

25 November 2015

**NSW Planning Assessment Commission Determination Report
Trinity Point Mixed Use Concept Plan, Lake Macquarie LGA
MP 06_0309 MOD 5**

1. Background

Trinity Point is located on the south-western foreshore of Lake Macquarie, approximately 118km north of Sydney and 50km south-west of Newcastle. The site is comprised of Lot 31 in Deposited Plan 1117408, Part Lot 32 and Lot 34 in Deposited Plan 1117408 and Part of Crown Reserve R 1012129.

The site has had six distinct phases of occupation over its history. These phases are:

1. Aboriginal occupation – use of the site by traditional owners of the area;
2. Early Historic settlement (1875 – 1908) – no known occupants;
3. Gorrick family (1908 – 1913) – credited with the construction of the first house on the site;
4. Bailey family (1913 – 1934) – well known within the early Australian film industry;
5. Little Sisters of Mary (1934 – 1947) – founders and caretakers of the St Joseph's Convalescents Home for priests; and
6. Brothers of St John of God (1947 – 2005) – founders and custodians of 'Kendall Grange' school and children's home.

The Trinity Point Mixed Use Concept Plan (MP 06_0309) was originally approved on 5 September 2009 for a mixed use development comprising 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.

The Concept Plan has since been modified on three separate occasions. On 1 April 2014, the Department of Planning & Environment (the Department) 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 *Environmental Planning & Assessment Act 1979* (the EP&A Act).

On 26 August 2014, the Department 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 consent of the relevant landowners prior to the determination of MP 06_0309 MOD 1.

On 9 April 2015, the Planning Assessment 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 30m 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 30m to 28m; and
- revisions to Term C12 to provide flexibility in the modelling requirements for Petite Lake.

In addition, 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. While SEARs were issued for this request on 2 December 2013, an application has not been lodged.

The current Concept Plan, as amended, permits:

- the construction of a 188 berth marina with a 165m 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.

2. Project Description

This modification application (MOD 5) seeks approval to amend the land-side elements of the Concept Plan as follows:

- reconfigure the development blocks, road layout and pedestrian links through the site;
- increase the maximum gross floor area across the site from 23,790 m² to 29,482 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 operations of a temporary marquee adjacent to the proposed hotel and function centre; and
- modify the urban design controls (guidelines) and principles approved under Term B5 of the Concept Plan to reflect the proposed changes to the built form.

3. Delegation to the Commission

On 25 September 2015, the Department referred the application to the Planning Assessment Commission (the Commission) for determination under the Ministerial delegation of 14 September 2011, as more than 25 objections had been received to the proposal.

Ms Lynelle Briggs AO, Chair of the Commission, nominated Ms Abigail Goldberg and Mr John Hann to constitute the Commission to determine the application. Ms Goldberg chaired the Commission.

4. Secretary's Environmental Assessment Report

The proposal has been assessed by the Department as documented in the Secretary's Environmental Assessment Report. The key issues considered in the report were:

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

Other issues examined by the Department included the intensification of approved uses; noise; flooding and stormwater.

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

Approval of the temporary marquee was however withheld as the Department concluded this not to be a use appropriate to regulate via a Concept Approval.

Taking the above into account, the Department recommended approval of the modification application subject to amended terms in the Instrument of Modification.

5. Commission Meetings and Site Visit

Briefing by the Department of Planning & Environment

On 14 October 2015, the Commission met with representatives of the Department of Planning & Environment. The briefing addressed the Department's assessment of the proposal, including a brief history of the development proposed on the site. A summary of key issues discussed is provided in **Appendix 1**.

Briefing by the Proponent

On 14 October 2015, the Commission met with the Proponent. The Proponent outlined the history of the application and addressed the details of the modification proposal. A summary of key issues discussed is provided in **Appendix 1**.

Site Visit

On 27 October 2015, the Commission inspected the site, accompanied in part by the Proponent's archaeologist, who provided historical details of the site, and guided the Commissioners in identifying items and locations of historical and cultural significance.

Meeting with Lake Macquarie Council

On 27 October 2015, the Commission met with representatives of Lake Macquarie City Council. Discussions addressed a number of matters, including the management of Council's foreshore lands, Aboriginal and Historic heritage on the site, traffic impacts, ecology and urban design. A summary of key issues discussed is provided in **Appendix 1**.

Public meeting

On 27 October 2015, the Commission held a public meeting at the Morisset Country Club in Morisset. Six registered speakers presented at the public meeting. In addition, four people

sought to present on the day, which was agreed to by the Commission. A list of speakers is included in **Appendix 2**. Of the 10 overall speakers, seven objected to the Modification application, one presented a mixed viewpoint, and two spoke in support of the development. A list of the issues raised at the public meeting is provided in **Appendix 3**.

Meeting with Department of Planning & Environment

On 29 October 2015, the Commission met with representatives of the Department of Planning & Environment to discuss possible amendments to the draft Instrument of Consent. A summary of key areas and specific matters covered is provided in **Appendix 1**.

Meeting with Department of Planning & Environment

On 17 November 2015, the Commission met with representatives of the Department of Planning & Environment to brief them on the amendments to the draft Instrument of Consent. A summary of key areas and specific matters covered is provided in **Appendix 1**.

