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5 June 2009

General Manager
Lake Macquarie City Council
Box 1906
HUNTER REGION MAIL CENTRE NSW 2310

Attention: Kirrily Vincer

Dear Kirrily,

RE: TRINITY POINT CONCEPT PLAN - MORISSET PARK (MP 06_0309)
JOHNSON PROPERTY GROUP

We refer to Council's letter dated 24 April 2009 responding to the proposed Concept Plan by Johnson Property Group for Trinity Point Drive, Morisset Park. We advise that in consideration of Council's letter including taking into account feedback from a number of community presentations, general informal community feedback and the formal submissions received during public exhibition of the proposal that the project has now been amended.

Submitted with this letter is an amendment to the Concept Plan with revised Statement of Commitments (PPR) and combined are Johnson Property Group's preferred project report. We have also enclosed a response to the submissions received during public exhibition of the project application.

In summary, the amended proposal is for:

- a reduced Marina, now total 188 berths to be constructed in two stages (with 94 berths in an initial stage, and additional 'triggers' to be met before a second stage can proceed to construction including monitoring of stage 1 impacts). The footprint of the marina has been significantly reduced (stage 1 3.17ha, full development 5.9ha), thereby reducing its extent across Bardens Bay;
- deletion of the proposed Helipad;
- maintaining 150 accommodation units spread across the site however, making the accommodation units 100% available for tourism use of which 50% could be also available for permanent residential use.

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- modification to the urban design structure, setbacks, heights, uses and built form of the land based component, notably including:
 - increased setbacks to the eastern lake edge;
 - inclusion of a grid layout internal streetscape for maximum permeability and structured public access east-west and north-south through the site;
 - reduction in heights south of Trinity Point Drive extension to 2 and 3 storeys and modification to built form into precincts with increased ‘detached’ form and domestic scales and features,
 - retention of development north of Trinity Point Drive extension with raised but redesigned ‘piazza’, design principles to generate a more appropriate visual relationship of piazza edge to adjoining open space land and revised design principles incorporating 2 (eastern) and 3 (southern and western) level built edge from piazza level (with pitch roof) and a ‘trinity’ of small footprint slender, taller buildings of unique material solutions, which anchor the northern, south-western and south-eastern edges of the piazza (being 3 and 4 levels plus roof space) from piazza level.

The following response is to the issues raised in Council’s letter of 24 April 2009.

1.0 STRATEGIC JUSTIFICATION

We note that both Lake Macquarie City Council and Lake Macquarie Tourism Association regard the Trinity Point site as important for the development of Tourism in the Southlake’s area and more generally Lake Macquarie. It is clear to us that both Council and the Association want to see the site developed for this purpose - we support this finding on the basis that it is viable and creates a destination.

This is also supported by the policies of the NSW State Government with the State’s “Towards 2020” Tourism Masterplan acknowledging that the major return to the community is the creation of employment opportunities, and that the number of jobs created is the ultimate measure of how successful tourism efforts have been. The State’s masterplan also acknowledges that tourism will not just happen as a matter of course, and is an even greater challenge outside Sydney. The following extract from the Tourism Masterplan is clear evidence of this:

“lack of positive climate for investment is hindering the potential of the tourism industry and will continue to do so. Towards 2020 acknowledges the need to lift private investment in the tourism sector to physically improved tourism product including accommodation, attractions and tours. Government will help to promote and facilitate a climate conducive to enhancing investor perceptions, industry image and positive business environment. The industry, however, needs to deliver consistent profitability and a commercial return on funds invested” (page 8).

It is no secret that Johnson Property Group were opposed to the rezoning of the subject site for tourism. Why is this? Their opposition was for the very reason highlighted by the States own report *“lack of positive climate for investment”*. This opposition was supported in the

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lack of interest JPG has in this tourist site during a local and national campaign. This lack of positive climate for investment is also acknowledged by financiers. Why lend money on an investment that does not have a positive return or that represents a high risk. If Tourism was a naturally viable investment at Trinity Point Johnson Property Group would be asking for additional lands to be rezoned for Tourism, this is not the case, again based on lack of interest and problems in securing tourism finance.

Put simply unless Johnson Property Group (or any developer) can make tourism a viable option for Trinity Point it will not happen and the strategic planning objectives will not happen. We agree with the NSW State Government's own stated commitment ***"Government will help to promote and facilitate a climate conducive to enhancing investor perceptions, industry image and positive business environment"***.

Accepting that Lake Macquarie City Council have imposed a tourism outcome at Trinity Point, on Johnson Property Group, despite the clear and documented difficulties of establishing such facilities Johnson Property Group have had to be clever, resourceful and inventive to arrive at an outcome that will make a return on investment, be attractive to financiers and more importantly deliver on the ground a tourism outcome (and employment) that south-west Lake Macquarie demands. This has been achieved by providing a mix of outcomes that spreads the risk of development across different asset classes and by value adding.

Combining residential housing, tourism accommodation, tourism facilities such as café and restaurant and value adding it with a Marina (for which according to the Worley Parson's Demand Study that there is a very strong demand for) delivers a more robust finance model that is needed to have financiers fund the project. The synergies of this mix of uses will ensure not only a viable project but one that when on the ground will have vitality and interest. The attraction of the lake itself and providing a high level of public access through and around the site all serve to support the development.

