

# Concept Approval

## Section 750 of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, pursuant to Part 3A of the *Environmental Planning & Assessment Act 1979*, determine:

- a. Under Section 750 of the *Environmental Planning & Assessment Act 1979*, to approve the concept plan referred to in Schedule 1 subject to the modifications in Schedule 2;
- b. Under Section 75P(1)(a) of the *Environmental Planning & Assessment Act 1979*, that future applications for the marina (including the marina buildings and associated structures) be subject to Part 3A of the Act;
- c. Under Section 75P(1)(b) of the *Environmental Planning & Assessment Act 1979*, that future applications for all land based development (except marina buildings and associated structures) in association with the concept plan be subject to Part 4 of the Act;
- d. Under Section 75P(1)(a) of the *Environmental Planning & Assessment Act 1979*, that future environmental assessment requirements for subsequent applications associated with the concept plan be subject to the requirements set out in Schedule 2 and the proponent's Statement of Commitments in Schedule 3.

The conditions are required to:

- Adequately mitigate the potential environmental and visual impact of the marina;
- Ensure the design of future buildings is a high standard and quality;
- Ensure the proposed development is a bona fide tourist facility;
- Ensure suitable public access to the foreshore and the lake;
- Protect existing riparian vegetation and ensure an appropriate offset is provided and conserved for the loss of EEC;
- Ensure protection and conservation of aboriginal and european heritage items and values;
- Minimise the impact on the amenity of the local area; and
- Encourage the orderly future development of the site

  
The Hon Kristina Keneally MP  
Minister for Planning

Sydney,

5 Sept.

2009

## SCHEDULE 1

### PART A—TABLE

<b>Application made by:</b>	Johnson Property Group
<b>Application made to:</b>	Minister for Planning
<b>Project Application:</b>	06_0309
<b>On land comprising:</b>	Lot 31 DP 1117408, Pt Lot 32, DP 1117408, Pt Lot 33 DP1117408, and Pt Crown Land (the lake)
<b>Local Government Area</b>	Lake Macquarie City Council
<b>For the carrying out of:</b>	<ul style="list-style-type: none"><li>• 188 berth marina and associated maintenance and club facilities;</li><li>• 150 accommodation units (75 tourist and 75 residential);</li><li>• restaurant, café, function centre, shops and office;</li><li>• parking, landscaping and boardwalk.</li></ul>
<b>Type of development:</b>	Major Project
<b>Determination made on:</b>	
<b>Date approval is liable to lapse:</b>	Five years from the date of determination unless works have physically commenced in accordance with Section 75Y of the Act.

### PART B—NOTES RELATING TO THE DETERMINATION OF CONCEPT PLAN APPLICATION 06\_0309

#### ***Responsibility for other consents / agreements***

The Proponent is solely responsible for ensuring that all additional approvals, consents and agreements are obtained from other authorities, as relevant.

#### ***Appeals***

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

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## PART C—DEFINITIONS

In this approval,

**Act** means the *Environmental Planning and Assessment Act 1979*.

**Building height** (or **height of building**) means the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

**Council** means Lake Macquarie City Council.

**CPI** means Consumer Price Index.

**Department** means the Department of Planning or its successors.

**Director-General** means the Director-General of the Department.

**Environmental Assessment** means the *Concept Plan Application for Trinity Point Marina and Mixed Use Resort*, prepared by AdW Johnson, dated 18 November 2008.

**Gross floor area** means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine, and
  - (b) habitable rooms in a basement or an attic, and
  - (c) any shop, auditorium, cinema, and the like, in a basement or attic,
- but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
  - (e) any basement:
    - (i) storage, and
    - (ii) vehicular access, loading areas, garbage and services, and
  - (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
  - (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
  - (h) any space used for the loading or unloading of goods (including access to it), and
  - (i) terraces and balconies with outer walls less than 1.4 metres high, and
  - (j) voids above a floor at the level of a storey or storey above.

**Minister** means the Minister for Planning.

**PCA** means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

**Proponent** means Johnson Property Group or any party acting upon this approval.

**Regulation** means the *Environmental Planning and Assessment Regulation 2000*.

**Site** has the same meaning as the land identified in Part A of this schedule.

**Storey** means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
  - (b) a mezzanine, or
  - (c) an attic.
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## SCHEDULE 2

### MODIFICATIONS AND REQUIREMENTS FOR FUTURE APPLICATIONS

#### PART A – TERMS OF CONCEPT APPROVAL

##### **A1     *Development Description***

Concept Plan approval is granted only to carrying out the development solely in accordance with the Concept Plan as described in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009, and as described in detail below.