Meetings with the Proponent

On 17 November 2015, the Commission met with the Proponent to advise them of proposed amendments to the Modification application and associated amendments to the draft Instrument of Consent. At the request of the proponent a further meeting took place on 19 November 2015. This meeting focused on the matter of the foreshore setbacks. A summary of key areas and specific matters covered at each meeting is provided in **Appendix 1**.

6. Commission's Consideration

Overall, the Commission considers that the Concept Plan as modified improves on the 2009 Approved Concept Plan through an increase in the quantum of public domain across the site, and as a result of the proposed revised layout and orientation of the buildings.

On the basis of the information available to the Commission, the following matters were considered key and investigated in detail:

- building separation and setbacks;
- Aboriginal and Historic Cultural Heritage;
- management of the foreshore reserve;
- vegetation management;
- density, traffic and parking;
- flood risk; and
- Urban Design Guidelines.

6.1. Building separation and setbacks

View corridors

Building separation is an important means for urban development to achieve view corridors into and through development. The Proponent has stated that the orientation and layout of the proposed buildings has been modified to provide key view corridors, in particular from Trinity Point Drive and Celestial Drive.

With regard to the view corridors from Trinity Point Drive, the Commission is satisfied that building separation is adequate to provide views into the proposed development, and to the foreshore. Approaching the development along Celestial Drive however, the view corridor narrows between Buildings F and G, before opening up again.

The Commission notes that in the Approved Concept Plan and associated Urban Design Guidelines *"a minimum of 15m building separation is to be provided along the 3 pedestrian alignments that extend from Trinity Point Drive, Celestial Drive and Compass Drive to create*

vistas through the site from the public roadways approaching the sites and from within the development site itself.”

The Commission considers however that the proposed building separation of 15m is minimal, and that between Buildings F and G, and potentially also B and C, constricts the vista, particularly as the building separation of the residential area of Celestial Drive will be at least 18m. To achieve an effective viewpoint from the public domain associated with this key approach, the Commission considers that a minimum building separation of 18 m must be provided between buildings F and G, and B and C to deliver a continuous view corridor from Celestial Drive through the site to the foreshore reserve.

Accordingly, Terms B5 and C2 of Schedule 2 of the Instrument of Consent have been revised to ensure that the minimum separation between Buildings F and G, and Buildings B and C is 18m.

Foreshore setback

The approved foreshore setback, as detailed in the Department of Planning & Infrastructure's Assessment Report (2008), provides generally for a 20m setback from the western edge of the foreshore reserve on the eastern boundary of the site; and a 45m setback from the northern boundary of the foreshore reserve adjacent to Bluff Point, the latter to provide a curtilage around the cultural features of Bluff Point. In the northern section of the site however, adjacent to the marina, the setback is reduced.

The modification application envisions a number of buildings intruding into the approved foreshore setback, by varying degrees. In the Tourism and Residential precinct, buildings from A to E, as well as building H, are proposed to intrude into the originally approved foreshore setback area. As the Commission considered the original setback may be important for foreshore protection, it took care to refer to the 'Guidelines for riparian corridors on waterfront land' published by the Office of Water (July 2012). The Commission notes in this regard that while the aforementioned guidelines recommend an overall 40m riparian corridor for this location, it provides for flexibility in the allowable uses and works permitted within the 'outer' 50% (20m) of the corridor, particularly as, which is the case on this site, the land has already been cleared. The Commission is accordingly satisfied that the incursion of these buildings into the previously approved setback is acceptable.

The Commission notes that there are also a number of incursions into the foreshore reserve within the Tourism and Hospitality Precinct. The Commission is satisfied that the proposed incursions within the Tourism and Hospitality Precinct are acceptable. A minor administrative amendment was made to Term C2 to reflect this.

SEPP 65

Appropriate building separation is required under SEPP 65 – Design Quality of Residential Apartment Development, to ensure privacy and amenity for residents.

The Department in its Assessment Report noted “minor non-compliances with the building depth, building separation and ground floor private open space ‘rules of thumb’ within the *Residential Flat Design Code*” and SEPP 65.

Building separation and non-compliance with SEPP 65 were however raised as concerns at the public meeting and in written submissions to the Commission. The Commission supports adherence to SEPP 65 and, noting that this determination is for a modification to a concept plan, the Commission considers that relaxation of SEPP 65 is not appropriate at this stage, and a SEPP 65 assessment must be undertaken for all Development Applications.

Accordingly, Term C3 of Schedule 2 of the Instrument of Consent has been revised to ensure that future residential buildings address the requirements of SEPP 65.

6.2. Aboriginal & Historic Cultural Heritage

The Commission acknowledges the layers of diverse Aboriginal and Historic heritage on the site, and that the Cultural Heritage Management Plan and the Heritage Interpretation Policy, required under Term C22 of the Concept Approval, have been developed by the Proponent and recently approved by Lake Macquarie City Council.

However, written submissions and presentations at the public meeting questioned the adequacy of coverage referencing the significance of the site for Aboriginal cultural heritage, and for the period of use by the Brothers of St John of God in particular.

The Commission notes in addition that the Kendall Grange facility and the Brothers of St John of God have been referenced in relation to the Special Commission of Inquiry into child sexual abuse investigations in the Hunter region, the report of which was delivered to the Governor in May 2014, while the Royal Commission into Institutional Responses to Child Sexual Abuse is ongoing.