JPG have no doubts that the proposed Helipad, larger Marina and built form as originally proposed would have further added to the success of the overall project. However all have been reluctantly deleted or modified in response to concerns raised by the community. Further erosion of the project will likely see no viable project at all.

The suggestion that the financial success of the tourism facility should be considered in context of other development carried out by Johnson Property Group (i.e. that the site should be fully developed for tourism) is not realistic. It is simply not financially viable to say that because profits have been made elsewhere that one should now construct a tourism project at a loss. Every individual project whether it be on the same site or not, has to be financially viable in its own right. In addition we strongly believe that having residents live on the site will assist by providing a ready demand for the tourism facilities and contribute to overall activity and vitality 365 days a year (as opposed to a complete tourist outcome commonly used on weekends and school holidays). In addition it is considered that permanent residents assist in achieving CPTED objectives. The contribution that residents can add within this project is not dissimilar from the contribution residents living within local and town centres around the Lake make - a strategy which Council actively pursues.

Whilst Council's concerns about the erosion of the tourism site are acknowledged it is considered that the project if not in this form will struggle to be financed and so there may be

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no tourist outcome at all. Johnson Property Group have always anticipated requirements for staging to ensure that residential accommodation numbers do not exceed tourist accommodation numbers at any stage. In fact Johnson Property Group are committing to build the Village Piazza area in the first land based stage. To show the commitment of Johnson Property Group to promoting the tourist outcome it has agreed that the option will be available for all accommodation apartments to be used for tourism accommodation but only a maximum of 50% may be available for permanent residential use. Accordingly should significant tourism demand present and provide an attractive investment then the whole of the site could be used for that purpose.

Potential conflicts arising from the inclusion of residential use within the site mix have always been acknowledged by Johnson Property Group. Those potential conflicts do not outweigh the positives that the mix of uses can provide. Johnson Property Group are committed to work with Council in addressing potential conflicts as the project proceeds into more detailed planning.

The response to facilitating tourist developments by inclusion of residential land use is not Johnson Property Group, Trinity Point or Lake Macquarie specific. Several NSW coastal Councils already have zones and provisions that provide for that mix of use, at ratios similar or greater to that sought within this project.

Overall the project as presented is an opportunity for government at all levels to show its commitment to *“help to promote and facilitate a climate conducive to enhancing investor perceptions, industry image and positive business environment”*.

2.0 FLOODING AND CLIMATE CHANGE

In deciphering Council’s position from the letter we understand that Council believes the following:

- That the submitted flood study provides insufficient justification for the proposed development.
- That the proposed development type is not considered appropriate in the north part of the site based on building life.
- That sea level rise represents a significant threat to the development in the long term.

The Johnson Property Group accepts the common understanding that sea level is expected to rise over the longer term and of course is interested to protect its assets going forward. However the project team does not agree with the position of Council that no development should take place in the north of the site or that insufficient justification has been provided to support the project.

Worley Parsons are experienced in dealing with complex flooding issues including climate change. Worley Parsons have been considering these matters relative to Trinity Point even before Council introduced its “Sea Level Rise Preparedness Policy” or the State Government issued its recent policy.

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We believe more than adequate justification has been provided to support the proposed development. Worley Parsons developed minimum flood planning levels which were incorporated and integrated into marina and urban design concepts for the site at early stages. The Council and State Government adopted levels for sea level rise have been accepted by Worley Parsons and ultimately this Concept Plan.

The only components of the Concept Plan impacted upon by low lying land under sea level rise scenarios are the marina utility buildings and access and undercroft carparking. All habitable areas, including Village Piazza are above the flood and sea level rise planning levels.

Of those areas impacted, Worley Parsons conclude that the flood categorisation (including sea level rise allowance) would be low flood hazard flood fringe when the effects of other factors that influence hazard are taken into account (such as effective warning times, flood readiness, rate of rise of flood waters, depths and velocities of floodwaters, duration of flooding) and have recommended a suitable flood evacuation plan is in place for the marina utility areas and undercroft carpark. Worley Parsons are confident that the design provides for a suitable flood evacuation under current and sea level rise scenarios.

Worley Parsons conclude that a 1% AEP flood with allowance for sea level rise is unlikely to cause impacts that would warrant the extreme position of removing the majority of development from the northern part of the site.

To suggest that Council's Sea Level Rise Preparedness Policy means that there should be no development in the north is incorrect and of course would be at complete odds with the NSW State Government position on climate change. The policy is about ensuring development is prepared and able to adapt as sea level rises. A contrary position to this would see large tracts of land unnecessarily wasted. A position that is contrary to the objects of the Act to ensure the orderly and efficient use of land. It should also be noted that the Marina has been located in a position in the north that minimises its potential for environmental impacts. For this and land based topography reasons the relocation of the marina further to the south so that it then aligned with the relocated land based development to the south is not a feasible outcome. The alternative of leaving the marina where it is currently proposed and relocating the land based components further south is simply not practical and would have a significant adverse impact on the development.

Where Worely Parsons agree with minimum flood planning levels from Council's letter, they have been incorporated into the preferred project concept plan. They disagree with raising the workshop floor level now, on the basis that it has a practical level relationship to the hardstand area and that the workshop can be flood proofed as recommended in the EA documentation. They also submit that the undercroft carpark is 'at grade' for purposes of flood planning levels.

