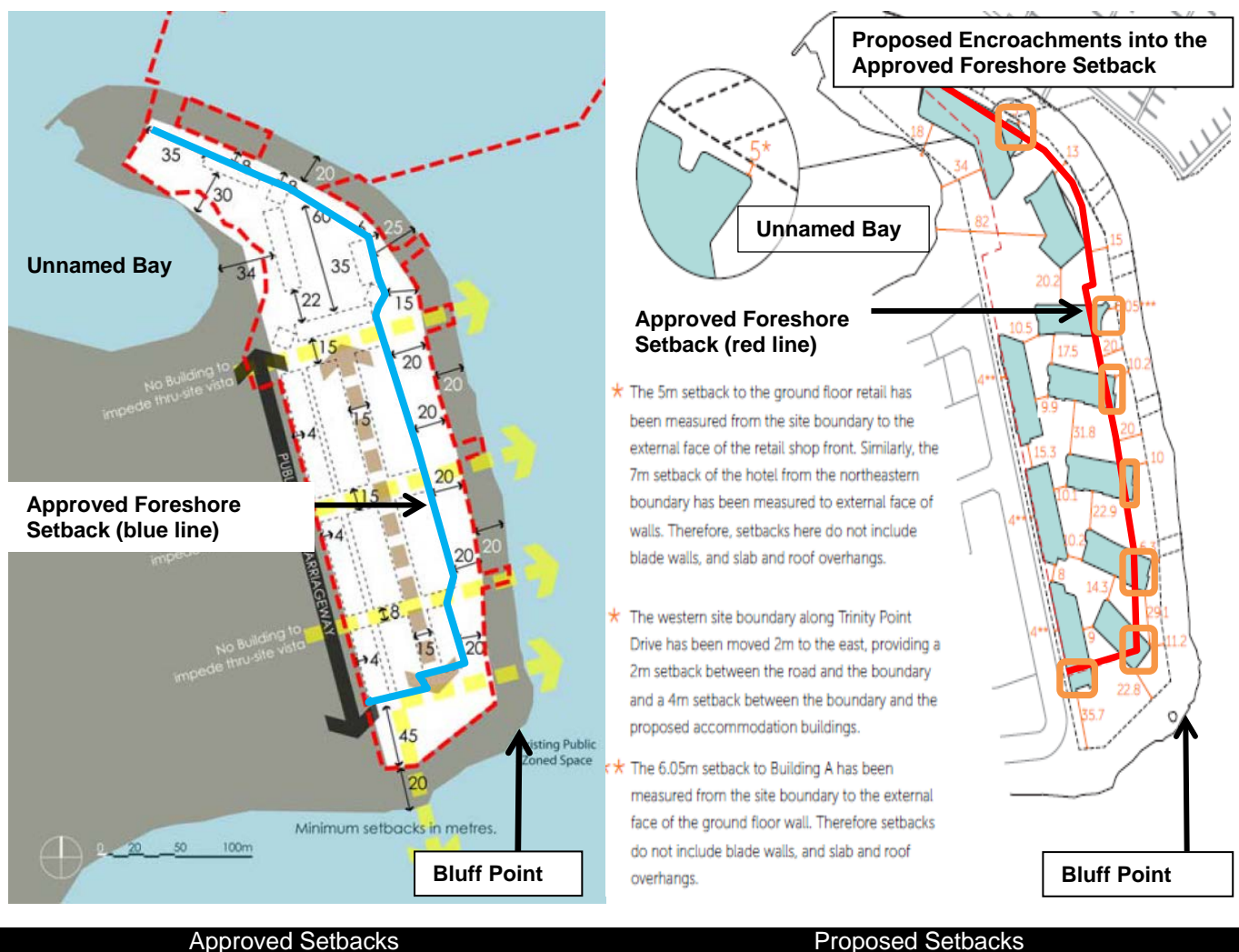
- a 20 m setback from the western edge of the foreshore reserve along the eastern boundary of the site; and
- a 45 m setback from the northern boundary of the foreshore reserve adjacent to Bluff Point.

In addition, the Urban Design Guidelines approved under Term C3 of the Concept Plan require future development applications to demonstrate compliance with the internal setbacks outlined below to provide vistas through the site from the public roads, and to protect the amenity of the residential development immediately west of the site:

- a 35 m setback from the western boundary of the foreshore reserve and a 30 m setback from the unnamed bay to the northern most building envelope within the Tourism and Hospitality Precinct;
- a 34 m setback from the edge of the unnamed bay and the building envelope within the centre of the Tourism and Hospitality Precinct;
- a 28 m setback between the envelope for the marina building and the unnamed bay;
- an 8 m setback from the western boundary of foreshore reserve and the two northern most building envelopes within the Tourism and Hospitality Precinct;
- a 6 m setback from the western boundary of foreshore reserve and the southern building envelope within the Tourism and Hospitality Precinct; and
- a 20 m setback between the western boundary of the foreshore reserve and the building envelopes within the Tourism and Residential Precinct.

The modification request seeks approval to reduce the 20 m foreshore setback to the building envelopes for future buildings A to E, and the 45 m setback to Bluff Point for the building envelopes for future buildings E and H, with setbacks of between 6 m and 11 m proposed along the eastern boundary of the site, and setbacks between 22 and 35 m proposed from Bluff Point.

A comparison of the approved and proposed setbacks outlined Principle 2 of the Urban Design Guidelines is provided in **Figure 11** below.



The Department notes that the Council advised that the proposed revisions to the building envelopes and setbacks are acceptable, however the CMA raised concern with the encroachments into the 20 m foreshore reserve setback on the basis that it considers that all development should be setback a minimum distance of 40 m from the lake's edge.

The Department has reviewed the CMA's concerns and has concluded that the proposed setbacks are appropriate for the following reasons:

- the approved Concept Plan permits building envelopes within 26 m of the lake's edge;
- the additional encroachments proposed within 40 m of the lake's edge only occur over a small portion of the site (an area of approximately 1,400 m²), and will not result in the clearing of additional foreshore vegetation. In addition, all foreshore vegetation will continue to be protected in accordance with the Vegetation Management Plan approved under Term C9 of the Concept Approval;
- the proposed revisions to the stormwater management plan will not alter the approved water quality targets for water being discharged into the lake, and all proposed stormwater outlets are setback from existing fringing vegetation;
- the proposed setbacks will continue to provide sufficient curtilage to facilitate the interpretation of the cultural plantings and sundial within Bluff Point;
- the proposed setbacks will expand the width of east-west view corridors, and will create a direct visual connection between Bluff Point and the Tourism and Hospitality Precinct; and
- the proposed revisions to the Urban Design Guidelines will ensure that the building envelopes protruding into the foreshore reserve will not result in any adverse visual or amenity impacts both within the foreshore reserve or from the lake.

The Department also notes that the pool proposed adjacent to the foreshore reserve is inconsistent with the minimum foreshore reserve setback outlined in the *Lake Macquarie DCP 2014* (7.2 m from the lot boundary required, approximately 5 m proposed). The Department considers that the location of the proposed pool is acceptable subject to the Proponent incorporating appropriate management measures in the vegetation, landscape, soil and water, and construction management plans required to be submitted with future development applications under terms C9, C10, C23, and C24 of the Concept Plan.

Accordingly, the Department is satisfied that the proposed modifications to the setback requirements of the Concept Plan are appropriate.

5.1.3 Overshadowing

As the application seeks to amend the approved building envelopes the Proponent has provided revised shadow diagrams to establish the impacts of overshadowing within the public domain and at private residences both within and external to the site. A comparative analysis of shadows created by the approved and proposed development is provided at **Figures 12 and 13** below.

SHADOW DIAGRAMS - WINTER SOLSTICE

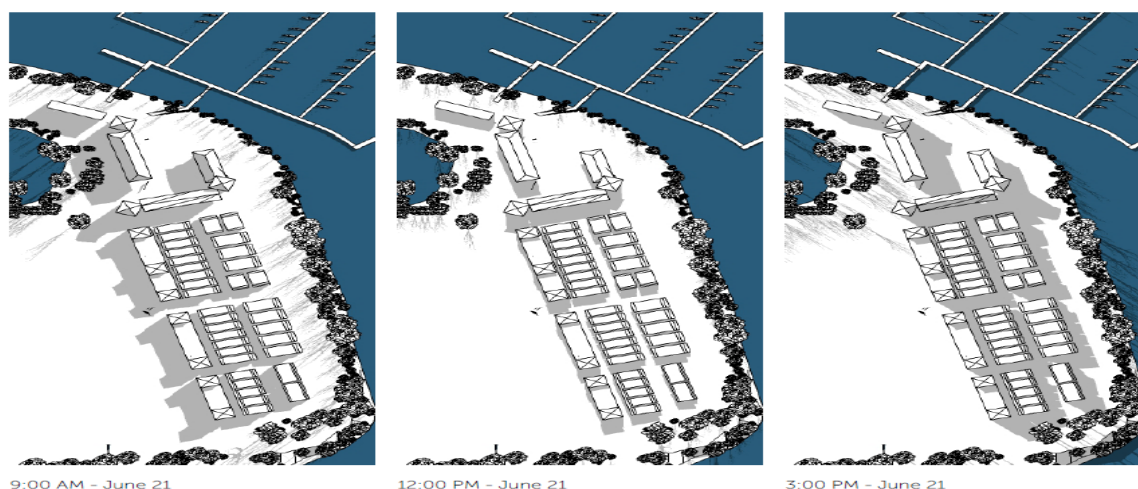


Figure 12: Shadows Created under the Approved Concept Plan at Winter Solstice

SHADOW DIAGRAMS - WINTER SOLSTICE



Figure 13: Shadows Created under the Approved Concept Plan at Winter Solstice

The Department has reviewed the shadow diagrams and has concluded that:

- more than 70 per cent of apartments would be capable of achieving three hours direct sunlight to living areas and private open space between 9 am and 3 pm at the winter solstice, as per the requirements of the *Residential Flat Design Code* (RFDC) and the *Apartment Design Guide*;
- the adjacent small lot terrace housing along Trinity Point Drive will still achieve in excess of three hours of sunlight to 50 per cent of living areas and private open space between 9 am and 3 pm at the winter solstice, as per the requirements of the *Lake Macquarie Development Control Plan 2014*; and
- the extent of overshadowing within the foreshore reserve would increase between 12 pm and 3 pm at the winter solstice, however, it is still possible to achieve in excess of three hours direct sunlight within the foreshore reserve between 9 am and 3 pm.

