

ASSESSMENT REPORT

Trinity Point Mixed Use Development, Trinity Point Road, Morisset Park, MP 06_0309 MOD 6

1. BACKGROUND

This report is an assessment of a request to modify the Trinity Point Mixed Use Concept Plan (MP 06_0309 MOD 6) in Morisset Park in the Lake Macquarie local government area.

The request has been lodged by Johnson Property Group pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks approval to amend Condition C22B to alter the timing for the installation of the heritage interpretation devices from prior to the issue of a Construction Certificate to prior to the issue of an Occupation Certificate.

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**).

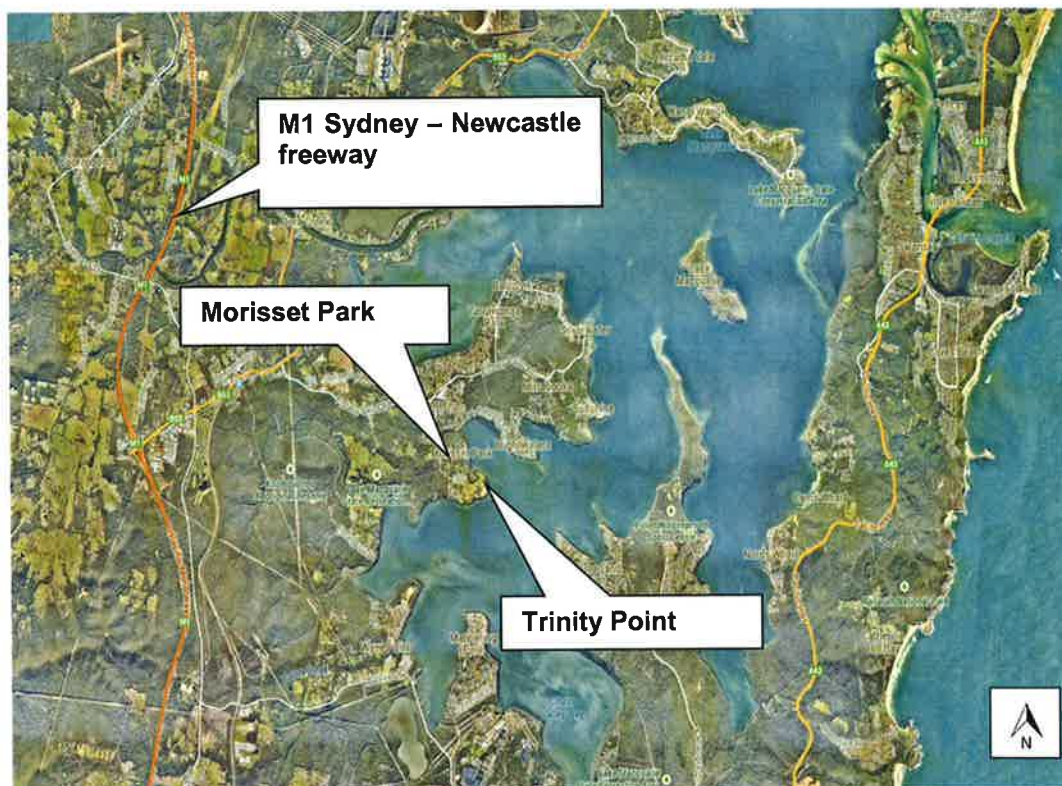


Figure 1: Site Location



Figure 2: Extent of Site Area

3. APPROVAL HISTORY

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.

The proposal has been modified on three occasions to:

- amend the marina staging and marina layout;
- extend the lapsing date;
- amend the location, height, bulk and scale of the building envelopes within the 'Hospitality and Tourism' and the 'Tourism and Recreation' precincts; and
- increase the number of accommodation units to 315.

4. PROPOSED MODIFICATION

On 2 December 2015, the Proponent lodged a section 75W modification request (MP 06_0309 MOD 6) seeking approval to re-word Condition C22B, to allow for the installation of the heritage interpretation devices to occur prior to the issue of an Occupation Certificate.