The future buildings/uses on the land will be contained within two areas as follows:

##### ***Village piazza north of Trinity Point Drive***

1. The elevated piazza level will contain the following buildings:
  - The northernmost building consists of parking at ground level under the piazza and a restaurant at piazza level and 2 storeys of accommodation above with a pitched roof form.
  - The buildings on the southern side of the piazza at the entry and adjacent to the lake consist of parking at ground level with retail/business at piazza level and 3 storeys of accommodation and a pitched roof form.
  - The buildings along the southern and western edges framing the piazza comprise parking at ground level with function centre and retail/commercial at piazza level and three storeys of residential above one of which is included in the pitched roof form.
  - The building along the eastern edge of the piazza consists of parking at ground level (under half the building) and a café adjoining the pathway (split level) plus 2 residential levels above one of which is contained in the roof form.
  - The ground level marina buildings to the north of the piazza will be 2 storey.

##### ***Outside the piazza in southern part of the site***

2. The accommodation buildings outside the piazza level will comprise 1-2 storeys with some 3 storey corner elements and partly above a 1.2m protruding basement.

##### ***Additional works***

The following building/works will be undertaken as shown on the Concept Plan:

- a marina and associated facilities including a boat travel lift;
  - a walkway/cycle path around the eastern edge of the development between the buildings and the foreshore reserve;
  - internal vehicular access roads and pedestrian pathways;
  - at-grade and basement parking areas;
  - stormwater management measures;
  - bulk earthworks; and
  - landscaping.
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## **A2 Project in accordance with Plans**

The development will be undertaken in accordance with the Environmental Assessment, dated November 2008, prepared by AdW Johnson, and as amended by the Preferred Project Report, dated 5 June 2009, prepared by AdW Johnson/Johnson Property Group and the following drawings except as modified by the conditions in Part B and C of approval below:

<b>Alternative Marina Layout prepared by Worley Parsons</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
None	N/A	Trinity Point Alternative Marina Layout Concept Option 2	Not provided
<b>Preferred Project Report prepared by AdW/Johnson Property Group</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
Principles 1 to 19	N/A	Preferred Project Report Part 3A Concept Plan Principles, Objectives & Urban Design Guidelines Trinity Point Marina and Mixed Use Development	5 June 2009
Not provided	N/A	Indicative Outcome – Summary Figure Plan by HBO+EMTB	No date – submitted with the PPR dated 5 June 2009
Not provided	N/A	Indicative Stage 1 Marina Outcome – Summary Figure Worley Parsons	No date – submitted with the PPR dated 5 June 2009
Not provided	N/A	Indicative Marina Outcome – Summary Figure Worley Parsons	No date – submitted with the PPR dated 5 June 2009
Not provided	N/A	Indicative Outcome – Summary Figure Worley Parsons	No date – submitted with the PPR dated 5 June 2009

## **A3 Development in Accordance with Documents**

The following documentation (including any appendices therein) is approved as part of the Concept Plan:

- Environmental Assessment Report Volume 1, prepared by AdW Johnson, dated 18 November 2008.
- Environmental Assessment Report Volume 2, prepared by Patterson & Britton and Partners, dated 17 November 2008.
- Additional Groundwater Sampling and testing prepared by Douglas Partners, dated 21 May 2008 Project 39823.04.
- Trinity Point Marina proposal, Numerical Modelling Investigation Addendum 1, prepared by Worley Parsons, dated 8 March 2009.
- Report on Geotechnical Investigation, prepared by Douglas Partners, Project No.. 39823 dated December 2007.
- Report on Geochemical Assessment, prepared by Douglas Partners, Project No.. 39823B dated December 2007.

