



NSW GOVERNMENT
Department of Planning

Contact: Thomas Mithen
Phone: 9228 6336
Fax: 9228 6540
Email: thomas.mithen@planning.nsw.gov.au
Our ref: MP 06_0309

Mr Keith Johnson
Johnson Property Group
340 Kent Street
Sydney NSW 2000

Dear Mr Johnson,

Subject: Proposed Marina/Residential/Tourist development at Lot 31 DP 1117408, Part Lot 32 DP 1119836 & Part Lot 33 DP 1117408 Trinity Point, Lake Macquarie (off Morisset Road) and the Lake Macquarie waterway (MP 06_0309).

On 7 April 2008, the Minister formed the opinion that your amended Project is one to which Part 3A of the Environmental Planning and Assessment Act 1979 ("the Act") applies. In addition, the Minister authorised the lodgement of a Concept Plan.

The Director-General's Environmental Assessment Requirements (DGRs) for the Environmental Assessment (EA) of the project for a Concept Plan are attached to this correspondence at **Attachment 1**. These requirements have been prepared by the Department in consultation with the relevant government agencies including Lake Macquarie City Council. The Director-General may alter or supplement these requirements, if necessary, and in light of any additional information that may be provided prior to the proponent seeking approval for the project.

It is noted that the residential component of the proposal is currently prohibited under the Lake Macquarie Local Environmental Plan 2004 (LEP 2004) and that Council has resolved under Section 54 of the Act to amend the zoning to permit the residential development. The EA for the proposal should therefore not be placed on public exhibition until the draft LEP has received a certificate certifying that it may be publicly exhibited under Section 65 of the Act.

The Department is currently organising to delegate the assessment of the application to Council which will allow Council to undertake exhibition and assessment of the proposal. However, the Minister will remain the consent authority.

Therefore you should contact the Council at least two weeks before you propose to submit the Environmental Assessment (EA) for the project to determine:

- the fees applicable to the application;
- consultation and public exhibition arrangements that will apply; and
- number and format (hard-copy or CD-ROM) of the Environmental Assessments that will be required.

Attachment 2 lists the relevant plans and documents which are likely to be required upon submission of your proposal. A list of some relevant technical and policy guidelines which may assist in the preparation of this EA are at **Attachment 3**.

Prior to exhibiting the EA, the Council will need to review the document to determine if it adequately addresses the DGRs. The Council may consult with other relevant government agencies in making this decision. If the Council considers that the EA does not adequately address the DGRs, they may require the EA to be revised accordingly.

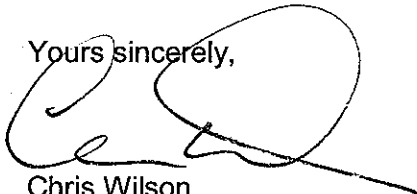
Following this review period, the EA will be made publicly available for a minimum period of 30 days. It will be placed on the Department's and the Council's website along with other relevant information which becomes available during the assessment of the project. You must provide all documents and plans in a suitable format for the web.

If your proposal includes any actions that could have a significant impact on matters of National Environmental Significance (NES), it will require an additional approval under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This approval is in addition to any approvals required under NSW legislation. It is your responsibility to contact the Commonwealth Department of Environment, Water, Heritage and the Arts in Canberra (6274 1111 or <http://www.environment.gov.au>) to determine if the proposal is likely to have a significant impact on matters of NES and would require an approval under the EPBC Act. The Commonwealth Government has accredited the NSW environmental assessment process for assessing any impacts on matters of NES. As a result, if it is determined that an approval is required under the EPBC Act, please contact the Council immediately as supplementary DGRs will need to be issued.

Copies of responses from government agencies to the Department's request for key issues and assessment requirements are enclosed at **Attachment 4**. Please note that these responses have been provided to you for information only and do not form part of the DGRs for the EA.

If you have any enquiries about these requirements, please contact Thomas Mithen on 02 9228 6336 or via e-mail at thomas.mithen@planning.nsw.gov.au.

Yours sincerely,



17.4.08

Chris Wilson
**Executive Director, Major Project Assessments
as delegate for the Director General**