Given the above, the Department is satisfied that the proposed modification will not result in any unacceptable overshadowing impacts.

5.1.4 Open Space and Landscaping

The approved Concept Plan includes approximately 23,100 m² of public open space/publicly accessible land comprised of:

- a village piazza; and
- east-west and north-south internal streets that reinforce the landscape character of the lake.

In addition, the approved Urban Design Guidelines require the Proponent to ensure future developments:

- provide an integrated streetscape design along Trinity Point Drive;
- ensure the internal north-south and east-west internal streetscapes are designed to provide a low-speed shared zone;
- ensure the landscape finishes are comprised of a natural materials palette;
- provide appropriate wayfinding signage, amenities, and lighting;
- ensure the site's Aboriginal and historic cultural heritage are interpreted; and
- include a public art strategy that celebrates the qualities of the site.

The modification request seeks approval to revise the approved landscape concept to increase the amount of publicly accessible land (23,100 m² approved, 25,600 m² proposed), reduce the amount of non-permeable landscaping, and update Urban Design Guidelines (principles 4 and 9) to refine the approved planting scheme and reflect the changes to the approved building envelopes. A comparison of the approved and proposed open space requirements is provided at **Figure 14** overleaf.



Figure 14: Configuration and Composition of Proposed Open Space

The Department notes that the Council's SEPP 65 Panel supported the revised landscape concept, however, a number of the public submissions raised concern with the extent of public open space proposed on-site, and the use of exotic plants. The Department has reviewed the proposed modifications to the approved landscape concept and Principle 9 of the Urban Design Guidelines and has concluded that:

- the revised landscape concept will increase the extent of publicly accessible open space and will provide additional pedestrian links both within the site and to the foreshore reserve (23,100 m² approved, 25,600 m² proposed) (see **Figure 15**);
- the proposed landscape concept will reduce the extent of hard landscaping across and the volume of run-off from the development;
- Principle 9 incorporates appropriate landscape treatments to ensure plantings surrounding the public reserve and significant cultural sites are comprised of native species (the landscaped podiums to each building will incorporate exotic plants);
- the landscape concepts will ensure an appropriate transition between the public and private realm; and
- the sections provided to support the proposed modifications demonstrate that there will be a high degree of passive surveillance within the public domain to promote casual interaction between residents and visitors to the site (see **Figure 16**).

Given the above, the Department supports the proposed modifications to the approved landscape concept and Principle 9 of the Urban Design Guidelines.

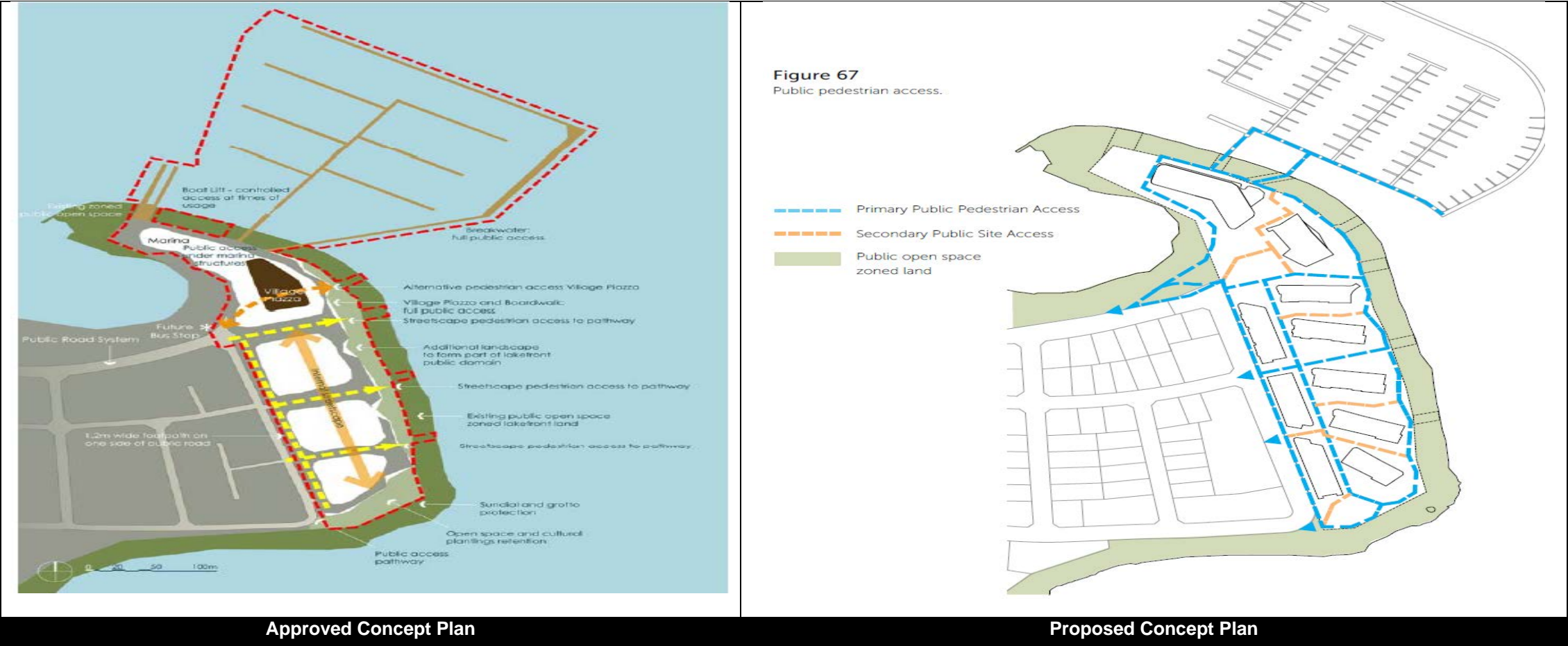


Figure 15: Comparison of Approved and Proposed Pedestrian Linkages

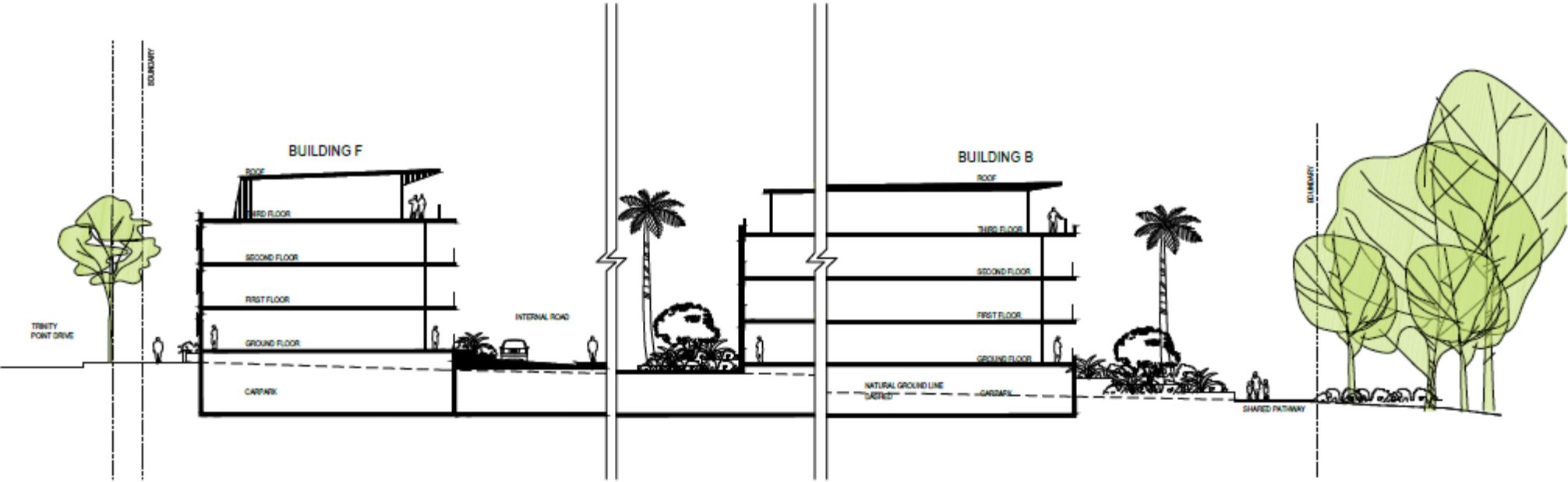


Figure 16: East-West Section through the Tourism and Residential Precinct Depicting the Interface between the Public and Private Domain

5.2 Visual Impacts

The modification request includes a Visual Impact Assessment prepared by Richard Lamb and Associates (VIA) that assesses the impacts of the proposed modifications to the built form from within the surrounding visual catchment. The VIA was updated in the RTS to provide a more detailed comparison of the approved development and the proposed modifications within the surrounding visual catchment. The extent of the visual catchment is outlined in **Figure 17** below.



Figure 17: Extent of Visual Catchment

Based on the existing character of the area the supplementary VIA concluded that:

- the visual catchment has a moderate scenic quality which varies in integrity, and whilst the overall built form would be different, the proposed building envelopes will not significantly change the overall character of the visual catchment in comparison to the approved Concept Plan;
- the existing tree canopy within the foreshore reserve will remain as the prevailing visual element consistent with the approved Concept Plan when viewed from vantage points 1, 3 and 5, and as such the proposed modification would not result in any significant view blocking within the public domain in comparison to the approved Concept Plan (see **Figures 18 to 20**);
- access to views from the adjoining site along Trinity Point Drive will be improved in comparison to the approved Concept Plan given the proposed layout will expand the view corridors through the site;
- views from the adjoining foreshore reserve will be significantly improved due to the increase in view corridors through the site and the incorporation of active frontages adjacent to the foreshore reserve;
- views from the immediate public domain will be improved due to the increased visual permeability through the site;
- the proposed modifications to the approved building envelopes will not change the visibility of the development from middle and distant vantage points within the broader visual catchment; and
- there will be no difference in the overall visual effects of the proposed modification in comparison to the approved development.

