

Proposed LEP Amendment

Property:
Trinity Point Marina and Mixed Use Development
Lot 31 DP1117408, Trinity Point Drive Morisset Park,
Lake Macquarie

Applicant:
Johnson Property Group

Updated November 2008



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Executive Summary

In response to a request from Johnson Property Group, Lake Macquarie City Council (LMCC) resolved to prepare a draft amendment to the Lake Macquarie Local Environmental Plan 2004 (LMLEP 2004).

The draft amendment specifically relates to Lot 31 DP 1117408, being **lands zoned 6(2) Tourism and Recreation** under the LMLEP2004. These lands are sited on the eastern end of a larger residential development area known as Trinity Point, off Morisset Park Road, on the Morisset Peninsula, Lake Macquarie.

This report is submitted to Lake Macquarie City Council to address the requirements for preparation of the draft Local Environmental Plan (LEP). The Department of Planning (DOP) have advised that an Environmental Study is not required. Responses to recent s62 consultations have been incorporated, and this report will form part of public exhibition materials when the draft LEP is exhibited. This exhibition will occur simultaneously with exhibition of the proposed development on the land under a Part 3A Concept Plan.

The aim of the draft amendment is to **enable a component of residential development and limited commercial uses (serviced meeting rooms) to occur within the existing 6(2) zone as part of a mixed use development proposed on the site.**

The development proposal is being assessed under Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act). An Environmental Assessment Report (EAR) and Concept Plan has been submitted to the Minister for Planning - proposing a marina and mixed use development. The proponents overall vision is to **create a premier mixed use development, a successful, viable and vibrant place and a destination.** The land use outcome is underpinned by a marina, integrated public access and an 'urban style' built form consisting of mixed use village, tourism accommodation and residential accommodation).

The preparation of the draft LEP as requested will facilitate the overall development of the subject land, which will in turn meet the objectives of the 6(2) Tourism and Recreation zone which applies. When combined with the marina and tourist facility the overwhelming use of the site will be one of a tourist oriented development with a residential component - therefore rather than limit use of the land for tourist development, the proposed amendment will in fact facilitate it.

S U M M A R Y

Subject land	Lot 31 DP1117408, Trinity Point Drive, Morisset Park
Existing Zone	6(2) Tourism and Recreation under Lake Macquarie LEP 2004 (LM LEP 2004).
Request to amend the LEP	To permit with consent, certain <i>dwelling</i> s, <i>residential flat buildings</i> and <i>commercial development</i> within the existing 6(2) Tourism & Recreation zone that applies to the subject land.
Justification for the amendment	To facilitate a viable tourist facility as proposed by the concept plan submitted under Part 3A of the EP&A Act, to satisfy the existing zone objectives.
Proposed form and content of the draft LEP requested	Amendment to Schedule 7 (Clause 39) of Lake Macquarie LEP 2004 to permit certain additional land use.
Benefits arising from the proposed amendment	To deliver state and local planning outcomes in the form of social and economic benefits to the community derived from tourist and associated development having regard for environmental attributes of the site.

Section 1

Introduction

Johnson Property Group Pty Ltd (JPG) have submitted an Environmental Assessment Report (EAR) and Concept Plan to the Minister for Planning pursuant to Part 3A of the Environmental Planning and Assessment Act 1979 (EP&A Act). The concept plan proposes a mixed-use residential, commercial, marina & tourism village (the concept plan). The site boundary for the concept plan is illustrated in Figure 1 below.



Figure 1 Part 3A Concept Plan Site

An amendment to the Lake Macquarie LEP 2004 (LMLEP 2004) is required to enable a component of residential and certain small-scale commercial uses (serviced meeting rooms) proposed as part of the concept plan. This draft LEP amendment relates only to the 6(2) zoned parts of the concept plan site - being Lot 31 DP 1117408 (it excludes Lot 34 DP 1117408 which has previously been

identified for protection from development along the edge of the unnamed shallow bay).

