



Office of
Environment
& Heritage

DOC16/581518-2
MP06 0309 MOD 3

Ms Amy Robertson
Planner, Modification Assessments
Department of Planning and Environment
amy.robertson@planning.nsw.gov.au

Dear Ms Robertson

**Request to modify the Concept Plan for a mixed use development at Trinity Point Drive,
Morisset Park – MP06 0309 MOD 3**

I refer to your email dated 16 November 2016, seeking comments on the proposed modification to the Concept Plan approval for a mixed use development (Trinity Point Marina) at Trinity Point Drive, Morisset Park within the Lake Macquarie local government area. The Office of Environment and Heritage (OEH) understands that Johnson Property Group are seeking approval to modify the Concept Plan to include the use of a helipad. OEH acknowledges that the proposal is a Section 75W modification to an existing approval (MP06 0309) issued under the *Environmental Planning and Assessment Act 1979* by Department of Planning and Environment; and that the proposal was initially on exhibition from 17 November to Friday 16 December 2016, however, this period has been extended to 20 January 2017 (as per email correspondence to OEH dated 13 December 2016).

OEH has undertaken a review of the Environmental Assessment (EA) report titled *Section 75 Modification (MP06 0309 MOD 3) Environmental Assessment Report - Proposed Trinity Point Helipad* (including relevant Appendices; prepared for Johnson Property Group by ADW Johnson Pty. Limited) in relation to threatened biodiversity, Aboriginal cultural heritage and flooding / floodplain matters. OEH is of the opinion that the EA has not adequately assessed threatened species with respect to impact assessment and survey requirements associated with threatened birds. As such OEH is unable to support the findings of the EA until this matter is adequately addressed. Matters relating to Aboriginal cultural heritage and flooding have either been adequately addressed or are not applicable. Further comments are provided in **Attachment A**.

If you require any further information regarding this matter please contact Steve Lewer, Regional Biodiversity Conservation Officer, on 4927 3158.

Yours sincerely

22 DEC 2016

RICHARD BATH
Senior Team Leader Planning, Hunter Central Coast Region
Regional Operations

Enclosure: Attachment A

**ATTACHMENT A: OEH REVIEW - ENVIRONMENTAL ASSESSMENT – REQUEST TO MODIFY
CONCEPT APPROVAL FOR MIXED USE DEVELOPMENT (TRINITY POINT MARINA) – HELIPAD
- MORISSET PARK (MP06 0309 MOD 3)**

THREATENED BIODIVERSITY

OEH has undertaken a review of Appendix F (Aquatic and Terrestrial Ecology Assessment) of the EA, namely the report which appears to be authored by MJD Environmental Pty Limited. OEH is of the opinion the EA has not adequately assessed threatened species with respect to impact assessment and survey requirements associated with threatened birds.

OEH was not requested to provide input to the Department of Planning and Environment (DPE) SEARs for this Modification. However, OEH did provide input to SEARs for a previous Part 4 Designated Development proposal for a helipad at this site (EARs 846) in correspondence to DPE dated 16 June 2016 (DOC16/296712-1). OEH's input to these SEARs requested:

- that all direct and indirect impacts (offsite) must be considered in any environmental assessment of the proposal; it should include a detailed biodiversity assessment, including assessment of impacts on threatened biodiversity and their habitat.
- field surveys of the surrounding site should be conducted and documented in accordance with relevant guidelines, including:
 - the *NSW Guide to Surveying Threatened Plants* (OEH 2016)
 - the *Threatened Species Survey and Assessment Guidelines: Field Survey Methods for Fauna - Amphibians* (DECC 2009)
 - *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities - Working Draft* (DEC 2004), and
 - Threatened species survey and assessment guideline information on www.environment.nsw.gov.au/threatenedspecies/surveyassessmentgdlns.htm.
- if a proposed survey methodology is likely to vary significantly from the above methods, the proponent should discuss the proposed methodology with OEH prior to undertaking the assessment, to determine whether OEH considers that it is appropriate.
- recent (less than five years old) surveys and assessments may be used. However, these surveys should not be used if they have:
 - *been undertaken in seasons, weather conditions or following extensive disturbance events when the subject species are unlikely to be detected or present, or*
 - utilised methodologies, survey sampling intensities, timeframes or baits that are not the most appropriate for detecting the target subject species, unless these differences can be clearly demonstrated to have had an insignificant impact upon the outcomes of the surveys. If a previous survey is used, any additional species listed under the TSC Act since the previous survey took place, must be surveyed for.