- Acid Sulphate Soils Report, prepared by Douglas Partners, Project 39823A, dated December 2007.
- Validation Report, prepared by David Lane Associates, Version 2.
- Site Audit Report, prepared by JBS Environmental Pty Ltd, JBS 40108-11796, dated September 2007.
- Visual Assessment Report, prepared by Richard Lamb Associates, dated November 2008.
- Socio-Economic Report, prepared by Key Insights Pty Ltd, dated June 2008.
- Acoustic Assessment Report, prepared by Arup Acoustics, Job No. 86790 dated November 2008, as amended by Memorandum by ArupAcoustics dated 8 December and The Concept Plan document Principle 16-Acoustics dated 5 June 2009.
- Air Quality Report, prepared by Arup Sustainability, Job No. 86790, dated May 2008.
- Aquatic Ecology Report, prepared by The Ecology Lab Pty Ltd, dated November 2008.
- Terrestrial Ecological Assessment, prepared by Harper Somers O'Sullivan for Job Reference 20970 dated November 2008.
- Traffic Report, prepared by Better Transport Futures, dated November 2008.
- Crime Risk and Security Report, prepared by Harris Crime prevention Services, dated December 2007.
- Bushfire Assessment Report, prepared by Harper Somers O'Sullivan for Job Reference 20970, dated November 2007.
- Stormwater and Flooding Report, prepared by Patterson Britton & Partners Pty Ltd, dated November 2008.
- Breakwater Design Study, prepared by Patterson Britton & Partners Pty Ltd, dated December 2007.
- Coastal Processes Study, prepared by Patterson Britton & Partners Pty Ltd, dated December 2007.
- Marina Berth Demand Study, prepared by Patterson Britton & Partners Pty Ltd, dated November 2008.
- Numerical Modelling Investigation Report, prepared by Patterson Britton & Partners Pty Ltd, issued Nov 2008.
- Sediment Sampling Analysis Plan, prepared by Patterson Britton & Partners Pty Ltd in December 2007.
- Heritage Assessment Report, prepared by Insite Heritage Pty Ltd, dated 30th October 2008.
- Landscape Plan & Report, prepared by Terras Landscape Architects, dated 14/11/2008 for project No: 7279.5.
- External Infrastructure Investigation, prepared by Worley Parsons Recourses and Energy, dated 12 December 2007.
- Financial & Economic Assessment Report, prepared by Ernst & Young, dated 20 June 2008.

#### **A4     *Inconsistency between documents***

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions of this approval prevail.

The revised Statement of Commitments in B4 prevails to the extent of any inconsistency in the plans and documentation identified in A3. The conditions of this approval override the Statement of Commitments prepared by the proponent.

The modifications of the Concept Plan approval identified in Part B and C Schedule 2 prevail over the documentation listed in A3 and A4 above.

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**A5      *Lapsing of Approval***

Approval shall lapse five years after the determination date in Part A of Schedule 1 of this approval unless Stage 1 is approved and physically commenced.

**A6      *Determination of Future Applications***

The determination of future applications is to be generally consistent with the terms of approval of Concept Plan MP06\_0309 as described in Part A and subject to the recommended modifications and conditions of approval set out in Parts B and C of Schedule 2.

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## **PART B – MODIFICATIONS TO THE CONCEPT PLAN**

### ***Marina***

#### ***B1 Construction of the Marina***

Prior to lodgement of a future project application for the marina the design is to be reviewed to ensure the following performance criteria are met:

- Minimise change to water flow in and around the marina;
- Minimise change to flushing characteristics and the water quality of Bardens Bay;
- Minimise wave bounce to ensure negligible impact on the seagrass meadow;
- Ensure appropriate movement of seagrass wrack into Bardens Bay;
- Minimise visual impact; and
- Ensure adequate protection from southerly weather patterns.

The review and any subsequent modifications to the layout must be submitted to the satisfaction of the Director-General prior to the lodgement of a project application.

#### ***B2 Marina staging***

The marina must be constructed in two stages with each stage being a maximum of 94 berths and subject to a separate future application which demonstrates there will be negligible impact on water quality due to the introduction of the marina.

### ***Travel Boat Lift***

#### ***B3 Reduction in the size of the travel boat lift***

The concept plan is to be amended as follows:

- The size of the travel boat lift is to be reduced to a maximum capacity of 45 tonne.
- Full details of the proposed boat workshop activities are to be provided. In that regard the workshop services are limited to small scale repairs and maintenance and no major mechanical, engineering or shipwright services are permitted on the site.

### ***Statement of Commitments***

#### ***B4 Statement of Commitments***

The Statement of Commitments (Preferred Project Report) should be amended as follows:

- Section 1.2 Summary of Commitments contained within concept plan document - Landuse

An additional sentence should be added "*At no stage of the development should the number of units approved for permanent residential use exceed the number of units approved for tourist use.*"

An additional sentence should be added "*The use of the tourist units is to be for short stay tourist accommodation purposes only and are not to be occupied by a person for more than 42 consecutive days or in aggregate no more than 150 days in any 12 month period.*"

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- Section 1.3 Additional Comments – Marina Staging

An additional sentence should be added "A *maximum 45 tonne boat lift facility will be provided and no major mechanical, engineering or shipwright services will be undertaken on the site.*"

### **Urban Design Guidelines**

#### **B5 Changes to Urban Design Guidelines dated 5 June 2009, submitted as a Preferred Project Report**

The following change should be made to the wording in the entire document -The reference to "project applications" should be deleted and replaced with "future applications".