Attachment 1

Director-General's Environmental Assessment Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application number
MP 06_0309
Project
<p>Concept Plan Application: A concept plan approval is sought for construction of a marina comprising 308 wet berths and associated marina club, repair and maintenance facilities, chandlery and helipad, restaurant and café, function rooms, business centre/office, gymnasium, shops, 150 apartments (75 residential and 75 tourist accommodation), boardwalk and associated parking.</p> <p>The application will involve approval of the following conceptual key design parameters: marina and land use, built form, building heights and residential unit types, site coverage, FSR, setbacks, roads and vehicle access, pedestrian through site linkages, public domain works and infrastructure requirements, stormwater management and landscaping.</p>
Location
Lot 31 DP 1117408, Part Lot 32 DP 1119836 & Part Lot 33 DP 1117408 - Trinity Point, Lake Macquarie (off Morisset Road).
Proponent
Johnson Property Group
Date issued
April 2008
Expiry date
2 years from date of issue
General requirements
<p>The Environmental Assessment (EA) for the Concept Plan Application must include:</p> <ol style="list-style-type: none"> 1. An executive summary; 2. An outline of the scope of the project including: <ul style="list-style-type: none"> • any development options; • justification for the project taking into consideration any environmental impacts of the project, the suitability of the site and whether the project is in the public interest; • outline of the staged implementation of the project if applicable; 3. A thorough site analysis including the affected part of the waterway (Lake Macquarie) and a description of the existing environment and constraints mapping; 4. Consideration of relevant statutory and non-statutory provisions, in particular relevant provisions arising from environmental planning instruments, State Environmental Planning Policies in particular SEPP 65 – Design Quality of Residential Flat Development, Regional Strategies (including draft Regional Strategies) and Development Control Plans. Including <i>Lake Macquarie Estuary Management Plan</i>; <i>Lake Macquarie Mooring Management Plan</i>; <i>Lake Macquarie Foreshore Stabilisation and Rehabilitation Guidelines</i>; and <i>Lake Macquarie Lifestyle 2020 Strategy</i>. Identify non-compliances and provide justification for any

- departures.
5. Consideration of impacts, if any, on matters of national environmental significance under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*;
 6. Consideration of the consistency of the project with the objects of the *Environmental Planning and Assessment Act 1979*.
 7. An assessment of the potential impacts of the project and a draft Statement of Commitments, outlining environmental management, mitigation and monitoring measures to be implemented to minimise any potential impacts of the project;
 8. The plans and documents outlined in **Attachment 2**;
 9. A signed statement from the author of the Environmental Assessment certifying that the information contained in the report is neither false nor misleading;
 10. A Quantity Surveyor's Certificate of Cost to verify the capital investment value of the project; and
 11. An assessment of the key issues specified below and a table outlining how and where in the EA document these key issues and the above requirements have been addressed.

Key Issues for the Concept Plan

The EA must address the following key issues:

1. Strategic Planning and Rezoning

- 1.1 Justify the proposal with reference to relevant local, regional and state planning strategies including the draft Local Environment Plan to amend the zoning of the land to permit residential development on the site. In that regard provide justification for any inconsistencies with these planning strategies.

2. Owner's consent

- 2.1 The proponent must provide evidence of land owner's consent to make application for all components of the proposal on Crown land, including the marina and helipad.

3. Design and Visual Impact

- 3.1 Provide a comprehensive Site Analysis identifying constraints and including landform features, levels, vegetation, heritage and other relevant environmental features.
- 3.2 Demonstrate the achievement of design excellence having regard to the significance of the site in relation to Lake Macquarie and its environs. Address impacts of the proposal on the amenity of the foreshore, overshadowing of open space and loss of views from public places and from existing approved development.
- 3.3 Identify urban design guidelines that take into account the existing low density character of the locality and identify appropriate development parameters in relation to building heights (number of storeys and metres), foreshore setbacks, building separations, site coverage and floor space ratios based on careful analysis of the site's constraints and opportunities and the potential visual and environmental impacts.
- 3.4 Address visual impact in the context of adjoining and surrounding development in relation to setting, density, built form, building mass, and height as viewed from the public domain including Lake Macquarie and all publicly accessible foreshore locations. The visual impact of the marina including the pylons and helipad and all other associated structures must be addressed in the visual impact analysis. In that regard a Visual Impact Analysis should include all significant vantage points from where the site can be viewed, both water and land based and provide relevant mitigation measures.

- 3.5 Use visual aids such as a scale model and photomontages to demonstrate visual impacts. Amelioration of visual impacts through design, use of appropriate colours and building materials, landscaping and buffer areas must be addressed.
- 3.6 Demonstrate the suitability of the proposal with the surrounding area in relation to potential character, height, bulk, scale, built form, amenity (including noise) and visual amenity having regard to *SEPP 71, NSW Coastal Policy 1997, Coastal Design Guidelines of NSW (2003)*, objectives of the 6(2) Tourism and Recreation zone and all relevant development control plans including *Lifestyle 2020 Strategy, DCP No. 1 – Principles of Development*.
- 3.7 Address the landscape setting and retention of existing significant vegetation on the site. Demonstrate that any removal of vegetation on the site will have minimal visual impacts.
- 3.8 Provide details of residential unit types and future management of tourist accommodation and measures to ensure conflict between user groups does not occur.