Worley Parsons have in the submitted Concept Plan documentation outlined the broad adaption measures that may be implemented in current designs and future adaptations and of course further detail would be required at Project Application stage. These are considered to appropriately address the issue of flooding and climate change at this concept plan stage.

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3.0 ABORIGINAL AND CULTURAL HERITAGE

We note that DECC have assessed the proposed concept plan and find it to be adequate and propose a number of conditions. Council's Heritage Planner has also undertaken a substantial review and an update to aboriginal and cultural heritage principles has been provided, incorporating part of the review comments. Specifically, Johnson Property Group have not agreed to extend the application of ACHMP or Interpretation Policy over the open space zoned lands as this land generally does not form part of the subject site defined in this concept plan. Should Council have compelling reasons for these policies to relate to the open spaced zoned lands, then we anticipate an appropriate condition of concept plan approval could be provided by the assessing officer.

By way of clarification, the concept plan does not propose specific cultural heritage conservation areas, but simply notes that many features are sited within the foreshore area to be owned by Council (and as such that area has multiple characteristics that support its inclusion as public land and associated management). The development has purposely sought to setback and control access around the southern and south-eastern foreshore area to be sensitive to its characteristics, which include aboriginal heritage.

Johnson Property Group has reviewed the suggestions summarised in Council's letter from the NSW Aboriginal Land Council. They are confident that the principles and commitments given to date including DECC's approval conditions, provide an appropriate structure for aboriginal heritage considerations, as well as opportunities for ongoing involvement with the Aboriginal community. Specifically in response to ALC strategies at this point in time:

- Johnson Property Group does not propose to construct a breakwall to protect the southern foreshore.
- Ultimately the open space zoned land will be owned and managed by Council, for public use. Council will be responsible for access to that land, including considerations such as cultural access (eg. for collecting ocre).
- Johnson Property Group has provided commitments to employ aboriginal people as part of the salvage excavations recommended by the project archaeologist and included within Principle 18 of the PPR Concept Plan. Monitoring of all subsurface digging has not been specifically recommended by the project archaeologist or DECC and is therefore not recommended by JPG. The ACHMP to be prepared as a requirement of Principle 18 will develop procedures relating to identification and management of current unrecorded sites.
- An opportunity for the public to gain a better understanding of the aboriginal cultural and heritage values will be via integrated interpretation/history boards and artefact display cases (not a separate education centre). This has been reinforced within Principle 18 of the PPR Concept Plan.
- A pathway is proposed away from the lake edge to assist in controlling access and limiting damage to features sited around the immediate lake foreshore. This has been reinforced within Principle 18 of the PPR Concept Plan. DECC proposal to require fencing of the Bluff Area also adds to access control.

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4.0 ECOLOGICAL IMPACTS

EEC, Buffers and Recession

We note that DECC have assessed the proposal and its relationship to endangered ecological communities (including siting of development and direct/indirect impacts) and find it to be acceptable, subject to conditions relating to rehabilitation and vegetation management planning. Whilst Council's letter quotes DECC and DPI documents, neither DECC or DPI have requested increased buffers nor requested providing additional 'space' in lieu of development for future potential recession of the remnant strip of saltmarsh under a sea level rise scenario over 100 years.

Council's letter states that EECs and buffers should be secured in perpetuity and ideally retained under public ownership. Council previously identified the extent of protection to the remnant and thin strip of saltmarsh and other EEC around the site by generating the open space and tourist zoning delineation on site, and the area and width of land to be under public ownership. The project does not propose to create additional buffers, nor significant additional setbacks, or additional land to be placed into public ownership.

Additional buffers beyond what the Concept Plan provides for are simply not possible. The marina boat lift and hardstand/minor repair area is not a large facility, is considered a desirable aspect of a modern marina facility and has specific siting requirements.

Groundwater Dependent Ecosystems

The Ecology Lab did look at groundwater and likely redistribution as part of their assessment and did not believe that there would be significant nett changes to cause an impact to ground water dependent ecosystems. A more detailed assessment if required can be made as part of the relevant project/development application.

Stormwater Management

Council's emphasis on the importance of stormwater management to the receiving environment is agreed and reflected throughout the EA documentation. Appropriate stormwater management will be incorporated into the project, but this does not need to result in increases in buffers or setbacks. Additional details if required can be made as part of the relevant project/development application.

Marine Turtles

We note that DECC have assessed the proposal and its relationship to species listed under the Threatened Species Conservation Act, including marine turtles referenced in Council's letter. Threats to marine turtles is a lake wide issue. It would be a long stretch of the precautionary principle to suggest refusal of a marina on the basis of potential impacts from potential increase in potential boat strike, pollution and rubbish which possibly causes turtle deaths. Particularly, when population and boating activity and recreational use of the lake is increasing, whether a marina of a particular size exists.

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There is little that the marina design can do to respond to this issue, other than to do what it currently does which is avoid significant loss of seagrass beds listed as one of the threats to marine turtles. The proposed seahorse habitat (being offered in addition to any DPI requirement) is only on part of one finger side of the breakwater, is open ended and does not cause entrapment, and its removal is not warranted.

In terms of pollution and rubbish, the marina will be subject to an environmental licence and incorporate best practice and will provide a 'base' for lake users to dispose of sewage, bilge water, on board rubbish and the like.

To assist in awareness of a lake wide issue, the marina can implement boaters awareness signage and education regarding impacts of rubbish and plastic bags, and what to do if a turtle is spotted.