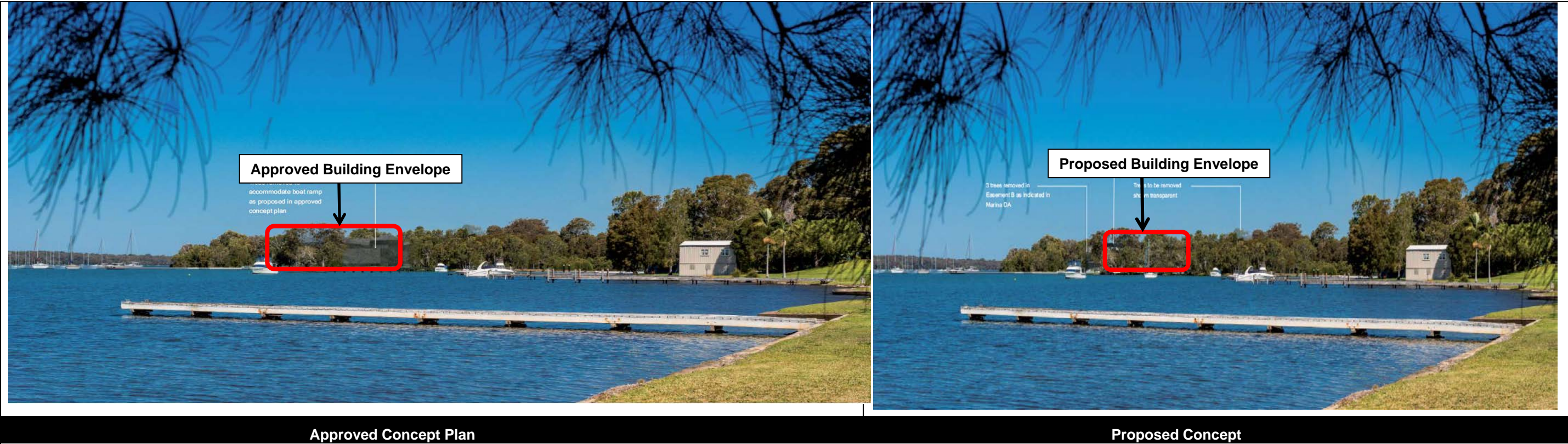
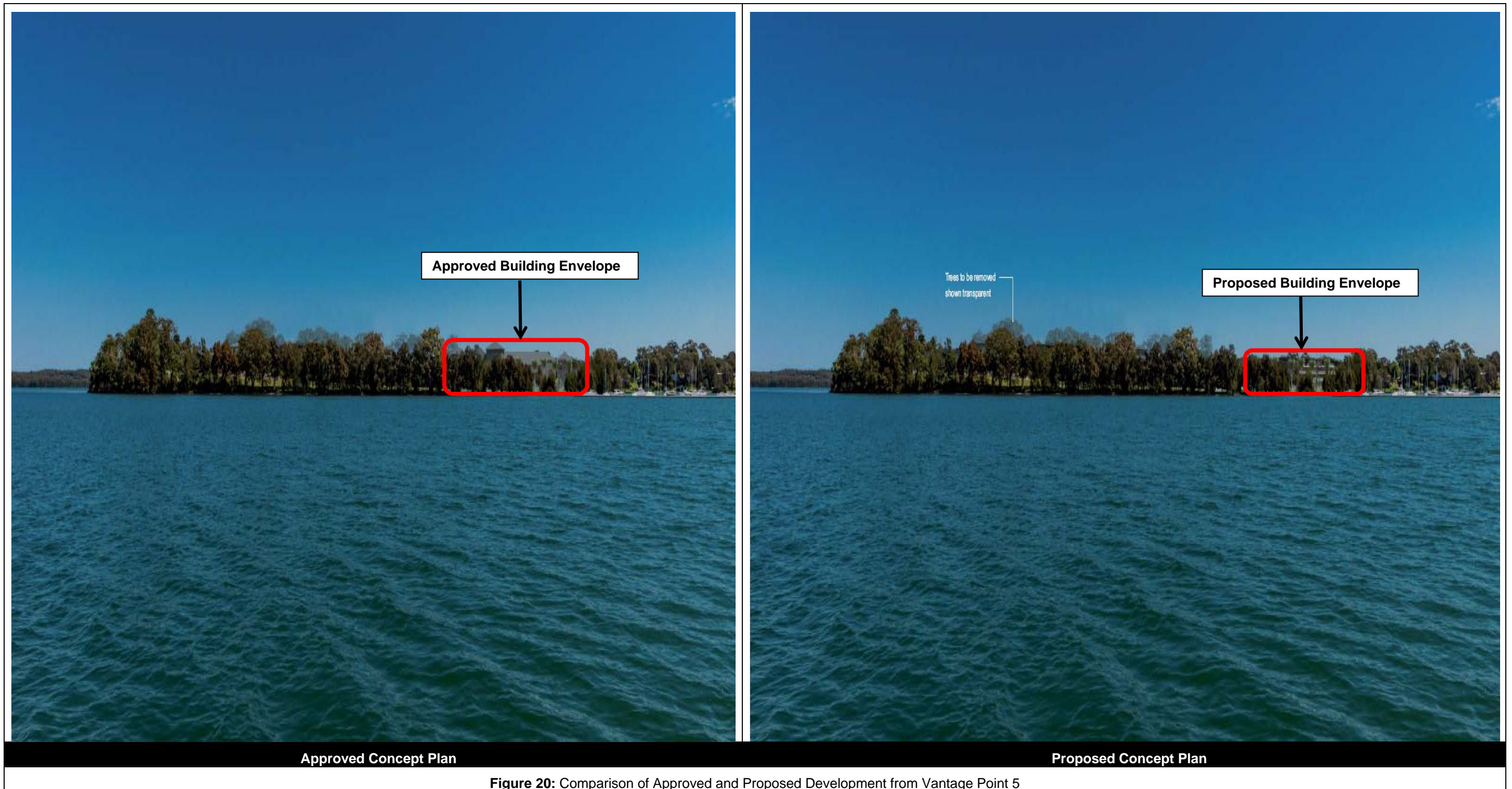


Figure 18: Comparison of Approved and Proposed Development from Vantage Point 1



Figure 19: Comparison of Approved and Proposed Development from Vantage Point 3



The Department notes that a number of the public submissions raised concern with the accuracy of the VIA, as well as the visual impacts of the proposed development from existing residential areas and the lake. The Department has reviewed the VIA and notes that the VIA was prepared using NSW Land and Environment Court adopted methods and as such the Department considers that it accurately depicts the visual impacts of the proposed modification.

In addition, the Department agrees that the hotel will be visible at private residences and within the surrounding public domain, however the marina and its associated vessels will be the dominant visual feature. Furthermore, the Department has concluded that the visual impacts from each vantage point are acceptable for the following reasons:

- there will be no discernible difference in the visual impacts of the proposed modification from the public or private domain immediately adjacent to the site in comparison to the approved Concept Plan;
- the proposed modifications to the approved building envelopes will improve the visual connection between the adjoining development east of the site and the lake;
- properties to the northeast of the site fronting Pullapai Road, Bulgonia Road and Buttaba Road are approximately 600 m away and are elevated above the lake, have expansive views into the wider lake and foreshores beyond and are outside the highly sensitive zone where it is difficult to discern any additional height due to the distance of these properties from the site; and
- the proposed changes to the Urban Design Controls will ensure that the impacts of the additional height will be mitigated within the foreshore reserve and at the adjoining residential premises along Trinity Point Road via the use of upper level recesses, appropriate material selection, and substantial plantings.

5.3 Compliance with SEPP 65

SEPP 65 applies to all applications for residential flat buildings within NSW. The policy aims to improve the quality of residential flat buildings by requiring all new applications to respond to the 10 design quality principles outlined in Part 2 of the SEPP. In addition, clause 30(2)(c) of the SEPP requires consent authorities to take into consideration compliance with the aims of the *Apartment Design Guide*.

Whilst the modification request will not permit the construction of any buildings, it is important to ensure that future developments on the site are capable of complying with the requirements of SEPP 65. Furthermore, as the application was lodged prior to 19 June 2015, the SEPP 65 transitional arrangements require the Proponent to undertake an assessment of the development against the now repealed provisions of the *Residential Flat Design Code (RFDC)*.

As the majority of the future development applications will be lodged with the Council after 19 June 2015, the Department has undertaken an assessment of the application against the design principles outlined in the SEPP, as well as the provisions of the RFDC and the *Apartment Design Guide*.

This assessment has concluded that the proposed building envelopes will continue to ensure the scale and density of the development responds to the site's surrounding context. In addition, the Department is satisfied that the proposed modifications to the Urban Design Guidelines will ensure that a high standard of architectural and landscape design will be achieved, and that all future apartments will be afforded a high degree of amenity as required by the nine design principles outlined in SEPP 65.

Notwithstanding, the Department notes that there are some minor non-compliances with the building depth, building separation and ground floor private open space 'rules of thumb' within the RFDC, which are discussed in detail in **Sections 5.3.1 to 5.3.3** below. It should be noted that proposed building envelopes are fully compliant with all other requirements of the RFDC and the Apartment Design Guide (see the compliance tables in **Appendix A**).

5.3.1 Building Depth

The RFDC and the *Apartment Design Guide* specify that the optimal building depths for new flat buildings range between 10 m and 18 m, unless it can be demonstrated that a variation to this requirement will not result in a non-compliance with the solar access or ventilation requirements of the RFDC. The proposed building envelopes range between 14.7 m and 18.5 m in depth and therefore exceed the recommended building depths.