The modification is requested on the basis that the Proponent is unable to satisfy the condition as it cannot undertake any construction works, including the installation of heritage interpretation devices, until a Construction Certificate has been issued.

5. STATUTORY CONSIDERATION

5.1 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 Department is satisfied that the proposed changes constitute a modification to the Project Approval and are within the scope of section 75W of the EP&A Act as:

- the primary function and purpose of the approved development would not change as a result of the proposed modification;
- the environmental impacts associated with the development remain unchanged to those previously assessed, and can be appropriately managed through the existing or modified conditions of approval; and
- the request will still ensure all heritage interpretation devices are installed on-site.

Accordingly, the Department considers that the modification request can be assessed and determined under section 75W of the EP&A Act.

5.2 Approval Authority

On 16 February 2015, the then Minister for Planning delegated responsibility for the determination of section 75W modification requests to directors and managers who report to the executive directors in the Planning Services Division where:

- the relevant local council has not made an objection; and
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

The proposal complies with the terms of the delegation as Lake Macquarie City Council (the Council) does not object to the proposal, a political disclosure statement has not been made in relation to the request, and no public submissions were received in the nature of objections. Accordingly, the Director, Industry Assessments may determine the request in accordance with the Minister's delegation.

6. CONSULTATION

The Department made the modification request publicly available on its website on 4 December 2015, and consulted with Lake Macquarie City Council. Council did not object or raise any issues to the proposed wording of Condition C22B.

There were no public submissions received on the proposal.

7. ASSESSMENT

The Department considers the key issue for assessment is the timing for the installation of the heritage interpretation devices. Condition C22B requires the installation of the heritage interpretation devices as outlined in the Aboriginal and Historic Heritage Interpretation Plan, prior to the issue of a Construction Certificate.

As it is not possible to undertake physical works until a Construction Certificate is issued, it is not possible for the proponent to satisfy this condition prior to the issue of a Construction Certificate. As such, the Proponent is seeking to re-word Condition C22B to ensure all interpretation devices are installed prior to the issue of an Occupational Certificate.

The approved and proposed wording of Condition C22B is provided below:

C22B Installation of Aboriginal and Historic Cultural Heritage Interpretation Devices

All interpretation devices must be installed in accordance with the requirement of the Aboriginal and Historic Heritage Interpretation Plan endorsed by the Heritage Branch and the Regional Operations Group of the OEH prior to the issue of any relevant Construction Certificate for buildings on land where an interpretive device is identified within the Plan.

Proposed Wording:

C22B Installation of Aboriginal and Historic Cultural Heritage Interpretation Devices

All interpretation devices must be installed in accordance with the requirement of the Aboriginal and Historic Heritage Interpretation Plan endorsed by the Heritage Branch and the Regional Operations Group of the OEH prior to the issue of any relevant Occupation Certificate for buildings on land where an interpretive device is identified within the Plan.

The Department has reviewed the wording of Condition C22B as proposed by the Proponent and agrees that it is appropriate to re-word Condition C22B to require the installation of all heritage interpretation devices prior to the issue of the Occupational Certificate for each building, or prior to the completion of landscaping works within the public domain.

The Department also notes that it is not possible for the heritage interpretation devices to be installed prior to the issue of a Construction Certificate for the site, and that this requirement was an administrative error from the previous modification. In addition, the proposed modification will still ensure that the heritage interpretation devices are installed prior to the occupation of the site.

Given the above, the Department supports the proposed amendment to Condition C22B to allow the installation of all heritage interpretation devices to occur prior to the issue of the Occupational Certificate for each building.

8. CONCLUSION

The Department has assessed the modification request and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment has concluded that the proposed modification is appropriate on the basis that it will correct the administrative error present in the Concept Approval, and allow for the heritage interpretation devices to be installed prior to the site being occupied.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.


9. RECOMMENDATION

It is RECOMMENDED that the Director, Industry Assessments as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the Instrument of Modification (**Appendix A**).

 15/12/15
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APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7425

2. Submissions:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7425