5.0 FORESHORE RECESSION

Council's comments in relation to foreshore recession are not agreed with by project engineers Worley Parson. Investigations as part of the EA documentation have identified foreshore recession through longshore transport processes. However, this is not considered the "natural" process that has been occurring for the past 6000 years (as is inferred in Council's letter). Clearing of the land for agricultural and other uses at the development site in more modern times (since European colonisation) has altered the foreshore and on site vegetation such that it no longer resembles what could be considered "natural", destabilising the foreshore. This has accelerated the rates of erosion and subsequent longshore transport rates through the supply of fine sediments to the active profile (the even more modern advent of waterskiing and wakeboarding in the immediate vicinity has significantly exacerbated this process). These processes has been identified in EA documentation and recommendations included for foreshore stabilisation to be undertaken through vegetative and other soft measures as a part of the development in an attempt to return the foreshore to a more "natural" state and hence limit foreshore erosion/longshore transport and foreshore recession. This is considered a positive environmental outcome of the development.

Concern raised in relation to prevention of waves impacting on the foreshore relative to longshore transport are also disputed. Rates of sediment transport are extremely small and would be stabilised through proposed stabilisation measures. Details of this stabilisation have not been developed as this application is of a "Concept Plan" nature which does not require such detail. A commitment to undertake foreshore stabilisation in line with LMCC guideline documents has been given. With foreshore stabilisation all other things mentioned become non-issues.

With reference to accumulation of sediment in the marina impacting the sea grass beds we confirm that there are no sea grass beds under the proposed Marina and hence why this location has been selected and is ideal.

In relation to comments concerning sea level rise and the foreshore Worley Parsons advise that adaptive management of the foreshore (which is likely to include ongoing stabilisation works) will have to take place in response to sea level rise, as will occur at all other locations along the Lake edge. It is considered best practice management to allow a foreshore buffer to

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coastal processes (which is included in the proposal) such that future adaptive management measures can be implemented as necessary in time.

Concerns raised in relation to the edge treatment of the development in the north as sea level rises are acknowledged and adaptive measures have been proposed. Ongoing adaptive management of the foreshore reserve (as with all foreshore areas of the lake) will be necessary over the duration of the planning period so that unnecessarily over-engineered solutions, which are not relevant at the time of construction, are not implemented at the initial stage of the development. Solutions that provide adaptation and flexibility to uncertain environmental conditions in the future (e.g. initial foreshore stabilisation and a foreshore buffer to provide opportunities for adaptation, as proposed) are the best method of minimising the impacts on the foreshore initially and over time.

6.0 VISUAL IMPACTS

Many of Council's comments in relation to visual impact are not in principal accepted. No detailed assessment response has been made in relation to the comprehensive and detailed report on the proposed development prepared by Dr Richard Lamb, and no attempts have been made to discuss these in detail with the proponent or that author. Notwithstanding this the proposed development has been modified and with a reduced Marina and general reduction in building height and form over most of the site it is considered that the concerns raised by Council have been mitigated.

The fact remains that the subject site has a low visual catchment, it is not a prominent site and the majority of development on the site is mitigated by the height and context of the trees along the foreshore. The visibility of the site from the north is acknowledged, however, is limited to a relatively small number of residential properties located north of the site. In the context of providing a successful marina and tourist facility it is considered that the visual impact of the amended proposal is not so excessive that warrants refusal of the application. Council in its desire to achieve a tourism outcome must accept a level of visibility of the site from the north.

7.0 URBAN DESIGN ISSUES

Much of the concerns raised by Council have been addressed by a reduction in building height across the majority of the site as detailed in the amended Concept Plan documentation. The proposed built forms are now predominantly two storey for the southern two thirds of the site other than for some taller elements to accentuate particular areas, such as framing a view corridor or along the western edge of the site, and even in these instances heights have been restricted to three storeys (above a semi-basement parking level). These heights are consistent with Council's reference to the lower scale of development that surrounds.

The northern part of the site has retained some 4 storey elements (reduced from 6 storeys) on top of parking in and around the proposed village piazza and these have been detailed in the amended concept plan. The retention of some building height in this area is desirable, contributing to visual interest and serving as an attractor, creating the point of destination

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and the point of distinction between the village centre and the balance of development on the site and that which adjoins the site.

The proposed FSR for the Concept Plan remains at 0.65:1. We confirm that the FSR was determined after detailed site analysis and consideration of design options. It should be noted that this FSR has excluded the foreshore edge that is to be acquired by Council. Whilst JPG have calculated FSR on the basis of excluding this land to avoid any criticism, in a visual sense it would not be unreasonable to include this land (however it remains excluded for the purpose of this discussion).

Council's suggestion to cut in half the proposed floor space on site will result in development of this site not proceeding. The proposition of a 0.3:1 FSR for this site is without foundation. No evidence has been put forward as to how this figure was calculated and why it is reasonable. To suggest such an FSR for any site is without consideration for the objects of the Act for the orderly and efficient use of land. We are not aware of many if any typical low density residential estates that would have a FSR this low. The waste of land as a valuable resource under a 0.3:1 FSR is beyond comprehension.

We note that LMCC currently has no FSR standards in DCP 1 applying to the site. As a point of comparison Newcastle has recently exhibited amendments to its residential strategy and for its lowest density of all available precincts suggests an FSR of 0.6:1, this is comparable to that of the proposed development.