The Commission considers that all aspects of the site's history need to be addressed. The Commission acknowledges that the approved Heritage Interpretation Policy provides the framework for the interpretation of the site's history; however the Commission notes that Section 4.10 of the Heritage Interpretation Policy enables ongoing review and maintenance to ensure effectiveness of the heritage interpretation on site. The Commission notes that this ongoing review requirement is in line with the principles of the Burra Charter. The Charter also recommends the practice of involving groups and individuals with associations with a place to be provided with opportunities to contribute to and participate in identifying the cultural significance of a place, particularly in situations such as this site, where both lands and buildings have been largely cleared and documentary evidence is not always available.

Moreover, the Commission considers that the Aboriginal and Historic Heritage Interpretation Plan still to be provided should be submitted to the Heritage Branch and the Regional Operations Group of the Office of Environment and Heritage for endorsement, prior to the determination of the first development application for a tourist, hospitality, or accommodation building within the Concept Plan area, whichever occurs first. This Interpretation Plan must cover the site as a whole and address all aspects of the site's history.

With reference to tangible interpretation on site, the Commission notes the call at the public meeting for a quiet place of reflection, and memorial/s, to acknowledge the complex use and history of the site.

Finally, the Commission has taken into account that further review and updating of all heritage plans and policies may be required subject to recommendations of the Royal Commission when these become available.

Accordingly, Terms C22A and C22B of Schedule 2 have been revised in the Instrument of Consent.

6.3. Management of the foreshore reserve

The strip of foreshore reserve surrounding the site is owned by Lake Macquarie City Council. The foreshore is categorised as natural area and an area of cultural significance under the *Local Government Act 1993*. The foreshore is currently managed under Council's general Plan of Management, however Council is in the process of developing a site specific Plan of Management to ensure protection of the reserve, including regeneration of the endangered ecological communities and protection of the heritage artefacts included within it, as well as

stabilisation through appropriate revegetation to inhibit erosion. The Plan will also address a number of easements across the foreshore reserve, originally intended for stormwater management, but where the Proponent is currently proposing construction of viewing platforms. The Commission understands that the Plan of Management is anticipated to be finalised by mid-2016.

As the foreshore reserve is not in the ownership of the Proponent, and moreover includes key items of Aboriginal and Historic heritage, as well as endangered ecological communities, the Commission requires that both the Marina and Foreshore Vegetation Management Plan and the whole of site Vegetation Management Plan be kept consistent with the requirements of Council's Plan of Management as amended or replaced from time to time.

Accordingly, Terms C9 and C9A of Schedule 2 have been revised in the Instrument of Consent.

6.4. Vegetation management

The Commission notes that a Vegetation Management Plan has been approved as part of the Marina development, covering the northern section of the site. Another whole of site Vegetation Management Plan is required for the remainder of the site, as is a Landscaping Plan.

The Commission reaffirms its position as outlined in relation to the marina that native vegetation should be used as part of all landscaping adjacent to the foreshore to assist with the regeneration, stabilisation and general management of the foreshore areas. The Commission considers that exotic species should be prohibited within 20m of the foreshore reserve, i.e. within the full 40m of the riparian corridor as defined in the 'Guidelines for riparian corridors on waterfront land' published by the Office of Water (July 2012).

Accordingly, Term B5 has been revised in the Instrument of Consent.

6.5. Density, traffic and parking

The Commission acknowledges concerns within the community regarding the proposed increase in density and apartment numbers on the site. This increase has been achieved by a change in the building typology from a predominant mix of small lot and attached housing to residential apartment buildings of a maximum of four storeys. The Commission notes that both Council and the Department have supported this intensification of the use of the site and change to apartments, which has made a greater area of land available for public domain, and increased public accessibility throughout the site. The Commission considers these outcomes to be in the public interest and accordingly supports the increase in density.

However, traffic and parking concerns resulting from the increase in density were raised in many written submissions to the Commission, and in presentations at the public meeting. The Commission notes that community concerns include increased traffic volumes; safety of the crossing of Morisset Park Rd near the Bonnells Bay Public School; road widths and conditions; and intersection upgrades.

The Commission recognises that financial contributions have been required from the Proponent through Council's Section 94 scheme, and as a contribution to the Roads and Maritime Services planned upgrade of the Macquarie Street and Fishery Point Road intersection. The Commission is satisfied that these contributions are deemed fair and adequate by both Council and the Roads and Maritime Services for addressing the impact of this proposal on the local road network.

The community raised concerns regarding whether sufficient onsite parking will be provided to cover all uses of the site, especially during peak periods. In this regard, the Commission

considers that the quantum of onsite parking is to be in accordance with the Lake Macquarie City Council's Development Control Plan.

Accordingly, Term C2 of Schedule 2 in the Instrument of Consent has been revised to ensure that onsite parking is provided in accordance with Council's Development Control Plan.

6.6. Flood risk

The site is located along the south-western part of Lake Macquarie, with the land falling to the lake in a north-easterly direction. The northern part of the site in particular is low lying with an inherent risk of flooding due to either or a combination of stormwater, runoff and tidal inundation.

At the public meeting several speakers pointed to the peninsula's vulnerability to flooding as a result of climate change and sea level variations, particularly in the northern section of the site.