The Department has concluded that the proposed building envelope depths are acceptable at the Concept Plan stage, given that the indicative apartment layouts exceed the minimum cross ventilation requirements of the RFDC (60 per cent recommended, 100 per cent proposed), and the minimum solar access requirements of the RFDC (three hours light to 70 per cent of apartments recommended, 73 per cent proposed). In addition, the Department notes that the Council has not raised any concerns with the indicative floor plans provided to support the modification request.

5.3.2 Building Separation

The RFDC and the *Apartment Design Guide* recommend a minimum building separation between habitable rooms and balconies of 12 m for all apartment buildings up to four storeys in height. The aim of the minimum separation distance is to ensure that there is sufficient space between buildings to provide an appropriate level of visual and acoustic privacy, provide an appropriate level of solar access, and maximise cross ventilation.

The majority of the building envelopes achieve the 12 m separation distance. In addition, the proposed envelopes generally achieve greater building separation distances in comparison to the approved Concept Plan (separation distances of between 8 m and 15 m approved). However, the separation between the building envelopes for proposed future buildings F & B, F & A, G & C, G & D, H & E and G & H have separation distances ranging between 8 m and 10.5 m (see **Figure 21** below).

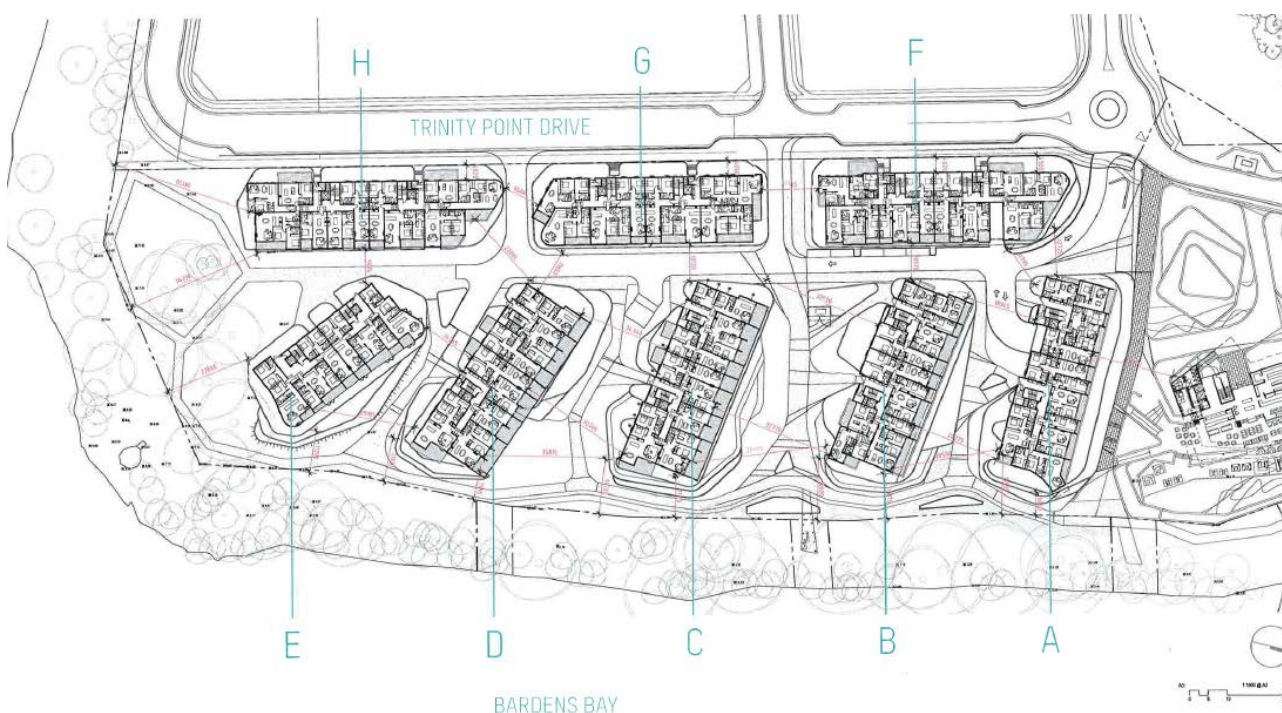


Figure 21: Proposed Building Envelope Separation Distances

The Department has reviewed the siting of the proposed building envelopes and has concluded that a separation distance of 12 m or greater is generally provided, and where building separation is less than 12 m, future development applications can be designed to comply with the requirements of the RFDC and the *Apartment Design Guide* by offsetting windows and balconies, or by incorporating appropriate screening. The Department is satisfied that the existing terms of approval (Term 3)

ensure that any non-compliance with the RFDC and Apartment Design Guide will be fully justified by the Proponent as part of each future development application.

5.3.3 Ground Floor Private Open Space

The RFDC rule of thumb requires ground floor apartments achieve 25 m² of private open space, with a minimum depth of 4 m in one direction. The Apartment Design Guide reduces the minimum open space requirements for ground floor apartments to 16 m², with a minimum depth of 3 m in one direction.

Based on the indicative floor plans provided to support the modification request, 86 per cent of the ground floor apartments can achieve the RFDC requirement of 25 m² of private open space, and 100 per cent of ground floor apartments are capable of achieving compliance with the minimum open space aims of the Apartment Design Guide.

5.4 Traffic and Car Parking

The modification request seeks approval to update Principle 10 of the Urban Design Guidelines to reflect the proposed modifications to the internal road layout, identify appropriate areas for on-site car parking; and reflect the road upgrade requirements outlined in the Council's Section 94 Development Contributions Plan.

It should be noted that no changes are proposed to the method for calculating the car parking requirements across the site.

In addition, as the modification request seeks to increase the capacity of the tourism and residential uses on-site, the Proponent has provided a Traffic Impact Assessment (TIA) prepared by SECA Solution, which modelled the impacts of the additional traffic movements associated with the proposed increase in density at the following key intersections:

- Trinity Point Drive/Morriset Park Road and Charles Avenue;
- Morisset Park Road and Fishery Point Road;
- Station Street and Fishery Point Road; and
- Fishery Point Road and Macquarie Street.

These intersections are identified in **Figure 22** overleaf.

In this regard, the TIA concluded that:

- the proposed increase in the extent of tourist and residential accommodation on site, coupled with the proposed temporary marquee and the additional patron capacity of the café would generate 37 additional vehicle trips per hour (vph) in the morning peak (216 trips predicted for the approved development, 253 trips predicted as a result of the proposed modification) and 131 additional trips in the afternoon peak (281 vph originally predicted, and 412 vph predicted as a result of the proposed modification);
- whilst the TIA has modelled the worst case traffic scenario, it is likely that due to the cross use of facilities on-site, the actual traffic impacts of the development will be up to 15 per cent lower than the worst case scenario;
- all car parking required to service the proposed development can be accommodated within the proposed envelopes for the basement and at-grade car parks;
- based on traffic counts undertaken in July 2014, the local road network is generally operating within acceptable limits. However, in the morning and evening periods Macquarie Street, south of Fishery Point Road, is operating at close to full capacity (level of service E); and
- there are no specific road upgrades required as a direct consequence of the proposed development. However, there are a number of road upgrades required by other developments in the area.

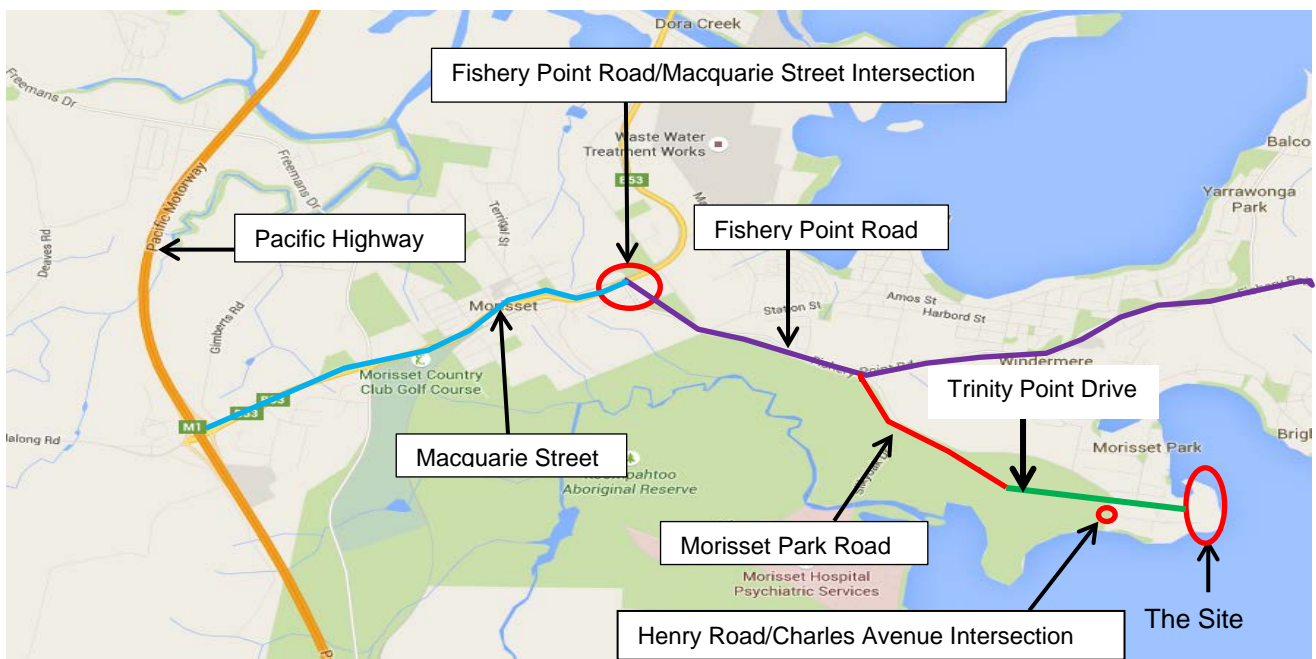


Figure 22: Road Network and Key Intersections

Both the RMS and the local community raised concern with the impacts of the proposed modification on the operation of the Macquarie Street/Fishery Point Road intersection. In addition, a number of public submissions raised concerns that the proposed modifications would:

- reduce the levels of service at the Henry Road/Charles Avenue intersection;
- impact on the functionality of Morisset Park Road adjacent to the Bonnells Bay Public School;
- impact on emergency egress in the event of a bush fire; and
- result in additional cars parking on surrounding residential streets.