We previously reported that establishing tourist outcomes are a difficult venture. Cutting the site density in half is hardly the government assistance identified as being needed in the NSW State Government with the State's "Towards 2020" Tourism Masterplan. JPG are not seeking an excessive FSR to assist the project just one that is consistent with normal standards (as in the Newcastle example).

The FSR for the site was unashamedly established after the site opportunity and constraints were understood and after the design process. This is because this was the most effective way of determining what built form the site could sustain. This is a much better approach than to arrive at a number out of thin air and then work to it. The FSR of 0.65:1 is a direct reflection of the built form that can be seen in the Concept Plan submission and to which is considered appropriate.

Where the proposed development adjoins the existing residential area the proposed development adopts setbacks and a form that is consistent with Council's objectives for appropriate outcomes for streetscapes, residential amenity and overall desired future character.

Council's concerns over the available on-site open space for recreation are not agreed with. The proposed development, including in its modified form provides more than adequate on site open space to facilitate social opportunities - which includes substantial setbacks to Bluff Point and the eastern foreshore, and the creation of the Village Piazza - a place for interaction, meeting and socialising. In addition the locality is blessed with open space opportunities that residents can avail themselves of.

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In reference to setbacks from the lake edge we note that Council quotes from documents produced by DPI and DWE and appears to be concerned that the proposed development does not provide adequate foreshore setbacks. In the first instance we note that these authorities have not objected to the proposed development nor required additional setbacks. Secondly the proposed development provides more than adequate setbacks both from the lake edge and what will be the future boundary of the site. These setbacks are up to 40m from the lake edge for the majority of the development. The proposed setbacks allow for appropriate public access and ensure that the visual character of the site is not unreasonably impacted.

Where setbacks have been reduced in the north they are considered well justified, with the development attempting to relate to water and Marina at these points. The modified piazza in particular provides a stepped edge that is activated, blending private and public space. In addition the average setback that Council suggests under DCP 1 of 6m has been met.

The building setback to the west from the important saltmarsh is 30m and is considered to be more than adequate.

Internal setbacks have been established to delineate public and private space and to ensure appropriate internal streetscapes are established. The setbacks also ensure view corridors are maintained and framed.

Concerns raised about the interaction of permanent residents and tourists on site are not well founded, although strategies will be incorporated into future design and applications. It is this interaction that JPG wish to promote to create a vibrant development outcome. Residents that buy into the development do so on the clear understanding of the nature of the development.

A report addressing CPTED issues has been included with the application submission. This is more than adequate for concept plan stage. A further and detailed report will be submitted with future project / development applications.

8.0 PUBLIC ACCESS

Land

Concerns raised about a so called lack of public access to the foreshore is disputed. The site currently offers no physical public access at all. The development will result in substantial access points around and through it. The east west links have been further strengthened in the modified design and access links will be designed to ensure the public feel invited through the site. JPG have always been committed to public access and a key fundamental to the commercial success is the extent to which the public can access the site.

The case Council has attempted to build in its letter that the development some how impinges to an unreasonable extent on foreshore land that Council is acquiring and that on that basis JPG should give the land away is not accepted. The Council has determined through its own planning processes that it will acquire the land. Council has already started the processes of compulsory acquisition. It is considered that this is a completely separate process to the consideration of the proposed development. JPG have confirmed that it will not give for free

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the foreshore land and that if the Council want it they will have to reasonably pay for it, as is provided for in the legislative processes.

Council's concern about unimpeded public access along the foreshore land that it is acquiring have been addressed. The design allows for this to occur. The only potential for impeded access results from the travel lift across the foreshore. The only reason for access to be prevented here would be to ensure public safety as a boat is pulled to or from the water. The extent of impeded access would be for very short periods of time, only while boat transfer operations are being conducted. A Management Plan will be prepared covering this matter, to be submitted as part of the relevant project/development application.

In relation to the northern tip of the site, the proposed development does not prevent access to it. Ultimately Council will have to establish its own position as to whether they wish to promote access around the tip and through the saltmarsh. This decision needs to be made in light of the fact that the proposed development allows for public access through it (i.e. via village piazza) as an alternative.

Council's concern regarding the potential for impacts on existing recreational amenity are not agreed with, however, notwithstanding this the Marina has been substantially reduced in size and is considered to address any concerns previously held.

Water

Council's concern regarding impacts of increased activity on waterways is jointly addressed in the response below to marina development and potential impacts (Section 9.0).

In essence, it outlines that perceived impact from vessels stored at the marina is grossly overstated given the small proportion of boats from the marina that would be using the lake at one time, and the large area of lake. The proposed marina would not discriminate on what type of boats it will accommodate, which would be determined by market forces. The demand study indicated a mix of power to sail ratio to expect, however it does not rely on it. Nonetheless the reduced Marina size reduces perceived impacts.

Whilst under certain wind and water conditions, waterskiing and such activities may be preferred to occur without limit in Bardens Bay at present and for convenience (rather than other parts of the lake), a balance needs to be considered with the Trinity Point marina meeting desirable siting criteria for that lake use in southern Lake Macquarie and the community and lake benefits of the public facilities, services, sewage/bilge pumpout and fuel supply to be provided with the facility.

Increase in accidents would be insignificant to negligible. Travel times on the Pacific Highway will not be impacted upon as specific open times for Swansea Bridge are already allocated, and unlikely to be altered by a small proportion of boats from the proposed marina wishing to use the Channel.