The Commission notes that in Council's *Lake Macquarie Waterway Flood Risk Management Study and Plan* (2012), higher flood levels are predicted if an ocean dominated event coincides with a rainfall event. The report also predicts that sea levels will rise along the east coast by 0.4m by 2050, and 0.9m by 2100.

Therefore the Commission considers that given the low lying nature of parts of the site and the risk of flooding, potentially compounded by climate change, future applications must comply with the Council's *Lake Macquarie Waterway Flood Risk Management Study and Plan* (June 2012), as amended or replaced from time to time.

Accordingly, Terms B5 and C2 in Schedule 2 of the Instrument of Consent have been revised to remove any reference to a specific habitable floor height, and refer to Council's *Lake Macquarie Waterway Flood Risk Management Study and Plan* (June 2012), as replaced or amended from time to time.

6.7. Urban Design Guidelines

The Proponent's Urban Design Guidelines cover many aspects of the development, from façade treatments to erosion protection works. The Commission considers that a number of key controls should in addition be incorporated into the consent instrument. The controls that have been integrated into the instrument are:

- building separation between buildings F and G, and B and C – Terms B5 and C2; and
- flood planning levels – Terms B5 and C2.

7. Commission's Determination

The Commission considers that the Concept Plan as modified provides greater public access to the foreshore and an increase in the percentage of public domain across the site. The layout and orientation of the buildings across the site are an improvement relative to the 2009 Approved Concept Plan.

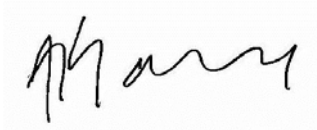
The Commission has determined that the Concept Plan can be approved subject to conditions including changes to the Instrument of Consent as follows:

- a minimum building separation of 18m must be provided between buildings F and G, and B and C to deliver a continuous view corridor from Celestial Drive through the site to the foreshore reserve;

- all future development applications for residential flat buildings must address the requirements of SEPP 65;
- a whole of site Heritage Interpretation Plan is required to be submitted to and endorsed by the Heritage Branch and the Regional Operations Group of the OEH;
- Vegetation Management Plans must be kept consistent with Council's *Plan of Management Land 2001*, as amended or replaced from time to time;
- exotic species are prohibited within the full 40m of the riparian corridor;
- onsite parking is required to be provided per Council's Development Control Plan;
- all development must comply with the flood planning levels outlined in Council's *Lake Macquarie Waterway Flood Risk Management Study and Plan* dated June 2012, as amended or replaced from time to time; and
- key controls of the Urban Design Guidelines (specifically building separation and flood planning levels) are integrated into the instrument of consent.

Moreover, review and updating of the Heritage Interpretation Policy is required per Section 4.10 of the Policy itself.

The Commission supports the Department's position that the proposed temporary marquee is not a use that is appropriate to regulate via a Concept Approval.



Abigail Goldberg
Commission Member



John Hann
Commission Member

Appendix 1

Meeting Notes

Briefing by the Department of Planning & Environment		
Meeting note taken by Naomi Moss	Date: Wednesday, 14 October 2015	Time: 10:30am
Project: Trinity Point – Mixed Use Development Concept Plan – MOD 5		
Meeting place: PAC Office		
Attendees: PAC Members: Ms Abigail Goldberg & Mr John Hann PAC Secretariat: Naomi Moss Department of Planning & Environment: Chris Ritchie – Director, Industrial Assessment Kate MacDonald - Team Leader Kate Masters – Senior Planning Officer		
The purpose of the meeting is to be briefed by the Department on its assessment of the Modification.		
A summary of the key issues discussed are presented below: <u>Urban Design – modifications to Approved Concept Plan</u> <ul style="list-style-type: none"> While the proposal is for an increase in density overall, the number of building footprints has decreased as a result of changes to the layout of the plan and application of apartment-style housing typologies. There is a consequent 20% decrease in the overall development footprint, and a congruent increase in the quantum of open space. Changes to the design in the road reserve and a reduction in road provision has further increased the quantum of open space. While road provision has been reduced, publically accessible pathways remain in place throughout the development. Apartments adjacent to Trinity Drive will be setback at the upper level both at the front and rear of the buildings. These apartments have been designed to be sympathetic to the proposed new housing (two stories plus recessed upper level) on the other side of the road, which is being overseen by the same proponent and for some of which DAs have just been approved by Lake Macquarie City Council. <u>Traffic impacts</u> <ul style="list-style-type: none"> Greater traffic impact due to the modification will be experienced during the PM Peak; this is considered to be the result of tourist and marina uses of the facility. s94 contribution is required for road upgrades as a result of increased traffic impacts. RMS has a deed of agreement with a number of developers in the area for contributions to road upgrades; the Proponent's proposed contribution to the deed of agreement has been increased to the satisfaction of RMS. <u>Cultural Heritage – Aboriginal and Historic</u> <ul style="list-style-type: none"> Changes to the concept plan have resulted in the footpath along the foreshore edge being located closer to Council's foreshore reserve, in which a number of Aboriginal sites are located. Two 'viewing platforms' along the foreshore are also proposed close to sites of Aboriginal significance. PAC members queried how these features are going to be protected. The Department referenced an Aboriginal Cultural Heritage Management Plan that has been 		

approved by Lake Macquarie City Council, which details how the sites will be managed.