At its meeting held on 4th June 2007 Lake Macquarie City Council (LMCC) resolved to prepare the requested draft amendment to the LMLEP 2004, (the draft LEP), in order to facilitate the concurrent assessment of the Part 3A concept plan and the ultimate use of the site for tourist and associated development.

This report has been prepared by Asquith & de Witt on behalf of the applicant, Johnson Property Group Pty Ltd (JPG) to address the requirements for an amendment to the LMLEP 2004 to facilitate the additional uses currently not permitted to provide a mixed use development proposed by the Part 3A concept plan. The report supports the original request to LMCC to enable the additional land uses and describes the site, its environs and the nature and extent of the proposed amendment to LMLEP 2004 relative to statutory planning controls.

1.1 BACKGROUND

1.1.1 Zoning History

JPG historically lodged a rezoning request with LMCC to rezone all lands of the former 'St John of God' site (which includes the subject land plus lands to the west that have subsequently been approved for some 190 residential lots) for residential purposes. However, Council identified and advocated a desire for tourism over several years and subsequently implemented the existing 6(2) Tourism and Recreation zone.

Whilst JPG maintained that the land should be entirely for residential purposes, Council's preference at the time was for a predominately tourism-based outcome.

1.1.2 The 'Kendall Grange' Master Plan

As part of the rezoning of the 'St John of God' lands under LMLEP 2004, a schedule entry was included, requiring a master plan to be adopted prior to consideration of a development application (Schedule 8 item 2). Clause 42(1) requires a consent authority to have regard to that master plan during determination of a development application.

The *Kendall Grange, Morisset Master Plan* (the master plan) was adopted by Council at its meeting on 25th July 2005. The master plan applies to a larger area of land extending to the west of the subject site, as shown in **Figure 2** (subject land is generally shown in red).



Figure 2 Extract from Kendall Grange Master Plan (2005)

The 6(2) zoned subject lands were included within the adopted master plan at the specific request of Council. JPG included an indicative small-scale tourist development on the site within the master plan - which at the time enabled the residential development of the land to the west proceed.

The master plan provides, on the 6(2) zoned land, for a range of public /community facilities and for low scale tourist accommodation for detached and semi-detached buildings, of two storeys, with passive recreation.

Since adoption of the master plan, JPG have proceeded with the western residential estate. With approvals in place for that estate, JPG commenced market research with respect to tourist development. They determined that a small-scale tourist outcome as required by Council at the time is not viable, is unlikely to attract investors in the form envisaged and does not lead to the creation of a ‘place’, ‘destination’ or ‘community’.

The Part 3A Concept Plan process is an opportunity to revisit the master plan relative to the subject site, in conjunction with this draft LEP amendment.

1.1.3 JPG Vision for 6(2) Lands

Challenges to investment in the tourist industry and to securing finance are well recognised, and acknowledged in the State’s “Towards 2020” Tourism Master Plan. To achieve Council’s objectives for the site, any development proposal will need to be economically viable. This is necessary to secure tourism’s major return to the community - being creation of employment opportunities, provision of tourism experiences, and to facilitate the tourism profile of Lake Macquarie.

JPG are committed to providing a world-class outcome to create a premier mixed use development, a successful, viable and vibrant place and a destination. JPG have actively sought ways to achieve this in a sustainable manner to meet the Council's objectives. These are presented in the Part 3A Concept Plan. The land use outcome is underpinned by a marina, integrated public access and an 'urban style' built form consisting of mixed use village, tourism accommodation and residential accommodation.

1.2 PART 3A CONCEPT PLAN

1.2.1 SEPP (Major Projects) 2005

State Environmental Planning Policy (Major Projects) 2005 identifies development to which Part 3A of the EP&A Act applies. Development to which Part 3A applies requires approval from the Minister for Planning.