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9.0 MARINA DEVELOPMENTS AND POTENTIAL IMPACTS

Aquatic ecology and habitat

Council's concern is that seagrass wrack will accumulate on the Trinity Point foreshore adjacent to and inside the marina complex, as the foreshore wave action is terminated at this location. This is the process that naturally occurs currently as wave action reduces in the lee of the natural land form at the site.

In relation to Council's concern regarding the reduction in seagrass entering Bardens Bay as a result of the Marina, Worley Parsons advise that the breakwater is open at the foreshore adjacent to the main seagrass bed to the south. This design feature is to allow (as much as possible) the continuation of hydrodynamic and wave processes along the foreshore, taking advantage of the natural reduction in wave action (from the most exposed south eastern direction) at this location. It is accepted that the breakwater will have some impact and mitigation measures through design have been described in the EA documentation. The impact on seagrass wrack movement along the foreshore should be minimised though the design features described. Management of the accumulation of seagrass wrack in deeper locations along the closed section of the breakwater (or indeed along the foreshore) may require management action by marina operators (if it becomes an issue) and design features could be incorporated to facilitate this.

With reference to the potential for impact on the larger seagrass meadow to the south, due to wave reflection from the breakwater structure, Worley Parsons advise that the breakwater has been specifically designed to maximise the reduction of wave reflections and assessment of the performance undertaken and reported in the EA documentation.

In relation to concerns raised about syngnathid populations we advise the location of the marina and the design of the breakwater have been developed through careful consideration of the seagrass beds. It is considered that there would be no significant impact on these beds. The Ecology Lab do not agree that quantitative sampling of the seahorse population is warranted. The assessment assumes they are there and assessed impact on that basis. DPI Fisheries have agreed with this approach and raised no objection to the proposal.

Flushing /Water Exchange

Concerns raised in relation to flushing have been adequately addressed. Flushing analysis indicates that flushing would be still considered adequate for water quality purposes under the developed scenario. The operation of the marina would be subject to an Environmental Protection Licence with appropriate requirements to limit the ingress of potential pollutants into the water. The EA documentation lists mitigation measures for fuel supply, bilge and sewage pumpout, runoff from the adjacent development and other marina operational measures. Emergency response measure for specific spills are also outlined (these benefit from the contained marina environment). Best practice measures in a contained managed marina environment are recognised as the most desirable method for reducing the impact of vessels and associated potential pollutants on the environment. In addition we note that any potential concerns have been further eroded by the significant reduction in the size and footprint and proposed staging of the marina.

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In relation to commentary that consideration could also be given to minimising the skirt depth under the breakwaters to further maximise potential for flushing, Worley Parsons advise that the detailed design of the marina breakwater would attempt to optimise the balance between reduction in wave climate and maximising the flushing characteristics. The concept of using a partial depth breakwater (with minimal footprint) with an open section at the shoreline (which would be maximised in balance to providing the appropriate wave protection) commits to this philosophy. These mitigation measures are outlined in the EA documentation but will be further explored at the Detail Design phase following Concept Plan approval.

The design of the breakwater would take advantage of differential water levels inside and outside of the marina due to wave and wind setup effects on the outside of the marina to drive flow (of small magnitude but not insignificant in terms of the natural benign flow environment) into the marina through the opening at the foreshore to assist flushing during higher energy wind and wave conditions. Due to the benign natural flow environment, the daily process of boats entering and leaving the marina complex (even at the necessary, regulated “no wash” boat speeds) will have a relatively significant effect in causing beneficial flows and providing a mixing and flushing mechanism. These processes have not been discussed in detail in the EA documentation as the impact of the marina was not considered significant to warrant such scrutiny. However, these processes indicate further evidence that the flushing/water exchange and associated water quality would not be significantly impacted even more so with a reduced marina size.

Water Quality

Concerns over water quality and reduced flushing have been addressed in the submitted documentation. As previously indicated flushing analysis indicates that flushing would be still considered adequate for water quality purposes under the developed scenario. The operation of the marina would be subject to an Environmental Protection Licence with appropriate requirements to limit the ingress of potential pollutants into the water. The EA documentation lists mitigation measures for fuel supply, bilge and sewage pumpout, runoff from the adjacent development and other marina operational measures. Emergency response measures for specific spills are also outlined (these benefit from the contained marina environment). Best practice measures in a contained managed marina environment are recognised as the most desirable method for reducing the impact of vessels and associated potential pollutants on the environment.

In relation to the comment by Council concerning pollutant levels and the lack of modeling Worley Parsons advise that numerical modelling of the fate of copper and zinc from leachate from vessel protective measures would not be representative (due to the complex nature of the processes and the variable speciation of the metal compounds which rely on a number of different variables environmental factors specific to the locality and time such as; temperature, pH, suspended sediments, flushing mechanisms etc..) and most likely be misleading. Instead, the EA used a much more pragmatic approach, i.e. that of monitoring existing marinas within the Lake to determine whether under real lake conditions (not a model), significantly elevated levels of copper could be observed. As documented in the EA report, while elevation of copper levels within the marinas was observed, this was not considered significant enough to affect marine organisms, as the amount of elevation of bio-available copper was not sufficient to cause impacts on existing biota.