- The focus of Historic heritage is currently on a sundial and grotto that are located near Bluff Point, which will be covered by a Heritage Interpretation Plan and/or a Historic Heritage Plan.
- These plans are largely focused on early settlement heritage, and do not detail the full history of the site, including its use as a children's home and school by the St John of God organisation. PAC members queried how this heritage was being acknowledged.

Landscaping and foreshore management

- The foreshore area in which the Aboriginal sites are located is currently proposed to be managed by Lake Macquarie City Council; however the area of foreshore adjacent to the marina is likely to be managed by the Proponent (this needs to be agreed to by Lake Macquarie City Council). PAC members sought further information about how these arrangements were to be operationalized, in particular with regard to ensuring the safety of sites of cultural and heritage significance.
- PAC members queried how foreshore plantings would be undertaken to ensure protection to the cultural sites, and whether the plantings themselves could be designed to respect the sites and possibly help in limiting access to them.
- PAC members suggested that the landscaping within the 40m buffer zone to the lakes edge must exclude exotics.
- PAC members raised the NOW submission which asserted that the assessment of impacts and any proposed design features and mitigation measures should be in accordance with the NSW Guidelines for Controlled Activities on Waterfront Land,. The potential impact of the viewing platforms close to the Aboriginal sites needs to be considered in relation to this.

Other

- The Modification claims to increase the view corridors through the site to the water's edge and the lake in general; however PAC members are seeking further information as to how this will be achieved on the ground.
- Monitoring of water quality in the unnamed bay is required under the DA for the Marina aspect of the development.
- PAC members noted the capacity of waste services to accommodate the proposed doubling of residents.
- PAC members raised concerns regarding intrusion of buildings into the buffer zone along the foreshore.
- The Department noted that they had identified some minor non-compliances with SEPP 65 and the Residential Flat Design Code, though the Department believes these can be adequately dealt with via architectural measures, such as offsetting windows.
- PAC members noted the Department's consideration that the assessment of the impacts of the temporary marquee would be more appropriately dealt with in terms of DAs for temporary use, which would be managed by Council.

Documents to be provided: Response to a number of questions – regarding Aboriginal and Historic Cultural Heritage, foreshore management and landscaping, capacity of services.

Meeting closed at 11:35am

Briefing by the Proponent		
Meeting note taken by Naomi Moss	Date: Wednesday, 14 October 2015	Time: 12:00pm
Project: Trinity Point – Mixed Use Development – MOD 5		
Meeting place: PAC Office		
Attendees: PAC Members: Ms Abigail Goldberg & Mr John Hann PAC Secretariat: Naomi Moss Johnson Property Group (JPG): Keith Johnson – Managing Director Bryan Garland – Development Director Sandra Hutton – Project Planner (consultant) Vince Squillace – Architect (consultant)		
The purpose of the meeting is to be briefed by the Proponent on the Modification proposal and their response to the Department's assessment report		
<p>A summary of the key issues discussed are presented below.</p> <p>JPG outlined the process followed to date and acknowledged public confusion regarding the MOD and number of changes to the concept plan. PAC members noted this confusion and the frustration regarding this that is apparent in community submissions. Commissioners observed that this confusion was being aggravated by JPG's lodgement of DAs ahead of determination of the MOD, noting that this action was not supported by the panel.</p> <p><u>Urban Design – modifications to Approved Concept Plan</u></p> <ul style="list-style-type: none"> JPG described the amount of accommodation provided in the original concept plan as insufficient to support the function centre, and noted that the units were considered too large by prospective operators. As a result, the modification has been proposed to increase the number of accommodation units, while decreasing the size of each unit. The gross building footprint has however reduced from the approved concept plan. Appendix 7 to the application sets out revised Urban Design Guidelines for the project, which are in the form of a quasi-Development Control Plan, as required for the JRPP submission which would follow determination by the PAC. <p><u>Foreshore management</u></p> <ul style="list-style-type: none"> Lake Macquarie City Council retains ownership of the foreshore, and has a plan of management for this which is currently under review to allow for the integration with the development. JPG are aiming to 'merge' the public and private open spaces around the marina in particular so that these appear seamless (JPG references Circular Quay in this regard). Other areas of the foreshore are proposed to remain under the management of Lake Macquarie City Council. There is a Vegetation Management Plan for the foreshore area around the marina (as part of the marina consent). PAC members expressed concern regarding access to the Aboriginal cultural sites, as the footpath is located closer to the foreshore in the Modified Concept Plan than the approved Concept Plan. Commissioners asserted the importance of discouraging access to this area. 		

Aboriginal Cultural Heritage

- JPG advised that the Aboriginal Cultural Heritage Management Plan and Heritage Interpretation Policy have been approved; these aim to protect the sites that are remaining in-situ from public access as the sites are located within steep areas of the foreshore. The sites are also covered by Council's foreshore management plan.
- There are 8 registered Aboriginal groups; there is an Aboriginal Advisory Committee that has been established, the Proponent is working with this Committee regarding the Heritage Interpretation Policy.
- Commission members raised concerns regarding the viewing platforms near the Aboriginal sites. JPG advised that
 - The viewing platforms do not go beyond the tree line (there is no access to the lake's edge from the platforms).
 - The viewing platforms will be slightly raised to minimise soil disturbance.
 - Low and mid understorey plantings are being considered to discourage access. JPG would like to retain viewing platforms but may consider removing these if concerns regarding impacts to the Aboriginal sites cannot be resolved.
- JPG noted that there had been nil attendance at the last meeting with Aboriginal groups despite 6 out of 8 groups indicating they would attend.