In accordance with Section 75B of the EP&A Act and clause 6 of State Environmental Planning Policy (Major Projects) 2005, JPG received confirmation from the Minister for Planning that the project is of a kind to which Part 3A of the Act applies. A residential component and certain commercial uses included within the concept plan submitted to the Minister under Part 3A of the EP&A Act are not permissible within the existing 6(2) Tourism and Recreation zone under LMLEP 2004. An LEP amendment was deemed necessary, to be processed concurrently with the Part 3A assessment process.

1.2.2 Part 3A Concept Plan

A preliminary concept plan was initially submitted by JPG. The Director-General have since issued the Environmental Assessment Requirements (DG-EAR) for the concept plan.

Through initial discussions and further assessments, the preliminary concept plan has been modified. The submitted Concept Plan is a document of some 64 pages, which summarises analysis of the site and its context, and establishes a range of site principles and controls relating to those principles. They address considerations of land uses, the marina/helipad, floor space ratio, building site coverage, public access, setbacks, separations, height, built form, materials, access & parking, landscape, stormwater & soils and flooding & infrastructure and the like. The full concept plan is not reproduced as part of this report. **Appendix A** includes the 2 page Concept Plan Indicative Outcome Figures only and one page from the Concept Plan which summarises the Site Principles. The Site Principles are not repeated in the body of this report. Once approved, all subsequent Project Applications are to be consistent with the Concept Plan.

The submitted Concept Plan is accompanied by a two volume (plus Appendices) Environmental Assessment Report.

In summary the concept plan provides for:

Land Uses - Staged 308 berth marina, helipad, marina/tourist village, tourist accommodation and residential accommodation, with associated public, communal and private domain. Given that the LEP amendment relates to permissible land uses, a more detailed description of the land uses is provided in *Section 1.2.3* of this Report.

FSR & Building Site Coverage - A maximum FSR of 0.65:1 and maximum building site coverage of 35%.

Public Access - A village square, three 'thru site' pedestrian connections (generally east/west), continuous boardwalk and lineal landscape zone around the southern and eastern edge of built form.

Public Domain Improvement - In addition to the public access, landscaping (soft and hard), cultural plantings protection, sundial and grotto protection, interpretative signage/themes and public art.

Residential Design - Residential building groups established by a combination of lake setbacks (min 25m, generally 30m), public road setbacks (4m) and three key building group separations (15m) to provide visual wayfinding from the public road through to the boardwalk and lake edge (west to east). Within each group, a modular and variable perimeter built form with open landscape courts (25m) to facilitate future detailed planning to SEPP 65 Design Principles. Heights consist of 2 storeys adjacent foreshore/boardwalk (east), 2-4 storey adjacent the public road (west) and 3-5 storeys mid block;

Tourism & Marina Village Design - A tourist accommodation group matching the residential design built form arrangement, a central group of taller 'sculptural' buildings (5 and 6 storey) and 2 storey village buildings around a village square - all raised above at grade parking. Also includes a 1 and 2 storey workshop and marina operations building, and hardstand apron. The design integrates into the marina design and facilities on the water.

Marina and Helipad Design - Staged marina with up to 308 serviced berths over four floating arm pontoons, joined in one gangway to the land, plus a publicly accessible fixed timber deck on steel pile breakwater (south & east). A public day berthing area is included, as is fuel, sewage pump out and oily water bilge pump out. A vessel exclusion zone to the south to protect extensive seagrass beds. A 25 x 25m steel helicopter landing pontoon and gangway is located off the breakwater, limited to maximum 4 movements per day, with no night use (excluding emergencies). A boat lift facility is included, sited adjacent the hardstand apron.

Stormwater, Soils, Flooding & Infrastructure - Water sensitive urban design approach and erosion and sediment control paramount - designed to limit impacts on sensitive aquatic ecology and lake water quality. Acid sulphate soil and groundwater management to be integral in detailed design and construction.