The Department has reviewed the agency and public submissions and has concluded that the traffic modelling prepared to support the proposed modification accurately predicts the impacts associated with increasing the intensity of the tourism and residential uses on-site on the surrounding road network (see the SIDRA analysis provided at **Appendix C**). Based on these impacts, the Department has concluded that:

- future development applications should include a requirement for the Proponent to pay a proportional contribution toward the additional upgrades identified by the RMS at the Macquarie Street/Fishery Point Road intersection. The Department has recommended a new term of approval (Term C7) to ensure the Proponent executes a Deed of Agreement with the RMS to facilitate the payment of contributions toward the upgrade of the Macquarie Street/Fishery Point Road intersection;
- the Proponent's RTS confirms that Henry Road has sufficient capacity to accommodate the proposed modifications;
- the recent upgrades to the Fishery Point Road/Station Street intersection are sufficient to accommodate the additional traffic arising from the proposed modification;
- Council's section 94 plan currently includes levies to facilitate the upgrade of the Fishery Point Road/Morisset Park Road intersection, and the Department has recommended a new term of approval (Term C32) to ensure future development applications are subject to these requirements;
- the upgrade of the Morisset Park Road/Trinity Point Road and Charles Avenue intersection approved under DA 2293/2006 is sufficient to accommodate the additional traffic generated by the proposed modification. A Construction Certificate for these works is currently with Council for approval;
- subject to the Proponent paying section 94 contributions in accordance with the recommended terms of approval, the proposed modification will not impact on the safe operation of Morisset Park Road adjacent to the Bonnells Bay Public School; and

- the advice provided by the RFS demonstrates that the development will not result in any adverse bushfire safety impacts.

Given the above, the Department is satisfied that the proposed modifications will not result in any adverse traffic impacts.

In terms of car parking, the Department notes that Principle 10 of the approved Urban Design guidelines requires the provision of car parking based on the rates outlined in Council's DCP. The Department notes that based on the Council's current rates, the approved Concept Plan would generate the need for approximately 357 car parking spaces on-site (inclusive of the marina uses). The proposed development would increase this to approximately 783 spaces (inclusive of marina uses).

The Department notes that the indicative envelopes for the basement level and at-grade car parks are capable of accommodating up to 677 spaces. Furthermore, the Department notes that once the cross use of facilities has been factored in it is likely that the actual car parking demands on-site would be approximately 15 per cent less (666 spaces) than the 'worst case' scenario predictions.

The Department has reviewed the proposed car parking envelopes and notes that there may be a shortfall in the amount of space required to facilitate the construction of future car parking spaces in the event that Council does not permit any discounting for the cross use of facilities. Notwithstanding, the Department is satisfied that:

- the TIA prepared to support the proposed modification demonstrates that discounting the car parking on-site would be appropriate based on indicative car occupancy rates (2.5 patrons per vehicle), and Future Environmental Assessment Requirement C7 requires the Proponent to justify the extent of car parking required to service each development;
- it is unlikely that all facilities will be fully occupied simultaneously, given that each facility will have different operating hours and peak demand periods;
- there are a number of facilities on-site that will only be available for hotel patrons and therefore additional parking spaces will not be required to service these uses; and
- the proposed terms of the Concept Approval would not preclude the construction of additional basement car parking should it be required, provided that the final car park envelope is 1.5 m below the finish ground levels on-site.

Given the above, the Department is satisfied that the proposed car parking envelopes will be sufficient to accommodate the car parking spaces required to service future developments on-site.

5.5 Aboriginal Cultural Heritage

Whilst the application does not seek to alter Term C22 or Principle 18 of the Urban Design Guidelines, the Department notes that several local Aboriginal groups raised concern that the proposed modifications will erode the Aboriginal cultural heritage values of the site.

The Department notes that the OEH has confirmed that the proposed modifications would not result in any additional impacts on Aboriginal cultural heritage items on the basis that all known items are located within the foreshore reserve (see **Figure 23**). Should the Proponent seek to undertake works within the foreshore reserve in the future, these works would need to comply with the requirements of the Aboriginal Cultural Heritage Management Plan and Interpretation Policy required under Term C22 of the Concept Approval. Given the above, the Department is satisfied that the proposed modifications will not result in any additional impacts the Aboriginal cultural heritage items beyond those approved under the existing Concept Plan.

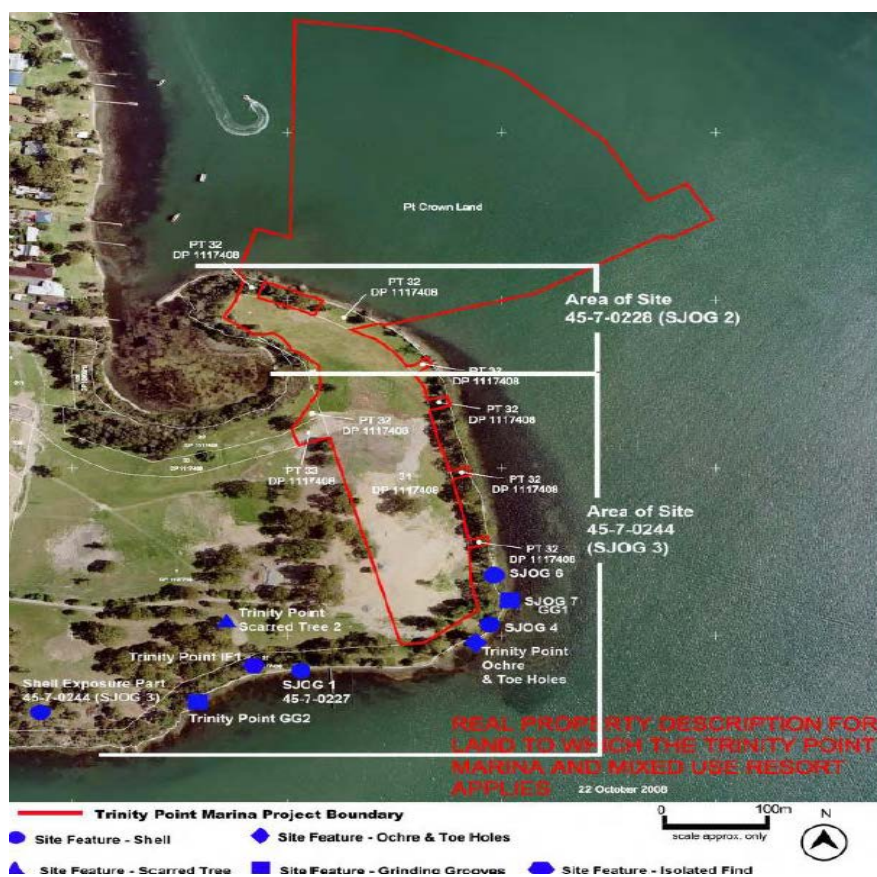


Figure 23: Location of Registered Archaeological Sites

5.6 Other Issues

5.5.1 Intensification of Approved Uses

The modification request seeks approval to increase the number of tourist and residential apartments permitted on-site from 150 (75 tourist and 75 residential) to 315 apartments (158 short-stay apartments and 157 residential apartments).

In addition, the request seeks approval to permit the use of a temporary marquee associated with the function centre, and permit an increase in the number of seats associated with the approved café. The key changes to the capacity of the tourist and residential uses are summarised in **Table 2** below.

Table 2: Capacity Changes for Tourist and Residential Uses

Component	Approved Concept Plan	Proposed Concept Plan
Function Centre	300 seats	300 seats
Restaurant	200 seats	200 seats
Café	30 seats	40 seats
Temporary Marquee	N/A	100 patrons
Total number of short stay tourist units/apartments	75 accommodation units	158 for short stay use only
Total number of residential units/apartments	75 residential units	157 residential apartments
Average area per unit	145 m ²	50 to 120 m ²
Approximate number of bedrooms	525 bedrooms	545 bedrooms

The Department notes that a number of the public submissions raised concern with the traffic, noise and visual impacts of the proposed modifications. In addition, a number of submissions raised concerns that the proposed marquee would result in adverse visual and noise impacts and would increase the incidence of alcohol related crime in the area.

The Department has assessed the intensification of the tourism and residential and uses on-site and has concluded that the proposed modifications will not result in any adverse noise, visual, or traffic impacts, subject to future applications demonstrating compliance with terms C3, C7, C10 and C25 of the Concept Plan (which require the Proponent to comply with the terms of the approved Urban Design Guidelines, and prepare and submit traffic impact studies, detailed landscape management plans, and acoustic studies and management plans with each future development application).

Notwithstanding, the Department considers that the proposed temporary marquee is not a use that is appropriate to regulate via a Concept Approval, on the basis that this use would be ancillary to the approved function centre. As such, the Department considers that it would be more appropriate to assess the impacts of the marquee concurrent to the assessment of the future function centre development application. Accordingly, the Department has not included the temporary marquee as an approved use in the recommended Instrument of Modification.

In addition, whilst the Department considers that the off-site amenity impacts associated with the operation of the future hotel and serviced apartments can be regulated via the management plan required under Term C4 of the Concept Approval, the Department notes that the modification request does not specify appropriate mechanisms to ensure that the amenity of future residents is protected in the event that serviced apartments and residential apartments are co-located within the same building envelope. As such, the Department has recommended modifications to Term C4 of the Concept Approval to ensure that future development applications demonstrate how the serviced apartment and residential uses will be physically separated to protect the amenity of future residents on-site where the co-location of uses is proposed within a single building envelope.