Historic Heritage

- The sundial that is located near Bluff Point is within the foreshore area, so it will be protected.
- There are a number of 'cultural' trees (Norfolk Island Pines) which are from early settlement time, which will also be protected.
- Cultural Interpretation Plan will be for both Aboriginal and Historic heritage
- The Historic aspect of the plan is largely focused on early settlement heritage, and does not address the site's recent use as the St John of God children's home and school.

Vegetation & landscaping

- JPG recognise that landscaping within the 40m buffer zone to the lakes edge must be done with native species, and not with exotics.
- Agreed that exotic plantings can be used around and between buildings outside of this buffer zone.

View corridors

- JPG described their approach to view corridors and noted that minimum distances have been proposed (15m at Celestial Drive and 8m at Trinity Drive) between buildings. View corridors open up within the site closer to the foreshore.
- The Lake Macquarie City Council SEPP 65 Panel raised concerns regarding distance between buildings that were addressed in the Response to Submissions.

Other

- The Proponent has no major or significant concerns regarding the Department's Assessment Report or recommendations.
- The Lake Macquarie SEPP 65 Panel is supportive of the modification.
- The Proponent pays to lease the existing sea baths to the south of the site, and is committed to restoring these, though that will be at a later stage in the development.

Documents tabled at meeting: Final Response to Submissions; Comparison of Existing Concept Plan and Modification. Further information requested with regard to Heritage Interpretation Plans, management of the foreshore and related Aboriginal cultural features, acknowledgement of the St John of God use of the site, engagement with Aboriginal groups going forward.

JPG offered to peg out proposed elements of the concept plan on the site, which was accepted by Commissioners.

Meeting closed at 1:00pm

Meeting with Lake Macquarie City Council		
Meeting note taken by Naomi Moss	Date: Tuesday, 27 October 2015	Time: 1:00pm
Project: Trinity Point – Mixed Use Development Concept Plan – MOD 5		
Meeting place: Morisset Country Club – 126 Dora Street, Morisset		
Attendees: PAC Members: Ms Abigail Goldberg, & Mr John Hann PAC Secretariat: Naomi Moss Lake Macquarie City Council: Chris Dwyer – Principle Development Planner Greg Weir – Council Land owner representative Ulrike Hora – Heritage (Historic & Aboriginal) Robyn Pollock – Landscape Architect Vanessa Owen – Ecologist Marc Desmond – Traffic Engineer		
The purpose of the meeting: For Council to brief the Commission on its response to the assessment report prepared by the Department.		
A summary of the key issues discussed are presented below: <u>Background</u> <ul style="list-style-type: none"> • Council is supportive of the development of a tourism facility on the site. • The Modification 5 Concept Plan is an improvement on the approved Concept Plan, which was considered by Council to be dense and not permeable. • The layout of the buildings provides for more green space, and a greater area of public domain than the layout of the approved Concept Plan. • There is an increase in density with the proposal, and an increase in visual impact due to the increase in building heights, however this is mitigated by trees on Council's land. • Council notes that the level of apparent opposition to the proposal has waned since the original Concept Plan was lodged, however acknowledge that this may be due to the ongoing complexity of the various modifications and community frustration. <u>Plan of Management</u> <ul style="list-style-type: none"> • Council are developing a specific Plan of Management for its foreshore land on this site which will replace the generic Plan of Management for Council land across the board. • The Plan of Management is being prepared but has yet to be placed on exhibition. Council are hopeful that the Plan of Management will be approved by June 2016. • All of the foreshore area is categorised 'natural', with sub-categories including 'parkland' close to the marina and grotto/pool area, and 'bushland' where regeneration of the foreshore vegetation is to be encouraged and there are items of Aboriginal cultural heritage to be protected. • Management objectives are outlined in Sections 35 and 36 of the <i>Local Government Act 1993</i>. • The 'natural' bushland and foreshore of the site is intended to be revegetated with native species and not turf. • Pathways are allowed within 'natural' areas. These can be designed as dividers between publicly accessible areas, and areas of foreshore protection. Detailed design and use of vegetation is key to achieving this. • Management of foreshore buffers can either encourage or discourage access, depending on 		

the objectives for the vegetation.

- The Proponent's approved Vegetation Management Plan needs to be consistent with the Plan of Management.
- Details of management arrangements for the foreshore are not yet agreed with JPG.

Cultural Heritage

- The Cultural Heritage Management Plan and the Heritage Interpretation Policy (which are requirements of Conditions C22 and C23) have been approved.
- Under the current Plan of Management the site overall is considered to be an area of cultural significance, guiding Council in managing the cultural heritage on its land, including both Aboriginal and Historic heritage.
- The Heritage Plan for the site notes the layers of the history on site, including the period of the Little Sisters of Mary and the St John of God occupation of the site.
- The Heritage Interpretation Policy outlines the history of the site and suggests interpretation themes.