Principle 2 - Building Setbacks should be modified to include an additional guideline stating:

Future applications for buildings with a zero setback are to demonstrate a suitable level of detailing and articulation to ensure they add to the streetscape. Blank walls are to be avoided.

Principle 4 - Public Access and Open Space should be amended as follows:

Under Guidelines add an additional dot point stating that the design and construction of the roads and pedestrian path will allow for Public Authorities to access the 6(1) zoned land for maintenance and the like.

Principle 5 - Built Form should be amended as follows:

Under "Outside Village Piazza" add the following points:

- All buildings facing the foreshore shall have their facades articulated in order to break down bulk and scale. Devices such as awnings, eaves and verandas shall be used to cast shadows over facades to reduce visual impacts.
- All buildings facing the foreshore shall have a section of recessed façade that provides opportunity for planting of small native trees (mature height adjacent to the building in locations that will not obscure the view from any window facing the lake). The trees shall be planted at grade in deep soil.

Principle 8 – Vegetation is to be amended as follows

Under Guidelines add the following point:

- Substantial additional areas of the public reserve in front of the workshop areas shall be reinstated with Casuarina Glauca Open Forest.
- Where practical in terms of maintaining views the public reserve in front of the Village Piazza shall be re-instated with Casuarina Glauca Open Forest.

Principle 11-Water Management should be amended as follows:

All potential contaminants and their collection systems must be located so they are adequately protected from entering the lake during a 1:100 yr flood event, plus sea level rise. This includes but is not limited to things such as fuel, oil separators, first flush tanks and the like.

Principle 14 - Marina should be amended as follows:

Under Guidelines amend:

- Dot point 12 to say to (1.1 AHD) to be consistent with Principle 12 - Flooding.
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Principle 16 - Acoustics should be amended by adding:

- The general EPA criterion of background + 5 dB(A) when measured as an Leq level over 15 minutes at any residential boundary is a standard noise criterion used and will apply to this development.
- This background + 5 dB(A) criterion is commonly identified as the EPA's "intrusive noise" criterion and will cover all noise emitted from the operations of the development. The intrusive criterion will cover mechanical plant noise, the marina workshop and handstand area and all operations of the marina.
- Due to the intermittent nature of noise from the construction of the development the EPA's relevant Construction Noise Criteria will be adopted for the development.
- The noise limits for construction noise require extensive noise control measures to be maintained throughout the construction phase of the development with on-going noise and vibration monitoring to occur and the provision of a dedicated noise complaint hotline.
- The use of the marina is covered by the overall intrusive noise criterion. However to address intermittent noise events that may occur at night the EPA's sleep arousal criterion of background + 15 dB(A) when assessed as a L1 (1 minute) level outside any bedroom window, will be applied.
- As part of an overall acoustic control the proponent will be required to produce a Noise Management Plan that provides self imposed noise control measures, including speed restrictions for vessels in the vicinity of the marina.
- To protect the acoustic amenity of existing and future residents with respect to road traffic noise the proponent will be required to introduce noise control measures to obtain compliance with the recommended noise criteria set out in the EPA's Environmental Noise Criteria for Road Traffic Noise document.
- Whilst the Concept Plan has indicated preliminary acoustic concepts for the development and has been modified during the consultation process to address some of the acoustic issues, the actual controls that will be incorporated into the development have yet to be finalised, due to the concept nature of the application.

Principle 19 - Staging, Subdivision and Management should be amended as follows:

- In the last paragraph delete the words "*A change in form/style is permitted for the Village Piazza however*"
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## PART C- FUTURE APPLICATIONS

Pursuant to section 75P(2)(c) of the Act the following requirements apply with respect to future stages of the project to be assessed under Part 4 of the Act:

### **C1      *Consistency of Future Development with Concept Plan as modified***

All future development including the marina must be consistent with the Concept Plan as modified by this approval in Part B.

### **C2      *Development Parameters***

Future applications must comply with the following development parameters:

Development Parameter	Requirement
<b>Development north of Trinity Point Drive (Village Piazza)</b>	
<b><i>Number of Storeys (maximum)</i></b>	
- northernmost mixed use building	3 storeys above piazza Parking at ground level and a restaurant at piazza level and 2 storeys of accommodation above and a pitched roof form.
- southern mixed use buildings at the entry and adjacent to the lake	4 storeys above piazza Parking at ground level with retail/business at piazza level and 3 storeys of accommodation and a pitched roof form.
- southern and western mixed use buildings framing the piazza	4 storeys above piazza Parking at ground level with function centre and retail/commercial at piazza level and three storeys of residential above one of which is included in the pitched roof form.
- eastern building/cafe	2 storeys above parking
- marina buildings	2 storeys

<b>Development south of Trinity Point Drive (outside Village Piazza)</b>	
<b>Number of Storeys (maximum)</b>	
Buildings fronting the western boundary	3 storeys (above a 1.2m protruding basement) These buildings are attached and generally 1-2 storeys with some 3 storey corner elements. A maximum of 1 storey is allowed on the elevated southern part of the site.
Buildings between the proposed westernmost internal laneway and the foreshore reserve	2 storeys These buildings are detached with at-grade parking.