4. Public Access

- 4.1 Address existing and future opportunities for public access to and along the foreshore and future ownership and management of the foreshore reserve including any arrangements required by or of Lake Macquarie City Council.
- 4.2 Address the views of the *Lake Macquarie Estuary and Coastal Management Committee* and the *Office of the Lake Macquarie and Catchment Co-ordinator* and the related *Lake Macquarie Project Management Committee*;
- 4.3 Assess the impacts on recreational amenity arising from the loss of public access to areas of the lake that are proposed for marina and helipad operations.
- 4.4 Assess the impact on the Council foreshore reserved land and the impacts arising from reduced public access to the foreshore and the waterway.

5. Water Cycle Management

- 5.1 Address potential impacts on the water quality including stormwater management systems, surface water controls, management of slipways, hardstands and vessels, management of sewerage waste from vessels, fuel and chemical storage and management and spill management having regard to *State Groundwater, Rivers, Wetlands and Estuary Policies, Lake Macquarie Estuary Management Plan, Lake Macquarie Mooring Management Plan and Lake Macquarie Foreshore Stabilisation and Rehabilitation Guidelines*.
- 5.2 Address pollutant runoff loads from the site, treatment of waste, effluent disposal and sediment and erosion control. Demonstrate an acceptable level of water quality protection with respect to downstream receiving waters during and after construction.
- 5.3 Address changes in the hydrological regime of the catchment as a result of the project.
- 5.4 Provide a Water Management Plan and Site Water Balance incorporating on-site re-use of water; prevention of wet weather overflows of contaminated stormwater; segregation of contaminated water from non-contaminated water; spillage controls and bunding.

6. Waste Management

- 6.1 Identify all potential sources of liquid wastes and non-liquid wastes as defined in the environmental guideline *Assessment, Classification and Management of Liquid and Non-Liquid Wastes (EPA 1999)*. The EA should identify any wastes that will be stored, separated or processed on the site and identify the procedures to be adopted to manage these wastes.
- 6.2 Identify strategies for the management of sewerage waste from vessels and other

sections of the facility including pump-out facilities and holding tanks; connections to sewerage systems operated by Hunter Water Corporation or options for waste water treatment, including examination of re-use options; spill management and containment; and management of privately owned vessels at the marina.

7. Groundwater Protection

- 7.1 Address the *NSW Groundwater Policy Framework Document – General, NSW Groundwater Quality Protection Policy and NSW Groundwater Dependent Ecosystem Policy*.

8. Infrastructure Provision

- 8.1 Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.
- 8.2 Address developer contributions, and provide the likely scope of any planning agreement with Council/ Government agencies. In particular the dedication of land zoned open space adjoining the foreshore to Council in accordance with *Lake Macquarie s94 Contributions Plan*.
- 8.3 Address the provision of infrastructure for social and community needs due to residential development.
- 8.4 If applicable, provide details of the deed of agreement with the Roads and Traffic Authority for State Road infrastructure.

9. Noise Impact

- 9.2 A Noise Assessment Report, prepared by a qualified acoustic consultant, is required to investigate potential noise impacts to more sensitive tourist and residential uses on the site and in the vicinity during the construction phase of the proposal and from the general operation of the marina facility and road transport to and from the site. Where necessary outline details of noise amelioration measures for the marina complex (refer to discussion under Section 15 in relation to helicopter noise).

10. Traffic and Access

- 10.1 Prepare a Traffic Impact Study in accordance with the RTA's *Guide to Traffic Generating Developments*. Identify the suitability of the existing road network to accommodate the development and the adequacy of on-site parking and servicing arrangements. The traffic analysis shall use SIDRA or similar traffic model and take into account relevant intersections including current and traffic growth projects for the life of the project, 95th percentile back of queue lengths and delays and level of service on all legs. Provide an electronic copy of the traffic analysis/modelling in CD format
- 10.2 Address *Draft SEPP 66 – Integration of Land Use and Transport* and *DoPs EIS Guidelines on Roads and Related Facilities*.
- 10.3 Identify needs (if any) to upgrade roads/junctions and improvement works to ameliorate any traffic inefficiency and safety impacts associated with the development where relevant. This should include identification of pedestrian movements and appropriate treatments.