Ecology

- There are two Endangered Ecological Communities onsite, both of which are listed under the NSW Threatened Species Act 19, though both EECs are noted as being in a degraded state.
- These EECs are likely to be opportunistically accessing groundwater and surface runoff, so impact on the groundwater of the site from the construction of the basement car parks is unlikely to have an impact of the EECs.
- Easements are in place for stormwater management; however it is not clear whether these are being used by the development.
- In the bushland areas of the site, natural regeneration of the EECs is to be supported. Along the foreshore natural regeneration will assist in foreshore stabilisation and reducing the impact of erosion that has been occurring along the foreshore

Roads and traffic

- Acknowledged that there are traffic issues due to the peninsula having limited access routes in and out.
- Predicted traffic volumes resulting from the development will not be large enough in addition to existing traffic volumes to warrant road upgrades other than what is already planned and programmed to occur.
- A contribution to the upgrade of the intersection of Fishery Point Rd and Morisset Park Rd, is included in the Proponent's s94 contribution. Council will conduct a review of the works required for this intersection prior to allocating the s94 funds.
- Traffic movement past the local school will increase due to the developments proposed across the peninsula, however Council does not believe this to be the outcome of this particular development alone, and recognises that improvements are required at the school.
- Fishery Point Road and Macquarie St is due to be signalised in 2019 – all developments along the peninsula are contributing funds to this work.
- Onsite parking for the development is able to accommodate an 85% occupancy rate, which is in accordance with RMS guidelines.

Urban Design

- Council is comfortable with the change in the design and layout of the Concept Plan.
- Buildings have been reoriented to take advantage of views and orientation.
- Council noted that the view corridors do not have to be to the water, as there are trees on the foreshore; however the view corridor should be to the foreshore.

Documents tabled at meeting: Objectives of the Plan of Management under the Local Government Act 1993

Meeting closed at 2:00pm

Meeting with the Department of Planning & Environment		
Meeting note taken by Naomi Moss	Date: Thursday, 29 October 2015	Time: 3:00pm
Project: Trinity Point – Mixed Used Development Concept Plan – MOD 5		
Meeting place: PAC Office		
Attendees: PAC Members: Ms Abigail Goldberg & Mr John Hann PAC Secretariat: Naomi Moss Department of Planning & Environment: Kate MacDonald – Team Leader Peter McManus – Senior Planning Officer		
The purpose of the meeting was to discuss modifications to the instrument		
<p>A summary of the key issues discussed are presented below:</p> <p>The Commission raised queries regarding aspects of the concept plan modification. The following matters were discussed.</p> <p>The areas of concern that have resulted in amendments to the instrument provided with the Department's Assessment Report included:</p> <ul style="list-style-type: none"> • Flood management; • Aboriginal & Historic Cultural Heritage; • Building separation and foreshore setbacks; • Management of the foreshore reserve; • Landscaping & Vegetation Management Plans; • Traffic & parking; and • Urban Design Guidelines. 		
Documents to be provided: Amended Instrument of Consent		
Meeting closed at 4:45pm		

Meeting with the Department of Planning & Environment		
Meeting note taken by Naomi Moss	Date: Tuesday, 17 November 2015	Time: 11:30am
Project: Trinity Point – Mixed Use Development Concept Plan – MOD 5		
Meeting place: PAC Office		
Attendees: PAC Members: Ms Abigail Goldberg, & Mr John Hann PAC Secretariat: Naomi Moss Department of Planning & Environment: Chris Ritchie – Director, Industrial Assessment Kate MacDonald - Team Leader Kate Masters – Senior Planning Officer		
The purpose of the meeting is to discuss possible amendments to the draft instrument, and the rationale behind the amendments.		
<p>The Commission expressed its appreciation for the drafting of the instrument, in line with the amendments that the Commission was seeking. The majority of the amendments adequately address the Commission's concerns and requirements. However a few of the amendments were subtle and complex and the Commission will modify these terms itself. The Commission will request that a technical review of the instrument be undertaken by the Department.</p> <p>The following terms of the draft instrument were discussed in detail:</p> <ul style="list-style-type: none"> • Building separation and foreshore setbacks; • Aboriginal and Historic Cultural Heritage; • Landscaping and Vegetation Management Plans; • Urban Design Guidelines; and • Flood management controls 		
Documents tabled at meeting/to be provided: NIL		
Meeting closed at 12:05pm		