<b>Development north of Trinity Point Drive (Village Piazza)</b>	
<b>Building setback to the foreshore reserve (minimum)</b>	
- eastern buildings	15m Exceptions - the café is setback 6m at its northeastern corner and the northernmost mixed use building and marina buildings are setback 8m.
<b>Building setback to the unnamed inlet to the west (minimum)</b>	
All buildings	30m

<b>Development south of Trinity Point Drive (outside the Village Piazza)</b>	
<b>Building setback to the foreshore reserve (minimum)</b>	
- easternmost buildings	20m
- southernmost buildings	Variable up to 45m

<b>All development</b>	
<b>Floorspace</b>	
Total Floor Space Ratio (maximum)	0.65:1
Gross Floor Area	The split between the tourist and residential gross floor area should ensure a dominant tourist character is maintained at all times.
<b>Number of Units (maximum)</b>	
Residential Development	A maximum of 50% of the total number of units can be used as permanent residences. The site must maintain a dominant tourist character at all times.

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Note: Gross floor area, building height and storey must be measured in accordance with the definition within the *Standard Instrument (Local Environmental Plans) Order 2006*.

### **C3      *Urban Design***

The proposed development must comply with the Principles, Objectives and Urban Design Guidelines, AdW/ Johnson Property Group, dated 5 June 2009. A revised urban design guideline incorporating changes identified in Condition B5 must be submitted with the first application for development on the site. All future buildings must exhibit design excellence and consider whether:

- (a) a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
- (b) the form and external appearance of the buildings will improve the quality and amenity of the public domain,
- (c) the buildings meet sustainable design principles in terms of sunlight, natural ventilation, wind, reflectivity, visual and acoustic privacy, safety and security and resource, energy and water efficiency

All future applications must demonstrate the building materials and colours comply with Principle 7 – Building Materials and Colours in the Preferred Project Report, prepared by AdW/ Johnson Property Group, dated 5 June 2009.

The residential buildings (where applicable) must demonstrate compliance or satisfactorily justify any non compliance, with the provisions of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

### **C4      *Use of Accommodation for Tourist Purposes***

The use of the tourist units is to be for short stay tourist accommodation purposes only and no tourist unit on the site is to be occupied by a person for more than 42 consecutive days or in aggregate no more than 150 days in any 12 month period. Any future approval must impose a condition to that effect restricting the use of all short stay tourist units and prohibiting their use as permanent residences.

All future applications for the residential and tourist accommodation must provide a detailed Management Plan outlining operational and design measures that will be put in place to minimise the potential conflict between permanent resident and tourist user groups.

### **C5      *Restriction on Title – Tourist Use***

A restrictive covenant under Section 88E of the Conveyancing Act 1919, restricting the use of all tourist units (not approved for residential use) to short stay tourist purposes must be recorded on the title of each strata lot. The covenant will restrict the occupation of a strata lot by an owner or occupier to no more than 42 consecutive days or in aggregate no more than 150 days in any 12 month period. The restriction or covenant cannot be amended or revoked without Lake Macquarie City Council's consent. Any future approval must impose a condition requiring the restrictive covenant prior to the issue of a subdivision certificate.

### **C6      *Management Statement***

Any Community Management Statement or Strata Management Statement or similar relating to the approved tourist units is to include a prohibition against permanent residential usage or occupation of the tourist units within the scheme for more than 42 consecutive days or in aggregate no more than 150 days in any 12 month period.

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The Community Association will monitor compliance with this by-law and provide annual reports to Lake Macquarie City Council (LMCC). The Management Statement is to outline procedures to ensure compliance with this by-law. The following provisions must be imposed as by-laws and will only be able to be amended or revoked with the consent of LMCC.

1. A strata lot (not approved for residential use) may only be occupied by a person for a period of 42 consecutive days or in aggregate, no more than 150 days in any 12 month period;
2. The CA must maintain a record about the use of strata lots and make such record available to LMCC on request.
3. The proprietor or occupier of a lot must comply with the terms of any restriction on use or public positive covenant burdening the lot.

