

DEPARTMENT OF PLANNING & INFRASTRUCTURE

Development Assessment Systems & Approvals

SUBJECT: MODIFICATION REQUEST, CONCEPT APPROVAL FOR TRINITY POINT MIXED USED DEVELOPMENT (MP06 0309 MOD 1)

1. PURPOSE

To determine a modification request to extend the lapsing date of the project approval for the Trinity Point mixed used development from 5 September 2014 to 1 October 2016.

This amendment is sought as physical commencement of the development of the site cannot commence within the current lapsing period.

2. MODIFICATION DESCRIPTION

On 4 October 2013, Johnson Property Group submitted a request to modify the Part 3A project approval pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The Proponent seeks to amend Condition A5 - Lapsing of Approval, to extend the current lapse date of the project approval to 1 October 2016. At present, the project approval is liable to lapse after five years from the date of determination (5 September 2014) unless stage 1 is approved and physically commenced.

3. THE SITE

The site is located at 48C, 49 and 71 Trinity Point Drive Morisset Park and over part of Lake Macquarie, (Lot 31, Pt Lot 32, Pt Lot 33 DP 1117408 and Pt Crown land – the lake). The subject site is located within the local government area of Lake Macquarie City Council. Please refer to **Figure 1** for the location of Trinity Point in Lake Macquarie.

4. PREVIOUS APPROVALS

On 5 September 2009, the then Minister for Planning approved the concept plan for the following (refer to **Figure 2**):

- A marina with 188 berths and associated workshop/maintenance and club facilities;
- 150 accommodation units (75 tourist and 75 residential);
- Mixed use activities, including a restaurant, café, function centre, shops and office;
- Associated parking, landscaping and a boardwalk.

The Agency is currently assessing two other modification requests to amend the concept plan as follows:

- Modification 2 to amend the project staging; and
- Modification 3 to include a helipad as part of the marina development.

5. MODIFICATION JUSTIFICATION

The proponent has advised that given the recent economic downturn in the development industry, progressing the development soon after the approval was not a viable activity. However, since the recovery of the development industry, a suitable investor has been found to recommence this project. Given this, the proponent has advised work is unlikely to physically commence on site before the current lapse date and is therefore seeking the extension of time.

The agency is satisfied that the request for an extension of the concept plan approval is reasonable given the recent economic downturn that has impacted most large scale development sites and the fact that the proponent still needs to seek appropriate development approval for construction of the development in accordance with the concept plan approval.



Figure 1: Project Location



Figure 2: Approved Concept Plan Layout

6. CONSULTATION

In accordance with section 75X of the EP&A Act and clause 8G of the EP&A Regulation 2000, the modification request was made publically available on the agency's website. The agency also notified Lake Macquarie City Council of the application. Due to the minor nature of the modification request, the modification was not exhibited by any other means.

Council advised via email (03/02/2014) that it would not be making a submission. There were 8 submissions received from the public, raising issues related to the marina staging and helipad, which are not directly relevant to the current modification application.

7. DELEGATED AUTHORITY

On 14 September 2011, the Minister delegated his powers and functions under section 75W of the EP&A Act to Directors in the Major Projects Assessment Division in cases where:

- (a) the relevant local council has not made an objection, and
- (b) a political disclosure statement has not been made, and
- (c) there are less than 10 public submissions in the nature of objections.

No objection was received from council, no political disclosure statement was made and there were less than 10 relevant public submissions. Therefore, the Director, Industry, Key Sites & Social Projects may determine the modification request under delegated authority.

8. KEY ISSUES

Lapsing Date

The proponent seeks to amend the lapsing date of the Concept Plan from 05 September 2014 to the 1 October 2016. This date coincides with the lapsing date specified under clause 11(3) of Schedule 6A of the *Environmental Planning & Assessment Act, 1979*. Clause 11(3) and the specified lapsing date of 1 October 2016 applies to transitional Part 3A projects where no valid lapsing provisions have been included in an approval. Accordingly, the current lapsing provisions in the concept plan approval could be deleted and then the lapsing date of 1 October 2016 specified in clause 11(3) of Schedule 6A would apply by default. It is however considered appropriate to retain a note in the approval which directs the reader to the relevant clause to avoid any confusion.

It is therefore recommended that condition A5 of the Concept Approval be deleted and a note added to Part B of the approval instrument that states that the lapsing date is in accordance with the transitional arrangements in Schedule 6A.

The agency considers the proposal, as modified, achieves the same objectives as assessed under the original approval. The agency's original assessment of the application considered the proposed development would allow for the provision of a tourist facility and meets the objectives of the Lake Macquarie LEP 2004. The proposed modification ensures this objective can still be achieved.

The agency also notes that there are no other changes to the approval in this modification so approval would merely allow an extension of time for the development of this site. It is therefore recommended that the modification request be **approved**.

9. RECOMMENDATION

It is RECOMMENDED that the Director:

- note the information provided in this briefing;
- approve the modification request, and
- sign the attached modifying instrument (**Tag A**).

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Endorsed by:

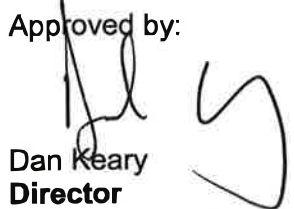
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