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In addition, with a significant reduction in the size of the Marina there will be a reduced impact. Furthermore, the staging of the Marina will allow monitoring of the first stage before proceeding to the next to ensure issues are addressed.

In relation to Council's comment that that copper will regularly exceed 3.0 µg/L is disagreed with and Worley Parsons advise that the EA documentation includes specific commentary on the impact of copper and zinc from boat protection measures and concludes that the impact would not be significant due to a number of factors discussed in detail in the EA documentation. The most significant factors being the consideration of the labile (or bio available) fraction of dissolved copper and the disturbed nature of the Lake environment with regard to the metals in question. Staged construction of the marina gives the opportunity to monitor insitu water quality in this regard before the full quota of vessels is reached. It is expected that some elevation of copper levels would be recorded. However, as demonstrated in Appendix C of EA Appendix W (Stormwater / Flooding Management Plan by Patterson Britton), the level of **bio-available** copper at other Marinas within Lake Macquarie, is typically in the range 1.4 to 1.8 µg/L , which is less than the guideline documents considering the disturbed nature of the Lake. Therefore, it is likely that levels of bioavailable copper would be not be high enough to have any significant impact on the environment, particularly given the disturbed nature (tolerance) of the Lake and with a reduced marina.

Council's overall conclusion that the proposed water quality impacts will impact on aquatic ecology and recreational amenity are not agreed with having regard to the responses above. Nonetheless the reduced Marina size reduces any perceived impacts.

Sediments

In relation to concerns raised about sediments Worley Parsons advise that the EA documentation discusses this issue specifically and concludes the sediments are considered to not be contaminated therefore disturbance is not an issue. Furthermore, disturbance through construction is minimised by driven hollow piles; and depths and a no wash zone within the marina minimises potential for propeller disturbance. Copper bound to sediments would not be bioavailable. This is all discussed in the EA documentation.

Limitations on Marina Design

Concerns over Swansea Channel and the Marina are not well founded. Worley Parsons advise that the depth in Swansea Channel was not considered an absolute. It was used as a guide only as to the maximum vessel size that may be able to navigate the Channel. The berth distribution within the design layout caters for this possible maximum. However, it does not rely on it. A smaller boat can use a bigger berth, the converse is not true. The size of the vessels within the marina would be dictated by market forces (of which the depth of Swansea Channel may be an influence) and not determined by the design layout, or the proponent.

In relation to concerns about the calculation of wind wave conditions Worley Parsons advise that the reason for discrepancies in the 200 year ARI design wave heights reported in Table 5.3 of Appendix Y is unknown. However, any errors are minor and largely redundant. This is because the design wave climate has been completely recalculated using more a sophisticated methodology. The investigation reported in Appendix Y was only used in preliminary feasibility investigations and informed the need for a breakwater structure. More detailed

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numerical wave modelling was subsequently undertaken and is included in Appendix AB (summarised in the main EA documentation). Detailed design of the breakwater would indeed consider the maximum wave height which has a direct relationship to the significant wave height reported.

Need for the Facility

Council's comment that the documentation does not justify the need for the proposed development is strongly disagreed with. An appropriate level of documentation has been submitted to more than justify the need for a 308 berth Marina. The fact that the marina has been reduced in size and staged, with Stage 2 subject to monitoring of Stage 1, should set aside any perceived concerns that may exist.

Impact on Commercial, recreational or indigenous fishing activities.

The perceived impact from vessels stored at the marina is grossly overstated given the small proportion of boats from the marina that would be using the lake at one time and the large area of lake. The spatial ratio based on impact to recreational amenity presented in the EA documentation was not intended as a rigorous scientific quantification of the actual space used by the boats or of the spatial distribution patterns of recreational use but as an indication of the significance or otherwise of any potential impact. From the analysis it is clear that the impact is NOT significant. However, to further inform the following is offered:

NSW Maritime (Waterways) *Lake Macquarie Mooring Management Plan (2003)* states:

"Within the Lake Macquarie and Wyong local government, areas there are 22,638 registered boat owners and 42,701 boat licensees."

and

"Currently Lake Macquarie has 2,175 registered moorings. These moorings are situated in 42 distinct mooring areas that cover a total area of 716 hectares of the 11,000ha."

The whole of Lake Macquarie waterway is a recreational haven. That is all 11,000ha can be used for recreational boating (pers. comms. Glen Hayward a NSW Maritime boating officer, EKW 11 May 2009). If existing mooring areas, comprising 716 hectares, are removed that leaves 10,284 hectares that is able to be utilised for recreational boating. The capacity of the Trinity Point marina was 308 vessels. If it is conservative assumed that during a peak period, 47 vessels from the marina are in use on Lake Macquarie (this is the equivalent of 15% of the total TP marina capacity). Then around 0.5% of the total lake area would be required to support this peak period level of usage for TP marina vessels (based on 1.2 hectares per vessel (PWD, 1988 and Soros-Longworth and McKensie 1977)). These percentages would be further reduced on the basis of the amended 188 berth marina. Based on similar considerations of the present level of moored vessels 5% of the Lake area may expected to be utilised during peak periods. As 0.5% or smaller increase (due to reduced size marina) is not a significant increase above conservative estimates of current peak period lake utilisation, this is not considered a significant impact. If this assessment was to also include recreational vessels launched from a boat ramp, the proportion of the Lake utilised would be higher. As such, a 0.5% increase from TP marina vessels would have less significance.