OEH acknowledges that the EA states that extensive surveys were undertaken for the original Concept Plan and implies that additional survey work was not required and hence not undertaken. As such the assessment relies on these previous (older) surveys and recent desk-top analyses of relevant databases. Given this approach, OEH is of the opinion that the environmental assessment does not adequately meet OEH standards and survey requirements (as specified above and stated in the Designated Development SEARs). Furthermore, there is no indication whether or not previous surveys adequately targeted threatened species (such as shorebirds and seabirds), and if so how they negate the need for current surveys. OEH notes that Appendix F provides a list of likely candidate species, which includes a number of threatened shorebirds and/or seas birds that have been recorded within 10 kilometres radius of the proposal (as per Attachment 2 of Appendix F). However, this attachment or the overall assessment report does not provide any links to previous survey work or explanation as to why additional targeted survey work was not undertaken. OEH would have expected appropriate survey work (in accordance with OEH guidelines) to have targeted the likely candidate species to determine whether or not the proposal would have a direct impact. Based on some of the recent public

submissions received through the current exhibition phase (as provided by DPE in December 2016), OEH understands that the Eastern Osprey and the White-bellied Sea Eagle (the latter subject to a Preliminary Determination under the *Threatened Species Conservation Act 1995*) have both been recorded within the vicinity of the site. Obviously, further details on the impacts to these species will be required and how the proposal may impact on local populations. OEH recommends to DPE that appropriate surveying of all known and likely candidate species be provided (i.e. to determine absence / presence) or appropriate justification why this is not required.

With respect to the assessment of likely impacts of the helipad proposal to threatened species, OEH's main concerns relate to impacts of potential bird strike and noise to locally occurring threatened shore/sea birds. OEH is of the opinion that the brief impact assessments provided in Attachment 3 of Appendix F do not adequately address whether or not the proposal will result in a significant impact to threatened species, including local populations. For example, with respect to the Eastern Osprey, the assessment fails to take into account the impact to a local population, particularly the viability of a local population if an individual(s) is adversely impacted upon by bird strike or other associated impact. OEH would expect that the assessment address the significance of the impact, including long-term implications to the viability of local populations of threatened species, where appropriate. As such OEH recommends that the proponent provide more detailed impact assessments in accordance with recognised guidelines (e.g. DEC 2014, DECC 2007) to likely candidate and/or known threatened species, particularly local threatened birds.

If the proposal does adversely impact a threatened species and this impact cannot be avoided, then an appropriate biodiversity offset package should be developed in consultation with OEH.

OEH acknowledges that the proposal is unlikely to impact on threatened reptiles (e.g. marine turtles) and marine mammals (e.g. dugong), including known foraging resources such as seagrass beds. With respect to the latter, OEH notes that the proposal is not located within the known seas grass beds that occur along the eastern shoreline of Trinity Point, nor will the proposed helipad present any shadowing impacts on these beds. As such OEH is of the opinion the EA and associated Appendices have adequately addressed issues that related to these threatened species.

References:

DEC (2004) *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities*. Draft, Department of Environment and Conservation, Hurstville; available at: www.environment.nsw.gov.au/resources/nature/TBSAGuidelinesDraft.pdf.

DECC (2007) *Threatened Species Assessment Guidelines: The Assessment of Significance*. August 2007. Department of Environment and Climate Change (NSW).

OEH (2014) *BioBanking Assessment Methodology*. Office of Environment and Heritage, detailed at: www.environment.nsw.gov.au/biobanking/bbreview.htm.

OEH (2016) *NSW Guide to Surveying Threatened Plants*. February 2016. Office of Environment and Heritage, Goulburn Street, Sydney.

DECC (2009) *Threatened Species Survey and Assessment Guidelines: Field Survey Methods for Fauna – Amphibians*. April 2009. Department of Environment and Climate Change (NSW), Goulburn Street, Sydney.

ABORIGINAL CULTURAL HERITAGE

OEH has reviewed the EA and is satisfied that the project will have no significant impact on Aboriginal cultural heritage in the vicinity.

FLOODING AND FLOODPLAIN MANAGEMENT

OEH has reviewed the EA and is satisfied that the project will have no significant impact on flooding in the vicinity.