5.5.2 Noise

Term C25 and Principle 16 of the Urban Design Guidelines currently requires the Proponent to:

- provide a detailed acoustic assessment and mitigation measures with each future development application;
- demonstrate that each development is capable of complying with the EPA's construction, operation, sleep arousal, and road traffic noise criteria;
- submit a construction and operational noise management plan with each future development application; and
- undertake on-going noise and vibration monitoring for all construction works.

The modification request seeks approval to revise Principle 16 of the Urban Design Guidelines to:

- remove references to the travel boat lift and marina workshop to reflect that these components of the development no longer form part of the Concept Plan;
- remove the requirement to comply with the EPA's road traffic noise criteria;
- remove the requirement to undertake noise and vibration monitoring and provide a noise complaint hotline during the construction phase of the project;
- introduce project specific noise criteria and intrusive noise targets for sensitive receivers at Brightwater and Morisset Park that are consistent with the Proponent's revised acoustic assessment; and
- specify that the Office of Liquor Gaming and Racing noise criteria will only apply to licensed premises on-site.

The Department has reviewed the proposed modifications to Principle 16 of the Urban Design Guidelines and has concluded that:

- it is appropriate to remove all references to the marina workshop on the basis that the travel boat lift and workshop were removed under MP 06_0309 MOD 2;
- it is not appropriate to remove the requirement to comply with the EPA's road traffic noise criteria as the proposed development is identified as a 'traffic generating development' under the provisions of the *NSW Road Noise Policy*. Accordingly, the provisions of the policy should be applied to future development applications;
- the Proponent should be required to undertake noise and vibration monitoring and provide a noise complaint hotline given the proximity of the site to existing and proposed residential developments;

- it is more appropriate to defer the identification and implementation of project specific noise criteria for the hotel, serviced apartment, function centre and restaurant uses to the next stage of the project on the basis that the full impacts of these uses will not be known until the facilities are fully designed and acoustic reports have been submitted to the Council under Term C25; and
- the Proponent will be required to obtain a liquor license from the Office of Liquor, Gaming and Racing (OLGR) once it has obtained development consent to construct and operate the hotel, restaurant and function centre facilities. In this regard, appropriate noise criteria will be specified by OLGR as part of the liquor licencing process. Given the above, the Department considers that it would be premature to specify noise limits for the hotel, restaurant, function centre and serviced apartment components of the development prior to the issue of a liquor licence.

The Department has recommended modifications to Term B5 of the Concept Plan to ensure that the Urban Design Guidelines are revised to reflect the conclusions outlined above.

5.5.3 Flooding

The modification seeks approval to revise Principle 12 of the Urban Design Guidelines to reflect the minimum flood planning levels outlined in the Council's *Flood Risk Management Study and Plan, June 2012*. The proposed changes to the minimum flood planning levels are summarised in **Table 3** overleaf.

Table 3: Approved and Proposed Flood Planning Levels

Development Component	Flood Planning Levels (Approved)	Flood Planning Levels (Proposed)
All habitable floor levels	2.85 m AHD	2.82 m AHD
Marina Office, Shops and Commercial	N/A	2.36 m AHD
Hotel Foyer and Hotel/Marina/Other Uses Car Park	N/A	2.36 m AHD
Tourist/Hospitality Basement Car Park Entry	N/A	2.82 m AHD
Restaurant	N/A	2.82 m AHD
Accommodation Habitable Floor Areas	N/A	2.82 m AHD
Hardstand Area & Workshop	1.10 m AHD (with all electrical wiring above 2.24 m AHD)	N/A
Road Levels and Foreshore Re-grading	1.60 m AHD	N/A
Marina Structures	1.60 m AHD	N/A
At-Grade Marina Car Park	N/A	1.23 m AHD

The Department has reviewed the flood planning levels proposed for the site and notes that the modification request will result in a minor reduction to the minimum flood planning levels across the site (2.85 m AHD approved, 2.83 m AHD proposed). The Department is satisfied that the proposed levels are appropriate given that they are minor in nature (a total of 0.03 mm), and reflect the results of the flood modelling undertaken by Council. Accordingly, the Department supports the proposed modifications to Principle 12 of the Urban Design Guidelines.

5.5.4 Stormwater

Terms A3 and C19 of the Concept Approval currently require all future development applications to be undertaken in accordance with the Stormwater and Flooding Report prepared by Patterson Britton and Partners, and Principle 11 of the Urban Design Guidelines which require:

- rainwater harvesting on-site, and the use of rainwater gardens, permeable pavements, and biofiltration swales;
- all residential dwellings to comply with the BASIX water efficiency targets;
- the use of suitable containment and treatment methods to ensure the water quality of the lake is maintained in a 1 in 100 year flood event;
- the implementation of a water quality monitoring program; and

- the consideration of acid sulfate soils and groundwater management during the design and construction phase of the development.

The modification request seeks approval to revise the approved Stormwater and Flooding Report referenced to Term A3 of the Concept Approval, and update Principle 11 of the Urban Design Guidelines to:

- delete the requirement to provide rooftop gardens and permeable pavements given that the proposed modifications will increase amount of land available for stormwater infiltration;
- permit the installation of gross pollutant traps; and
- amend Principle 11 of the Urban Design Controls to delete the stormwater management requirements associated with the oily bilge pump-out facility, and trade waste associated with the marina workshop and hardstand given that these facilities were removed under MP 06_0309 MOD 2.

The Department has reviewed the revised Stormwater and Flooding Management Plan, and the proposed modifications to Principle 11 of the Urban Design Guidelines has concluded that:

- the modification request will increase the extent of soft landscaping available for stormwater infiltration on-site, thereby eliminating the need for permeable pavements;
- the revised water quality modelling demonstrates that the proposed stormwater treatment methods and source controls are sufficient to achieve compliance with the approved water quality targets for the site;
- the proposed rainwater tank volumes, bio-retention swales, and overland flow paths are sufficient to manage the stormwater generated by the proposed development; and
- the proposed stormwater management system is generally consistent with the system outlined in the approved Stormwater and Flooding Report.

Give the above, the Department supports the inclusion of the Stormwater and Flooding report in Term A3 of the Concept Approval and the proposed modifications to Principle 11 of the Urban Design Controls.

6. CONCLUSION

The Department has reviewed the proposed modifications to the approved built form and the proposed increase to the capacity of the tourism, hospitality and residential uses on-site and is satisfied that the proposed modifications will not result in any adverse environmental, urban design, visual, traffic, or Aboriginal cultural heritage impacts, subject to the implementation of the recommended modifications to the terms of the Concept Approval.

Further, the Department is satisfied that the proposed modifications will strengthen the site's viability as an identified tourism, hospitality and residential precinct by improving the overall design quality of future buildings, increasing the extent of publicly accessible land on-site, and improving the number of pedestrian and visual connections through the site to the foreshore reserve.

Given the above, the Department recommends that the proposed section 75W request should be approved subject to the recommended terms of approval provided in the Instrument of Modification at Appendix C.

7. RECOMMENDATION

It is RECOMMENDED that the Planning Assessment Commission:

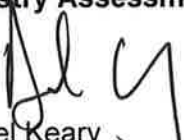
- **approve** the proposed modification under section 75W of the EP&A Act; and
- **sign** the attached notice of modification (in Appendix A)

 25/9/15

Kate Masters
Senior Planner
Industry Assessments

 25/9/15

Kate MacDonald
Team Leader
Industry Assessments

 25/9/15

Daniel Keary
A/Executive Director
Infrastructure and Industry Assessments

APPENDIX A: COMPLIANCE WITH THE RESIDENTIAL FLAT DESIGN CODE

Table 1: Compliance with the SEPP 65 Design Principles

Principle	Comment
1. Context and Neighbourhood Character	<p>The northern, eastern and southern boundaries of the site adjoin the Lake Macquarie foreshore reserve, and low density one and two storey residential dwellings are located immediately west of the site.</p> <p>The site has a natural fall from west to east and also south to north towards the lake's edge.</p> <p>The proposed building envelopes seek to incorporate these characteristics by providing level changes that step across the site. Additionally, the proposed building envelopes maximise both the visual and physical connection to Lake Macquarie via the creation of additional primary and secondary vistas between each building envelope.</p> <p>The creation of new vistas would also act as a visual extension of the established road hierarchy adjacent to the site, helping to create a visual connection between the smaller scale development to the west and the foreshore reserve.</p> <p>Public accessibility is promoted via the creation of additional public paths through the site. In addition, the proposed revisions to the Urban Design Guidelines will ensure a high standard of architectural and landscape design is achieved across which promotes the creation of a vibrant and safe public and private realm.</p> <p>Given the above, the Department is satisfied that the proposed amendments respond to the existing and desired future context of the site.</p>
2. Built Form and Scale	<p>The proposed increase in the bulk and scale of the approved building envelopes is consistent with the desired future character of the area as a tourism and residential precinct, and will provide an improved design outcome in comparison to the approved concept via the creation of additional public domain, public pathways and vistas to the site.</p> <p>In addition, the proposed modifications to the Urban Design Guidelines will ensure future buildings are articulated to break down the bulk and scale of the proposed envelopes and provide an appropriate transition in scale to the adjoining residential development.</p>
3. Density	<p>The proposed amendments to the development density represent an increase of approximately 150 dwellings, though does not correspond to a significant increase in floor space, with a proposed FSR increase from 0.65:1 to 0.8:1.</p> <p>Importantly, a corresponding increase in open space and publically accessible areas is also proposed, along with improved amenity outcomes for future occupants.</p>
4. Sustainability	<p>Details submitted with the proposed amendments demonstrate that future developments are capable of complying with the relevant energy efficiency targets, including BASIX and section J of the BCA.</p> <p>The indicative apartment layouts also demonstrate that future buildings will exceed the natural ventilation, solar access and deep soil zone requirements of the RFDG and the Apartment Design Guide.</p>
5. Landscape	<p>The revised landscape design responds to the amended building layout and existing natural landscape environment, affording accessibility to the natural elements surrounding the site.</p> <p>The proposal also seeks to incorporate landscaping above the partially exposed basement car parking helping to promote the concept of the buildings being located within a landscaped garden environment.</p>
6. Amenity	<p>The Department considers the proposal generally complies with the principles of SEPP 65 and the recommended standards of the RFDG and the Apartment Design Guide in terms of achieving satisfactory residential amenity. The indicative apartment layouts demonstrate that future buildings are capable of achieving satisfactory levels of solar access to communal areas, natural ventilation and privacy.</p>
7. Safety	<p>The indicative apartment layouts and proposed modifications to the Urban Design</p>