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At present no quantitative information is available from NSW Maritime (or other) as to the spatial distribution of waterway users on Lake Macquarie or recreational traffic on popular navigation routes. It is considered outside the scope of an EA to conduct a Lake wide recreational boating/use survey.

Hydrographic Survey

Concerns over navigation through Swansea Channel and the currency of hydrographic surveys are considered a side issue to the proposed development. Whilst the navigability of the channel will have an influence on the number and type and number of berths needed it is not considered to be a determining factor as to whether the proposed Marina should be approved. The demand for the marina on the lake exists whether the channel is able to be navigated or not. Accordingly no further information is considered necessary. The proposed substantial reduction in marina size of course is likely to address any perceived concerns that Council may have had.

10.0 HELIPAD

The proposed helipad has been deleted from the proposed concept plan in response to the level of community concern. JPG remain of the view that the evidence previously presented establishes that a Helipad on a limited basis could operate within guidelines.

11.0 ACOUSTIC ISSUES

The submitted documentation is considered to be adequate for the purposes of Concept Plan. Future Project applications will provide additional and more specific information. Where relevant, the acoustic principle has been updated. We confirm that both the traffic and acoustic consultant have re-confirmed the 'collector' road classification used within the traffic noise impact assessment.

12.0 WATER CYCLE MANAGEMENT

The development proposal has been developed to a level to be considered for a Concept Plan application. It is anticipated once the development progresses to a Project Application stage there will be further design refinement of the development layout and final levels. The water cycle management of the site will necessarily be revisited, including all modelling. The general principles for the site include a no net increase in pollutant load or runoff volumes from the existing condition. It is anticipated that this will necessitate the use of green roofs and reuse of water in toilet flushing and irrigation.

A comprehensive stormwater harvesting management plan would be developed at the Project Application stage

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In response to Council's concern that the one year modelling period adopted within the MUSIC models is insufficient for simulating typical long term stormwater runoff quality Worley Parsons provide the following advice.

It is debatable whether increasing the simulation time increases the accuracy of the water quality modelling. Whilst a longer simulation period does increase the exposure to a greater range of rainfall patterns, it is often difficult to find a suitable 5yr rainfall time series which does not include a significant imbedded storm event (i.e over 100mm in 24hrs). It is noted that MUSIC does not account for decay in pollutant concentrations over the duration of a storm. This means that the nitrogen concentration in say runoff from a roof is equal in the first and last mm of runoff. As impervious surfaces do not have an infinite amount of pollutant, this modelling assumption can overestimate the pollutant generation during a significant storm event. This can lead to a substantial pollutant load bypassing the water quality controls. The resulting increase in pollutant load can only be mitigated by over treating smaller rainfall events. Notwithstanding, the rainfall time series can be reviewed when further modelling is undertaken at the Project Application stage.

In relation to concerns that base flow concentrations adopted in the MUSIC models are too high and thus resulting in treatment measures being undersized Worley Parsons advise the adopted base flow concentrations would overestimate the source loads in the untreated options. However, this would only apply to pervious areas, and the impact on the modelling results would be negligible. A sensitivity analysis was undertaken which confirmed the impact on pollutant loads was less than 1%.

In response to the concerns raised in relation to the filter areas of the bio-retention swales Worley Parsons provide the following advise that the proposed rainwater harvesting scheme would significantly reduce the volumetric runoff from the site, which would in turn reduce the hydraulic loading on the downstream bio-retention basins. This would result in a reduction in filter area size. The general assumption of 1-2% of a catchment area does not apply in this case, as there is a significant reduction in volume of runoff as a result of the proposal to harvest rainwater from large areas of the development, in accordance with best management practices.

Concerns raised regarding the performance of the swales is appreciated and Worley Parsons advise that further geotechnical advice is required to firm up the bio-retention locations and design details. If infiltration is deemed unsuitable (for reasons listed above) the bio-retention system can be lined and discharge to the Lake through subsurface tail out drains. Details can be provided as part of detail design.

The development proposal has been developed to a level to be considered for a Concept Plan application. It is anticipated once the development progresses to a Project Application stage there will be further design refinement of the development layout and final levels. The water cycle management of the site will necessarily be revisited, including all modelling. The general principles for the site include a no net increase in pollutant load or runoff volumes from the existing condition. It is anticipated that this will necessitate the use of green roofs and reuse of water in toilet flushing and irrigation.

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13.0 INFRASTRUCTURE

As a maximum, the project will yield 75 dwellings. In the scheme of the Morisset growth area, this is unlikely to provide capacity concerns for centre wide infrastructure and facilities. JPG do not intend to quantify demand + capacity. The residential component of the project will pay for relevant s94 contributions toward community + recreation facilities. It should be acknowledged that the Concept Plan will actually provide additional community and recreation resource that will benefit the local community which are not represented in Section 94 planning.

14.0 TRAFFIC AND ACCESS

Comments in relation to traffic are noted. It is considered the issues raised can be addressed by relevant conditions. We are of the view that there are no outstanding matters arising from the RTA letter that preclude approval of the Concept Plan.

Yours faithfully,
ADW JOHNSON PTY LTD (Hunter)



Craig Marler
SENIOR PLANNER

Enc. Preferred Project Report (Concept Plan) Principles, Objectives + Guidelines
Revised Statement of Commitments (Preferred Project Report)
Response to Summary of Submissions

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