Briefing with the Proponent		
Meeting note taken by Naomi Moss	Date: Tuesday, 17 November 2015	Time: 12:10pm
Project: Trinity Point – Mixed Use Development – MOD 5		
Meeting place: PAC Office		
<p>Attendees:</p> <p>PAC Members: Ms Abigail Goldberg, & Mr John Hann</p> <p>PAC Secretariat: Naomi Moss</p> <p>Johnson Property Group (JPG):</p> <ul style="list-style-type: none"> Keith Johnson – Managing Director Bryan Garland – Development Director Sandra Hutton – Project Planner (consultant) Vince Squillace – Architect (consultant) <p>Department of Planning & Environment (Observing only):</p> <ul style="list-style-type: none"> Chris Ritchie – Director, Industrial Assessment Kate MacDonald - Team Leader Kate Masters – Senior Planning Officer 		
<p>The purpose of the meeting is to notify the Proponent of the PAC's position and the amendments to the instrument.</p>		
<p>A summary of the key issues discussed are presented below.</p> <p><u>Aboriginal & Historic Cultural Heritage</u></p> <ul style="list-style-type: none"> • The heritage interpretation plan still to be provided must effectively address Aboriginal concerns as well as subsequent historical periods, including the St John of God phase of the use of the site. <p><u>Building setbacks & separation</u></p> <ul style="list-style-type: none"> • The visual corridor along Celestial Drive narrows between buildings F and G, the Commission is requiring a building separation of 18m between buildings F and G, and buildings B and C to provide a continuous view corridor from Celestial Drive through the site to the foreshore reserve. • The Commission is concerned that the foreshore setbacks in the Tourism and Residential precinct may not be sufficient • The Commission is satisfied with the intrusions into the foreshore reserve in the Tourism and Hospitality Precinct. • SEPP 65 assessment will be required for all residential aspects of the development. <p><u>Vegetation management</u></p> <ul style="list-style-type: none"> • The Commission considers a whole of site Vegetation Management Plan essential and suggests this should be prepared and submitted with the first DA. • Discussion was held regarding what was a suitable time would be for this plan to be submitted considering that of itself it had the potential to delay works on site. The Commission suggested the Proponent propose an alternative if this would enable the objective of whole of site consideration to be met. <p><u>Density, traffic & parking</u></p> <ul style="list-style-type: none"> • The increase in density and the increase in the number of units is reasonable in the Commission's consideration. 		

- The Commission recognises that the traffic issues on the peninsula are not just the Proponent's concern, and the Commission is satisfied that the traffic generated from the development has been addressed.
- The Commission requires that the onsite parking needs to meet the requirements of Council's Development Control Plan.

Flood risk

- The Commission notes that flood planning levels need to be consistent with Council's *Lake Macquarie Waterway Flood Risk Study and Plan*, June 2012 as amended or replaced from time to time.

Urban Design Guidelines

- The Commission is requiring that key controls regarding the view corridors and flood planning levels are to be incorporated into the instrument.

Documents to be provided: A response to the proposed amendments by the Proponent.

Meeting closed at 12:30pm

Briefing by the Proponent		
Meeting note taken by Naomi Moss	Date: Thursday, 19 November 2015	Time: 3:00pm
Project: Trinity Point – Mixed Use Development – MOD 5		
Meeting place: PAC Office		
Attendees: PAC Members: Ms Abigail Goldberg, & Mr John Hann PAC Secretariat: Naomi Moss Johnson Property Group (JPG): Keith Johnson – Managing Director Bryan Garland – Development Director Sandra Hutton – Project Planner (consultant) Vince Squillace – Architect (consultant) Steven Rushworth – Landscape Architect (consultant)		
The purpose of the meeting is to briefed by the Proponent on their concerns regarding the foreshore setbacks		
In response to the meeting with the Commission on 17 November 2015, the Proponent provided the Commission with a brief summary and presentation on the proposed foreshore setbacks that are part of this Modification. This presentation included explanation as to why the modification and reduced foreshore setback provide public access to and protection of the foreshore reserve.		
Documents tabled at meeting: The presentation and letters of support from Dr Richard Lamb and Angela Besant, two of their consultants.		
Meeting closed at 3:35pm		

Appendix 2

List of Speakers

PLANNING ASSESSMENT COMMISSION MEETING TRINITY POINT MIXED USED CONCEPT PLAN – MOD 5

Date: 27 October 2015, 3pm

Place: Morisset Country Club
126 Dora Street, Morisset NSW 2264

Speakers:

1. Colin Roach – Bonnells Bay Progress Association
2. Tom Dumbrell – Morisset Park & District Action Group
3. Gary Wilson
4. Murray Sorrell
5. Margaret Carew
6. Ann Riding
7. Juney Gordon
8. Bob Cowan
9. Avril Lockton – Community Environment Network
10. Dayan Noonan

Appendix 3

Key issues raised at the Public Meeting

Objecting to the proposal

- increase in gross floor area;
- overdevelopment of the site;
- increase in the number of units, and a decrease in the size of the rooms;
- should be a finite number of beds for the development;
- buildings are taller than the Council's Local Environmental Plan;
- visual impact on the community from the development;
- population density isn't great enough to support the proposal – cited Price Waterhouse Coopers;
- viability of the development requires significant financial contributions from the local community;
- car parking is not sufficient for residents, visitor and staff – overflow onto local streets which are narrow;
- additional traffic will impact on the road networks;
- road upgrades are scheduled in 2019, that won't fix the problem now;
- no provision for addressing the crossing at Bonnells Bay Public School;
- negative impact on local employment market;
- potential flooding of the norther part of the site, due to sea level rise;
- foreshore vegetation needs to be protected in the short and longer term;
- land management on the longer term is required to continue to buffer the view of the buildings;
- all aspects of the development are being assessed in isolation;
- confusion regarding modifications to the concept plan, and Development Applications being applied for in parallel;
- cancellation of the July 2014 PAC meeting; and
- history of Kendall Grange needs to be addressed; the site should include a memorial.

Supporting the proposal

- world class facility for the region;
- development will enhance the lifestyle of the region;
- significant economic contribution during construction and during operation;
- increase in open space; and
- site has been zoned tourism, since the early 2000's.