	<p>Guidelines would ensure provide satisfactory levels of passive surveillance of the public domain and common open space areas.</p> <p>The proposed design of the open vistas and pedestrian environments incorporate clear sight lines and are envisaged to be well lit and highly visible, which would assist in promoting safer environments to deter anti-social behaviour.</p>
8. Housing Diversity and Social Interaction	The indicative apartment layouts demonstrate that future buildings are capable of providing a mix of apartment sizes to cater for a range of residents with varied incomes and needs. In addition, the proposed landscape concepts provide a variety of spaces that will promote opportunities for social interaction amongst future residents.
9. Aesthetics	<p>The proposed materials selected for the development respond to the natural environment. The envisaged architectural design of the proposed development is to incorporate vertical and horizontal articulation, with upper levels proposed to be clad in recessive materials to reduce potential visual impact when viewed from the public domain.</p> <p>The Department also acknowledges that the design of each tourist and residential building would differ slightly to create a subtle transition between tourism and residential uses.</p>

Table 2: Compliance with the RFDC

	RFDC	Proposed MOD 5	Compliance
Building Depth	<p>Between 10 and 18 m is appropriate.</p> <p>If wider, demonstrate how satisfactory daylighting and natural ventilation is achieved.</p>	<p>The depth of the proposed building envelopes ranges between 14.7 m and 18.5 m.</p> <p>The Department considers this to be a minor departure given that 72 per cent of the apartments achieve cross ventilation and 76 per cent achieve three hours solar access in mid-winter.</p>	Generally Complies
Building Separation (habitable rooms & balconies)	<p>4 storey building envelopes:</p> <ul style="list-style-type: none"> • 12 m between habitable rooms/balconies; • 9 m between habitable and non-habitable rooms; and • 6 m between non-habitable rooms. 	<p>A separation distance in excess of 12 m is generally achieved in most locations however minor non-compliances exist at five points along the internal road between buildings F and B, G and C, G and D, H and E and G and H, where separation distances range between 8 m and 10.5 m.</p> <p>The Department notes that due to the siting of the proposed envelopes these non-compliances are limited to the radial points of the building envelopes.</p> <p>In addition, the Department is satisfied that the privacy of future residents can be maintained by offsetting windows and balconies, and the provision of visual screening. Such detail would be considered within future development applications.</p>	Generally Complies
Street Setbacks	<p>Compatible with desired streetscape character.</p> <p>10 m for suburban streets.</p> <p>Identify the quality, type and use of gardens and landscape areas facing the street.</p>	<p>The setback to the Trinity Point Drive boundary ranges between 4 and 4.6 m. This is similar to the approved Concept Plan which permits a 4 m setback from Trinity Point Drive.</p>	Generally Complies
Side and Rear Setbacks	<p>Design side and rear setbacks in conjunction with building separation, open space and deep soil zone controls.</p>	<p>The proposed setbacks will ensure adequate visual and acoustic privacy is achieved. In addition, the proposed building envelopes will provide additional open space and increase the extent of the deep soil zones across the site in comparison to the approved Concept Plan.</p> <p>In addition, whilst it is noted that some of the proposed building envelopes will protrude into the</p>	Minor non-compliance

RFDC		Proposed MOD 5	Compliance
		20 m foreshore reserve setback the Department is satisfied that these non-compliances will not result in any adverse amenity or environmental impacts. The appropriateness of the proposed setbacks is discussed in greater detail in Section 5.1.2 of this report.	
Floor Space Ratio	FSR 0.75:1 in suburban areas.	0.8:1	Minor non-compliance
Units Per Core Area	Maximum of eight units.	Based on the indicative apartment layouts six units or less will be provided per core area.	Complies
Solar Access	70 per cent of units to achieve three hours of solar access in mid-winter.	Based on the indicative apartment layouts, 76 per cent of the apartments would be capable of receiving three hours of sunlight between 9 am and 3 pm in mid-winter.	Complies
Cross-Ventilated Units	60 per cent of units should be naturally ventilated.	Based on the indicative apartment layouts, 72 per cent of future apartments would be capable of being naturally ventilated.	Complies
Communal Open Space	25 per cent to 30 per cent of the total site area.	A total of 15,000 m ² of open space will be provided which equates to 41 per cent of the land within the Tourism and Residential Precinct. 25,609 m ² of open space to be provided across the whole site which is 70 per cent of the total site area. The proposal will increase open space by 10 per cent compared to the original Concept Plan.	Complies
Deep Soil Zones	25 per cent of the site available for deep soil planting.	The revised landscape concept proposed approximately 7,278 m ² of deep soil planting, which equates to 27 per cent of the open space area.	Complies
Private Open Space (ground floor apartments)	25 m ² and 4m depth in one direction.	Nearly all apartments on the ground floor have balconies with a depth of 4 m in one direction. However, few meet the 25 m ² requirement.	Partially Complies
Balcony Depths	Balconies – 2 m depth	2 m or greater achievable for all apartments.	Complies
Unit Size	1 bedroom – 50 m ²	The indicative apartment layouts demonstrate that future developments are capable of complying with the minimum apartment sizes of the RFDC, with 1 bedroom apartments ranging between 50 m ² and 59 m ² , 2 bedroom apartments range between 77 m ² and 92 m ² , and 3 bedroom apartments ranging between 98 m ² and 120 m ² .	Complies
	2 bedroom – 70 m ²		Complies
	3 bedroom – 95 m ²		Complies
Single Aspect Units	Kitchens located within 8 m of a window.	The indicative apartment layouts demonstrate that kitchens within the single aspect apartments will be located within 8 m of a window.	Complies
	Max. 10 per cent single aspect south facing.		Complies
Apartment Mix	Diverse apartment types.	The proposal will provide a mix of one bedroom, two bedroom and three bedroom apartments.	Complies
Floor to ceiling Heights	≥2.7m.	The Proponent has committed to providing floor to ceiling heights of 2.7 m for habitable rooms and living rooms. Further design will be required as part of future development applications	Complies
Acoustic Privacy	Arrange apartments within a development to minimise noise. Appropriate building separation.	See building separation section above.	Complies

Table 3: Compliance with the Apartment Design Guide

Criteria	Comment	Compliance
2C Building Height		
Building height controls ensure development responds to the desired future scale and character of the street and local area. Changes in landform are accommodated. Adequate daylight and solar access is facilitated	Whilst the height of the buildings is proposed to increase, the proposal will improve solar access arrangements, public open space and have a reduced overall footprint. In addition, the modifications to the approved building envelopes will improve visual permeability through the site, and future buildings will remain below the tree canopy. As such the Department considers the increase in height to be satisfactory. The proposed building envelopes respond to the changes in landform across the site. The proposed building envelopes have been sited to ensure adequate daylight and solar access will be provided.	Complies
2D Floor Space Ration		
The gross floor area (GFA) should be approximately 70 to 75 per cent of the building envelope.	The FSR will increase from 0.65:1 to 0.8:1. However, as the application is for building envelopes, it is likely that the final GFA for each building will be lower given that future buildings will not take up the full extent of the building envelope.	Minor Non-Compliance
2E Building Depth		
Maximum building depth of between 12 and 18 m	Based on the indicative floor plans, future buildings will range in depth between 14.7 m and 18.5 m. The Department supports this variation given that 72 per cent of the apartments achieve cross ventilation and 76 per cent achieve three hours of solar access in mid-winter.	Generally Complies
2F Building Separation		
Up to 4 storeys allow for 12 m between habitable rooms/balconies	Building separations >12m achieved and exceeded in most locations between all east/west building envelopes. In addition, the Department is satisfied that the privacy of future residents can be maintained by offsetting windows and balconies, and the provision of visual screening. Such detail would be considered within future development applications.	Generally Complies
2G Street Setbacks		
Provide space that can contribute to landscape character.	The setback from the residential apartments to Trinity Point Drive ranges between 4 m and 5.6 m, which is consistent with the approved Concept Plan. Landscaping will be provided along this setback which will contribute to the street character and link the development to the adjacent small lot housing.	Complies
2H Side and Rear Setbacks		
Consider height controls for overshadowing of the site, adjoining properties and open spaces.	The proposed building envelopes are suitable on the basis that they will not	Complies

Criteria	Comment	Compliance
Consider building separation and visual privacy.	generate any adverse privacy or solar access impacts.	
3B Orientation		
Building type/layouts respond to streetscape, optimising solar access. Overshadowing of neighbouring properties is minimised.	The proposed building envelopes respond to the topography of the site and provides opportunities for . Five of the residential buildings are north facing which will improve solar access for future occupants in comparison to the approved Concept Plan. The four storey residential apartments comply with the minimum solar access requirements of the Apartment Design Guide. In addition, the future developments approved along Trinity Point Drive will still receive in excess of three hours of solar access at the winter solstice.	Complies
3C Public Domain Interface		
Transition between public/private without compromising security. Amenity of the public domain is retained and enhanced.	The change in level (approximately 0.5 m to 1.5 m) from private ground floor gardens to adjacent landscaped terraces and paths will separate private and public open space and provide visual privacy. The public domain/landscaping concepts provide an appropriate response to the tourism and residential uses proposed on-site.	Complies
3D Communal and Public Open Space		
Minimum 25 per cent of the site. Well designed.	15,000 m ² of open space will be provided, of which is 41 per cent is located within the Tourism and Residential Precinct. 25,609 m ² of open space to be provided across the whole site which is 70 per cent of the total site area. The proposal will increase open space by 10 per cent. The proposed landscape concept will ensure a high standard of design, usability and safety will be achieved on-site.	Complies
3E Deep Soil Zones		
Sites greater than 1,500 m ² , minimum 20 per cent of the site.	Sufficient space is provided across the site for deep soil planting.	Complies
3F Visual Privacy		
Separation distances for buildings up to 4 storeys: • 6 m from habitable rooms; and • 3 m from non-habitable rooms.	The proposed building envelopes exceed the minimum setback requirements (see Table 2 above).	Complies
3G Pedestrian Access to Entries		
Pedestrian links through developments provide access to streets and connect destinations.	Pedestrian links are proposed to Trinity Point Drive and the foreshore.	Complies
3H Vehicle Access		
Vehicle access points are designed and located to achieve safety and high quality streetscapes. Conflicts are minimised.	Vehicle access widths are greater than 6.5 m. Appropriate sight lines are achieved and pedestrian links and footpaths are available to ensure conflicts are minimised.	Complies
3J Bicycle and Car Parking		
No car parking requirement for sites within 400 m of a railway or light rail station.	The site is capable of accommodating 630 car parking spaces.	Generally Complies