## **C7      *Traffic and Parking***

A detailed Traffic Impact Study, prepared by suitable qualified traffic engineer, shall be provided for the entire site with the application for the first stage of development. This should include liaison with both the LMCC and the RTA in regard to the required intersection works for the proposal. Details of any agreements reached with the relevant road authorities regarding intersection works needs to be provided.

Future applications must also demonstrate compliance with Principle 10 – Roads, Vehicular Access & Parking in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009. Parking numbers are to be provided in accordance with in accordance with Lake Macquarie Development Control Plan No. 1.

The reduction in the number of marina berths results in a corresponding reduction in parking demand and the footprint of the parking areas should therefore be reduced accordingly to minimise excavation and reduce the extent of basement parking. A Parking Management Strategy should be provided to manage parking on the site including during peak events within the marina and village piazza.

## **C8      *Sustainability***

Future applications shall address sustainability requirements including solar access and energy and water efficiency and meet the applicable requirements of BASIX, as a minimum.

## **C9      *Vegetation Management Plan***

A Vegetation Management Plan (VMP) shall be provided for the entire site and approved as part of the application for the first stage of development (refer to Principle 8 – Vegetation in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009). The VMP must consider the criteria identified in the *Vegetation Management Plan Guidelines*, prepared by the Department of Water and Energy, (February 2008). The VMP will be prepared in consultation with the Department of Environment and Climate Change, Department of Water and Energy and Lake Macquarie City Council.

The VMP is to be prepared by a suitably qualified person and should address, but not be limited to, the following:

1. Provide details of vegetation to be retained and measures to protect riparian vegetation around the edge of the lake (including the unnamed inlet to the west) during the construction and operation phases of the development.
  2. Re-instatement of 0.05Ha of Swamp Oak Floodplain Forest within the northeastern portion of the unnamed inlet situated in the north of the site.
  3. Identify areas to be rehabilitated and details of the vegetation species, composition, planting, layout and densities of plants to re-vegetate these areas.
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4. Long term financial commitment to any proposed conservation measures, including any mechanisms to be implemented to achieve this and costings;
  5. A Gantt Chart or similar project schedule which clearly identifies the activity, costing and timing.
  6. Details of a S88B-E covenant of the Conveyancing Act 1919 to ensure the bio-diversity off-set is managed for conservation and secured in perpetuity.
  7. Outline ongoing management arrangements, including but not limited to responsibilities, funding and long term maintenance. The VMP must specifically address long term monitoring of the unnamed inlet and its mangrove and saltmarsh habitat to the west and establish criteria that can inform necessary changes to the VMP over time.
  8. Provide details on weed control, access control, rubbish control, planting, monitoring and timing of revegetation works within the retained vegetation and the areas to be revegetated.
  9. Management of specific habitat enhancement measures (e.g. hollow/habitat trees)
  10. Details of the protection and revegetation of the area on the southern and southeastern part of the site containing River Flat Eucalyptus Forest EEC, including appropriate fencing.

### **C10      *Landscape Plan***

A detailed Landscape Management Plan shall be provided for each relevant stage and approved in accordance with Principle 9 – Landscape in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009. It must provide details of the staging of the landscape treatment of the site with the intention of implementing the landscaping on site as soon as possible. Where relevant the Landscape Plan must provide information regarding:

1. managed public access across the proposed marina travel lift within the foreshore reserve;
2. a detailed species list appropriate to the site and the circumstances;
3. surface areas for all pedestrian pathways, boardwalk and public access areas;
4. fencing and any other works in the public domain;
5. details of landscape treatments and planting for parking areas;
6. the landscape interface between the private and public domain; and
7. retention of cultural landscape plantings including figs, palms and Norfolk Island Palms located near Bluff Point.

### **C11      *Verification of Baseline Data for the Marina***

To ensure the satisfactory environmental performance of the marina the first stage application must provide verification of the following baseline data and where necessary provide new data in light of the review of the design:

1. current water flow and flushing characteristics in Bardens Bay, the small inlet/unnamed bay at the southern end of Bardens Bay and Petite Lake.
  2. existing background concentrations of pollutants (eg. copper and zinc) in Bardens Bay and the marina location.
  3. mapping and survey of the health and size of the seagrass bed to the south of the marina and the salt-marsh community in the unnamed inlet to the west.
  4. survey of the foreshore to measure foreshore erosion from around the southern corner of the site to inside the unnamed inlet.
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**C12      *Final Marina Design***

Once the verified baseline data is accepted by the approval authority, the final design (both Stage 1 and 2) must demonstrate negligible impact on the environment and include:

1. 3D numerical modelling of the current water flow and flushing characteristics in Bardens Bay. This modelling is also to be provided for the small inlet/unnamed bay at the southern end of Bardens Bay and Petite Lake.
2. Particle tracking modelling for the final design from pollutant discharges within the proposed marina under a range of wind conditions.
3. Seagrass wrack tracking modelling for the final design demonstrating negligible impact on the health and size of the seagrass bed to the south of the marina
4. Identification of the syngnathid population (seahorses, pipe fish etc) in Bardens Bay and measures to mitigate any impact.
5. Best practice management measures that will be used to minimise impacts of the marina on the environment.