11. Aboriginal and Cultural Heritage

- 11.1 Address the draft *Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation (DEC, July 2005)*.
- 11.2 Identify whether the site has significance in relation to Aboriginal cultural heritage and identify appropriate measures to preserve any significance. This is to be undertaken

<p>by an appropriately qualified person in consultation with the local Aboriginal community.</p> <p>11.3 Identify any items of European heritage significance and provide measures for conservation of such items.</p> <p>11.4 Address impacts on World Heritage areas, places listed on the National Heritage List and protected under the EPBC Act.</p>
12. Flora and Fauna
<p>12.1 Assess potential impacts on threatened species, populations and endangered ecological communities in accordance with the draft <i>Guidelines for Threatened Species Assessment</i> DEC & DPI July 2005</p> <p>12.2 Address measures for the conservation of flora and fauna and their habitats within the meaning of the <i>Threatened Species Conservation Act 1995</i> and the <i>Fisheries Management Act</i>, having regard to the <i>Draft Guidelines for Threatened Species Assessment</i> (DEC & DPI July 2005). Address impacts on migratory species, RAMSAR wetlands and species listed under Section 18 and 18A of the EPBC Act.</p> <p>12.3 Assess the impacts on flora and fauna in accordance with the <i>Lake Macquarie Flora and Fauna Survey Guidelines</i>.</p>
13. Natural Hazards
<i>Coastal Processes</i>
<p>13.1 Address coastal hazards and the provisions of the Coastline Management Manual. In particular consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms (also refer to discussion below under flooding).</p> <p>13.2 Address consistency with <i>Rivers and Foreshores Improvements Act 1948</i>, <i>NSW Coastal Policy</i>, <i>NSW Wetlands Management Policy</i>, <i>NSW State Rivers and Estuaries Policy</i> and <i>NSW Estuary Management Policy</i>.</p>
<i>Contamination</i>
<p>13.3 Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.</p>
<i>Acid Sulfate Soils</i>
<p>13.4 Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures in accordance with the Acid Sulfate Soil Manual (NSW Acid Sulfate Soil Management Advisory Committee 1998).</p>
<i>Geotechnical</i>
<p>13.5 Prepare a geotechnical assessment of the property to address potential impact of subsidence and future mining of coal resources in the area.</p>
<i>Flooding</i>
<p>13.6 Demonstrate the development is compatible with Council's relevant Flood Policy and in accordance with the guidelines contained in the <i>NSW Floodplain Development Manual</i> (2005). Provide a Floodplain Risk Management Study addressing the potential impacts of flooding, taking into consideration the potential risks associated sea level rise and changes to hydrological processes, potential shoreline recession and greater frequency and intensity of storms. These risks should be assessed on the impact from development on the flooding regime and impacts from flood on proposed development.</p>

14. Marina Development and Potential Impacts

14.1 Address the potential marina impacts:

- due to the marine structure and operations on the seabed, in particular on seagrass and benthic organisms including the shading effects of the structures proposed measures to prevent/mitigate impact (The design should minimise shading on the seagrass beds);
- due to any structure located on the foreshore to interfere with the free movement of seagrass wrack along the foreshore, and on wave energy and the risk of deflection or refraction to other locations and proposed measures to prevent/mitigate impacts;
- due to stormwater run-off on water quality and seagrass beds and proposed measures to prevent/mitigate impacts;
- due to marina operations and the increase in vessel numbers and usage levels on water quality, aquatic ecology, and recreational amenity;
- due to management of travel lift, hardstand areas, workshop, vessels, management of sewerage waste from vessels, fuel and chemical storage and management and spill management on water quality and seagrass beds and proposed measures to prevent/mitigate impacts;
- on navigation and existing swing moorings on or in the immediate area of Bardens Bay;
- on air quality including dust generation during construction activities and boat maintenance and repairs;
- due to day berthing facilities for the general public;
- due to dredging activities including method to be used; dimension of area of works; nature of sediment; environmental safeguards;
- marine vegetation and include mapping and density distribution and measures to minimise harm to marine vegetation and details of compensatory habitat development to replace lost vegetation;
- on fish species and their habitat; and
- on commercial, recreational or indigenous fishing activities.

14.2 Justify the suitability of the site for a marina development including the extensive infrastructure (eg. breakwalls) to accommodate the proposal in this location.

14.3 Address the cumulative impact on increased boating activities in the locality including the provision of appropriate boating infrastructure.

14.4 Provide hydrographic survey and modelling details and the need for dredging both on-site and for access from other parts of the lake and ocean (via Swansea Channel) and the impacts and on-going maintenance issues.

14.5 Undertake an assessment of potential impacts of the marina development on hydrodynamic processes within Lake Macquarie and Bardens Bay including detailed hydrodynamic modelling undertaken to quantify potential impacts.

14.6 Undertake an analysis of the need for marina facilities and consider other existing and proposed marina developments on Lake Macquarie and the suitability of the site for marina facilities.

14.7 Address the principles of Crown lands management under Section 11 Crown Lands Act 1989 and Part 3 – the land assessment provisions.

14.8 Provide an economic feasibility report, prepared by an appropriately qualified consultant, addressing the proposed marina size and the tourism component.