Criteria	Comment	Compliance
Parking is available for other modes of transport. Visual and environmental impacts of at-grade or above ground car parking are minimised.	Number of bicycle spaces not specified, however sufficient space is available on-site to accommodate bicycle parking. Landscape treatments are proposed to soften/screen the impacts of the above ground car parking.	
4A Apartment Mix		
Provision of a range of apartment types and sizes. Apartment mix is distributed to suitable locations within the building.	A variety of apartment sizes and types can be accommodated within the proposed building envelopes.	Complies
4B Ground Floor Apartments		
Design of ground floor apartments delivers amenity and safety for residents.	Ground floor private spaces are delineated via level changes down to the public paths. The landscape concept will ensure a high degree of amenity and passive surveillance to provide a safe environment for residents and visitors.	Complies
4C Facades		
Building facades provided with visual interest and function expressed by design	The proposed modifications to the Urban Design Guidelines will ensure future developments achieve design excellence.	Complies
4E Landscape Design		
Landscape design is viable and sustainable. Landscape design contributes to streetscape and amenity.	Landscaping includes a mixture of native and tropical plantings. The landscape concept responds to the natural characteristics of the site whilst delineating the tourism and residential components of the site. In addition, the landscape concepts will ensure an appropriate level of amenity will be provided for future occupants.	Complies
4F Planting on Structures		
Building includes opportunity for planting on structure. Appropriate soil profiles are provided and plant growth is maximised (selection/maintenance).	The indicative apartment designs indicate that opportunities are available for on-structure planting. Appropriate soil profiles can be accommodated on the site.	Generally Complies
4J Mixed Use		
Mixed use developments are provided in appropriate locations and provide street activation and encourage pedestrian movement. Residential floors are integrated within the development, safety and amenity is maximised	The proposed modifications to the Urban Design Guidelines will ensure that future developments address the street, and pedestrian thoroughfares and active frontages are provided. In addition, the indicative design concepts demonstrate that future buildings can be designed to provide passive surveillance of the public domain to optimise safety and amenity within the public domain.	Complies
4L Solar and Daylight Access		
Minimum of 70 per cent of apartment living rooms and private open spaces receive three hours of direct sunlight between 9 am and 3 pm in mid-winter. . Maximum of 15 per cent of apartments have no direct sunlight between 9 am and 3pm in mid-winter. Shading and glare control is provided.	Based on the indicative floor plans, 76 per cent of the apartments are capable of receiving three hours of direct sunlight between 9 am and 3 pm.	Complies

Criteria	Comment	Compliance
4M Common Circulation and Spaces		
Common circulation spaces achieve good amenity and provide for a variety of apartment types.	Based on the indicative floor plans, a high level of internal amenity can be provided, particularly given that six apartments or less will share a single core.	Complies
Maximum 8 apartments off one core.		
Natural ventilation is provided to all common circulation spaces where possible.		
Common circulation spaces provide for interaction between residents.	Furthermore, all common area as capable of being naturally ventilated..	
4N Apartment Layout		
<p>Minimum apartment sizes</p> <ul style="list-style-type: none"> • 1 bedroom 50 m²; • 2 bedroom 70 m²; and • 3 bedroom 95 m². <p>Habitable room depth complies with appropriate ceiling height to room depth ratio.</p> <p>Living rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6 m for studio and one bed apartments; and • 4m for 2 and 3 bed apartments. <p>Master bedrooms have a minimum area of 10 m² and other bedrooms have 9 m².</p> <p>Bedrooms have a minimum dimension of 3m (excluding wardrobes).</p> <p>For open plan layouts, the kitchen is a maximum of 8 m from a window.</p>	<p>Based on the indicative apartment layouts all apartments are capable of meeting or exceeding the minimum apartment sizes, minimum ceiling height to room depth ratios, minimum living areas, and minimum bedroom sizes.</p> <p>In addition, all kitchens in open plan apartments are capable of being located within 8 m of a window.</p>	Complies
4O Ceiling Heights		
<p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <ul style="list-style-type: none"> • habitable rooms 2.7 m; and • non-habitable rooms 2.4 m. 	All apartments are capable of achieving the minimum ceiling height requirements.	Complies
4P Private Open Space and Balconies		
<p>Primary private open space and balconies are appropriately located.</p> <p>Primary private open space at ground level (or similar on structure) has a minimum area of 16 m² and minimum dimension in one direction of 3 m.</p> <p>Primary balconies are provided to all apartments providing for:</p> <ul style="list-style-type: none"> • 1 bedroom min area 8 m² min depth 2 m; • 2 bedroom min area 10 m² min depth 2 m; and • 3 bedroom min area 12 m² min depth 2.5 m. <p>Primary balconies are integrated into architectural form and detail of the building.</p> <p>Primary open space and balconies maximises safety.</p>	Based on the indicative apartment layouts all future apartments are capable of meeting the minimum open space and balcony depth/size requirements without compromising the safety of future occupants or the architectural design of the buildings.	Generally Complies
4Q Natural Ventilation		
At least 60 per cent of apartments are cross ventilated.	72 per cent of apartments are expected to achieve cross ventilation.	Complies
Overall building depth is between 1 and 18m.	Building depth is up to 18.5 m is some locations which is considered a minor non-compliance given the cross ventilation requirements can be met.	

Criteria	Comment	Compliance
4S Acoustic Privacy and 4T Noise and Pollution		
Noise transfer is minimised through the siting of buildings and building layout and minimises external noise and pollution. Noise impacts are mitigated through internal apartment layout and acoustic treatments.	Building separations generally achieved. Apartments are able to be appropriately stacked and laid out to prevent noise transfer. This will be further assessed with each future development applications.. Plant rooms and building services are capable of being sited away from bedrooms and living areas.	Complies
4U Energy Efficiency		
Development incorporates passive environmental and solar design.	The siting of the building envelopes will ensure solar passive design can be implemented across the site.	Complies
4V Water Management and Conservation		
Potable water use is minimised. Urban stormwater is treated on site before being discharged to receiving waters. Flood management systems are integrated into the site design.		Complies

APPENDIX B: SIDRA ANALYSIS

Table 4-8 – Sidra analysis, 2014 base flows Morisset Park Road and Fishery Point Road

Approach	Level of service	Delay (seconds)	Queue (metres)
Morisset Park Road	A / A	0.8 / 2.2	0.4 / 0.9
Fishery Point Road (Bonnells Bay)	A / A	10.3 / 10.8	43.3 / 17.7
Fishery Point Road (Morisset)	A / A	4.0 / 4.7	0.0 / 0.0

Note: AM / PM flows

Table 4-9 – Sidra analysis, 2014 base flows plus full development flows, Morisset Park Road and Fishery Point Road

Approach	Level of service	Delay (seconds)	Queue (metres)
Morisset Park Road	A / A	0.7 / 0.7	0.6 / 1.5
Fishery Point Road (Bonnells Bay)	B / B	20.1 / 24.6	80.0 / 38.2
Fishery Point Road (Morisset)	A / A	2.4 / 4.4	0.0 / 0.0

Note : AM / PM flows

Table 4-10 – Sidra analysis, 2014 base flows Macquarie Street and Fishery Point Road

Approach	Level of service	Delay (seconds)	Queue (metres)
Macquarie St south	A / A	4.7 / 9.0	12.2 / 69.8
Fishery Point Road	B / A	15.4 / 10.6 (27.7 right turn out)	77.3 / 21.8
Macquarie St north	A / A	0.6 / 1.1	0.0 / 0.0

Note: AM / PM flows

Table 4-11 – Sidra analysis, 2014 plus proposed development flows Macquarie Street and Fishery Point Road

Approach	Level of service	Delay (seconds)	Queue (metres)
Macquarie St south	A / A	6.8 / 10.8	26.7 / 92.1
Fishery Point Road	B / B (D right turn out)	18.1 / 19.8 (47.3 right turn out)	102.2 / 103.7
Macquarie St north	A / A	0.9 / 1.2	0.0 / 0.0

Note : AM / PM flows

Table 4-12 - Sidra analysis, 2014 plus proposed development flows Macquarie Street and Fishery Point Road (signal control)

Approach	Level of service	Delay (seconds)	Queue (metres)
Macquarie St south	B / C	27.0 / 28.9	114.4 / 254.6
Fishery Point Road	B / B	15.0 / 16.6	103.9 / 126.0
Macquarie St north	C / D	31.3 / 44.9	93.5 / 114.1

Note : AM / PM flows

APPENDIX C: INSTRUMENT OF MODIFICATION

APPENDIX D: PROPOENTS MODIFICATION REQUEST

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6781

APPENDIX E: SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6781

APPENDIX F: PROPONENT'S RESPONSE TO SUBMISSIONS AND SUPPLEMENTARY INFORMATION

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6781

APPENDIX G: SUBMISSIONS ON THE RESPONSE TO SUBMISSIONS

See the Department's website at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6781