**C13      *Stage 1 - Marina Environmental Performance Monitoring***

Provide an Environmental Monitoring Program with the first stage application for the marina detailing how the environmental performance of Stage 1 will be monitored during construction and for one year from commencement of operation. Include an analysis of the level of contaminants in the sediment within the bed of the lake in the area of the proposed marina and measures to minimise disturbance during construction and from boat movements, in particular from propeller action.

**C14      *Stage 2 - Marina***

The expansion of the marina to include Stage 2 will only be permitted if it can be demonstrated there is satisfactory environmental performance of Stage 1 and that the environment is able to satisfactorily co-exist with the introduction of Stage 2. In that regard Stage 2 must demonstrate:

1. at least 75% take up of berths in Stage 1;
2. Compliance with Stage 1 construction and operational management and environmental licence conditions;
3. Satisfactory environmental performance of Stage 1 for a period of 1 year after completion which shows a negligible impact on foreshore erosion, flushing characteristics, pollutant levels, movement of seagrass wrack and water quality;
4. Appropriate modelling and assessment of the environmental performance of the final design of Stage 2 and a negligible impact on foreshore erosion, flushing characteristics, pollutant levels, movement of seagrass wrack and water quality in Bardens Bay.

**C15      *Boating Practice Manual***

Provide details of a responsible boating practice manual with the first stage of the marina addressing signage, education and other relevant measures to educate the boating public on practices to minimise the impacts of boating activities on turtles, foreshore erosion and other boat users including sailing courses.

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**C16      *Boat Lift Facility***

Provide details with the first stage marina application of the boat lift facility regarding its capacity, design and operational nature.

**C17      *Bushfire Protection***

All landscaping of the site must comply with the principles of Appendix 5 of the Planning for Bushfire Protection 2006. The enhancement of the foreshore vegetation should not increase the bushfire risk on the site.

**C18      *Implementation of the Vegetation Management Plan***

A detailed 'works plan' prepared by the qualified bush regenerator or landscape contractor is to be approved as part of any application for the first stage of development. The 'works plan' will identify the actions and tasks required to implement the recommendations/conditions in the approved Vegetation Management Plan (refer to Condition C9)

**C19      *Stormwater Management***

The first stage of the development must provide details of the proposed stormwater management system for the entire site in accordance with Site Principle 11 – Water Management in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009. The stormwater management plan should include:

1. best practice water sensitive urban design measures;
2. measures to ensure no impact from runoff on water quality in Bardens Bay and riparian vegetation around lake's edge in particular the mangoves and saltmarsh community in the unnamed bay to the west of the site;
3. rainwater harvesting, permeable pavements and bio-filtration swales;
4. preventative, containment and treatment measures for stormwater management from the marina workshop and hardstand area;
5. details of oily waste recycling and oily bilge from the pump out facility;
6. details of fuel storage tanks;
7. a water quality monitoring system during the construction phase and for 2 years from completion of the marina.
8. details of emergency response procedures and a management plan to deal with oil and fuel spills in and around the marina.

**C20      *Groundwater***

Future application(s) involving excavation are to provide details of how the water table and ground water will be managed during and after construction. Particular detail is to be provided in regard to the impacts to any EEC (eg. saltmarsh community) that relies on this water table and ground water.

**C21      *Flooding***

A detailed Flood Study, prepared by a qualified engineer must be provided for development on the flood prone land and address sea level rise adaption measures and strategies and evacuation plans and suitable flood level having regard to climate change. In that regard the future design and strategies should be consistent with Principle 12 – Flooding in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009.

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## **C22      *Aboriginal Heritage***

An Aboriginal Cultural Heritage Management Plan and Interpretation Policy must be provided for the entire site and approved as part of the first stage of the development. The Interpretation Policy shall be developed in conjunction with the aboriginal community and be based on the historical data, cultural knowledge and archaeological evidence specific to Trinity Point. The Interpretation Policy shall provide a framework for interpretation of Aboriginal values and heritage of the site to the public, inclusions into site interpretation and development details.

Future applications must demonstrate that the following requirements regarding aboriginal heritage have been satisfied for each relevant stage of the development:

1. retain and conserve built heritage items including the sundial and grotto adjoining the foreshore lands.
2. significant built heritage items that are to be retained are to be adequately protected during the works from potential damage. Protection systems must ensure that historic fabric is not damaged or removed.
3. retain cultural landscape plantings including figs, palms and Norfolk Island Palms located near Bluff Point.
4. an archival photographic record of the historic areas of the site in accordance with the NSW Heritage Council Guidelines for Photographic Archival recording in a Digital Capture Format prior to the commencement of any work on the site. The recording shall be referenced to a survey plan identifying the locations of all the images. A copy of the recording shall be lodged with the Department of Planning's Heritage Library and the Local Studies Collection of the Lake Macquarie Library.

## **C23      *Erosion and Sedimentation Control***

A detailed Soil and Water Management Plan shall be provided for each relevant stage of the development on the site. It should include measures to divert and treat sediment leaving the site to minimise impact on water quality and riparian vegetation around the lake's edge.

Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse. These control measures are to follow relevant management practices as outlined in the Landcom manual "*Managing Urban Stormwater: Soils and Construction – Volume 1*" (4<sup>th</sup> Ed., 2004) - the "*Blue Book*".

## **C24      *Construction Management Plan***

A detailed Construction Management Plan (CMP) shall be provided for each relevant stage of the development on the site. The CMP shall address, but not be limited to, the following matters where relevant: hours of work; contact details of site manager; erosion and sediment control; traffic management; noise and vibration management; waste management and flora and fauna management.

The designs and construction methods and activities are to result in NIL or minimal harm to aquatic and riparian environments and will not cause erosion, sedimentation, or increase flood levels of waterfront land. All engineering, other structural works or natural landscaping proposed must be designed, constructed and operated by suitably qualified professionals, recognised in that specialised field. This relates particularly to vegetation rehabilitation practices.

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**C25      *Acoustic***

A detailed acoustic assessment addressing the concept plan conditions and modifications to minimise noise to the surrounding area shall be provided for each relevant stage of the development. This is to include a Construction Noise and Vibration Management Plan, Road Traffic Noise Plan and Operational Noise Management Plan. The proposal must comply with Principle 16 – Acoustics in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009.

**C26      *Public Access***

The future applications must demonstrate compliance with Principle 4 – Public Access & Open in the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009. The design should maximise access opportunities through the site and ensure a high level of amenity and safety for pedestrians. Future applications must include the following key requirements to ensure a high quality and safe public access:

1. publicly accessible village piazza that relates to the lake edge and marina;
2. appropriate building setbacks to the foreshore reserve;
3. appropriate setback from southeastern corner of the site to create a publicly accessible open space at Bluff point on the elevated part of the site;
4. publicly accessible pathway around the southern and eastern edge of the development;
5. vistas from the public walkway into the village piazza at eye level;
6. east-west publicly accessible pathways from trinity Point drive to the lake;
7. public access along the marina breakwater;
8. public access to the northern part of the site is not to be impeded by the marina access or boat lift; and
9. pedestrian pathway along the western edge of the marina hardstand/access to allow access from the northern tip to Trinity Point Drive (this is to be included in the marina hardstand area and not impact the saltmarsh community adjoining the unnamed bay).

**C27      *Mine Subsidence***

Any future application must ensure development on the subject site (Lot 31) is designed for the following mine subsidence parameters:

1. Subsidence: 150mm
2. Strains:  $\pm 2\text{mm/m}$
3. Tilt: 2mm/m

Certification from a qualified engineer will be required when construction details are finalised.

**C28      *Staging***

All stages must be carried out in a sequential manner. The development shall be staged so that the work continues with the portion of site immediately adjoining the first stage and continuing such that all work is contiguous with the development (no undeveloped parts between stage 1 and the remainder of the site).

**C29      *Recreational Boating Impacts***

The following information needs to be provided with the first application for the marina.

1. Undertake a snapshot analysis of existing patterns of use before development (immediate area around the development – southern end of the lake – (with the Channel as the midway marker). Snapshot analysis should consider 'regular' use
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patterns such as existing licensed sailing courses and a method of recording 'irregular' patterns of use (eg unorganised boating such as recreational fishing, cruising etc).

Upon completion of Stage 1 of the marina undertake a second snapshot analysis of the 'new' patterns of use. Determine any changes, and include qualitative feedback from the 'regular' known users – this may be undertaken via a user survey/on line feedback. Determine the effects of the increased 'irregular' use patterns and identify measures to mitigate any adverse impacts.

The purposes of monitoring the recreational usage patterns is to determine impacts on user groups and activities and changes in destination patterns which may impact on particular existing established users.