

MAJOR PROJECT ASSESSMENT:

188 marina berths and associated workshop/maintenance and club facilities; 150 accommodation units (75 tourist and 75 residential); restaurant, café, function centre, shops and office; parking, landscaping and boardwalk. MP06-0309



Lake Macquarie and 48C, 49, and 71 Trinity Point Drive, Morisset Park, NSW 2264

Proposed by Johnson Property Group

Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

July 2009

(Prepared by Kirrily Vincer-LMCC under instrument
of delegation dated 19th June 2008)

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EXECUTIVE SUMMARY

This is a report on a project seeking approval for a concept plan ("the application") submitted by The Johnson Property Group to carry out development of a 188 marina berths and associated workshop/maintenance and club facilities; 150 accommodation units (75 tourist and 75 residential); restaurant, café, function centre, shops and office; parking, landscaping and boardwalk at 48C, 49 and 71 Trinity Point Drive and Lake Macquarie, Morisset Park (Lot 31, Pt Lot 32, Pt Lot 33 DP 1117408 and Pt Crown land).

The estimated project cost of the revised development is \$85 million. The proposal will create 765 full time equivalent construction jobs and 60 full time equivalent operational jobs.

The Minister for Planning declared the proposal to be a Major Project under Part 3A of the Environmental Planning and Assessment Act 1979 (the Act). It comprises marina facilities to moor, berth, or store more than 80 vessels and tourist facilities in a sensitive coastal location providing accommodation and buildings greater than 13m in height in a sensitive coastal location.

On 11 April 2008, The Department of Planning (DOP) issued Lake Macquarie City Council (LMCC) with draft delegations for the assessment of the Part 3A concept plan application. Council raised concern with the delegation of the assessment function of the concept plan to Council. It was considered that this placed the Council and staff in a difficult position and added confusion to the process particularly when the Minister remained the consent authority.

The matter of delegation was reported to Council on 23 June 2008 giving the option of refusing the delegation or accepting it and if accepted further delegating it to the General Manager rather than the elected Council. The Council accepted the delegation and then delegated the function to the General Manager who in turn delegated the function to Kirrily Vincer.

A copy of the instrument of delegation from the Director General is attached at Appendix B, together with the Delegation from the Lake Macquarie City Council General Manager to Kirrily Vincer.

During the formal exhibition, there were 535 submissions received. 174 (170 pro forma) submissions supported the proposal; 358 (39 pro forma) of the submissions opposed the proposal; and three requested an extension of the exhibition period.

The dominant concerns related to the helipad, the size of the marina, the inclusion of residential development, environmental impacts to the lake, site planning, access and the heights of the proposed buildings.

Comments were also received during the assessment process from the following agencies:

- NSW Department of Lands
- NSW Department of Primary Industries-Fisheries
- NSW Department of Water and Energy
- NSW Department of Environment and Climate Change
- NSW Roads and Traffic Authority
- NSW Maritime
- Awabakal Traditional Owners Aboriginal Corporation
- NSW Aboriginal Land Council
- NSW Department of Planning- Heritage Office
- Energy Australia
- Hunter Water
- Mine Subsidence Board.
- Civil Aviation Safety Authority
- NSW Rural Fire Service
- Awabakal Descendants Aboriginal Corporation

In a letter dated 24 April 2009 to the proponent, concerns were raised in relation to the height, scale and density of the development, the size of the marina and its potential impacts to the lake, the need for the helipad and the impacts of the development to the 6(1) open space land were identified.

The proponent submitted a Preferred Project Report (PPR) on 5 June 2009, addressing some of the key concerns by deleting the helipad, reducing the size of the marina, and redesigning the tourist and residential development to lower the height of the development.

The deemed refusal period is 60 days, and there is no provision in the Act, governing exhibition of the PPR. The PPR was publicly available for viewing on the LMCC and DoP web sites. Even though there was no formal exhibition period, 34 submissions were received as of 9 July 2009, regarding the PPR. All of these submissions oppose the proposal.

The issues raised about the PPR relate to:

- The size of the marina
- Suggestions that the original plan was an ambit claim to make the amended proposal seem acceptable when the proposal was reduced - Inflation of original proposal
- Amenity
- Built Environment
- Departure from original proposal
- Documentation
- Economic impacts
- Flooding
- Flora and Fauna
- Inappropriate use of the site
- Noise
- Lack of Infrastructure
- Lack of public facilities
- Pollution
- Size of the development
- Use of public land
- Views
- Water quality

Key issues considered in the assessment included:

- Strategic Justification And Rezoning
- Flooding And Climate Change
- Aboriginal And Cultural Heritage
- Ecological Impacts
- Foreshore Recession
- Visual Impact
- Urban Design Issues
- Public Access
- Marina Development And Potential Impacts
- Establishment Of The Helipad And Associated Acoustic Issues
- Other Acoustic Issues
- Water Cycle Management
- Traffic And Access
- Waste Management
- Groundwater
- Natural Hazards
- Section 94 And Other Contributions
- Sustainability

Changes made in the PPR result in a significant improvement on the original proposal. However, some concern remains with the PPR and further issues need to be addressed. It is recommended that changes be made to the proposal that further mitigate the impact of the proposal on the lake and its environs and reduce the visual impact of the development.

As such support for the proposal is contingent on the Marina being satisfactorily amended and further clarification being required in regard to the types of activities proposed on the hard stand area and within the workshop. A 75 tonne capacity boatlift is not supported.

Subject to the above amendments, the potential impacts of the proposed development have been adequately addressed via the proponent's Statement of Commitments and PPR.

The site is suitable for the proposed development as amended. The project will provide economic and social benefits to the local economy and the region, whilst ensuring acceptable environmental outcomes.

All statutory requirements have been satisfactorily met.

Changes are recommended to the Concept Plan and conditions of approval to ensure a satisfactory level of environmental performance.

Future applications should be dealt with under Part 4 of the Act.

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1 BACKGROUND

1.1 THE SITE

1.1.1 Site location

The site is located 6kms from Morisset, which has been identified as an emerging major regional centre in the Lower Hunter Regional Strategy. The site is some 40km south of Newcastle and 120 km north of Sydney. The F3 freeway, the arterial road around the western edge of the lake and railway located 6 km from the site provide access to other areas of the Lake Macquarie and Newcastle and to the Central Coast and Sydney.

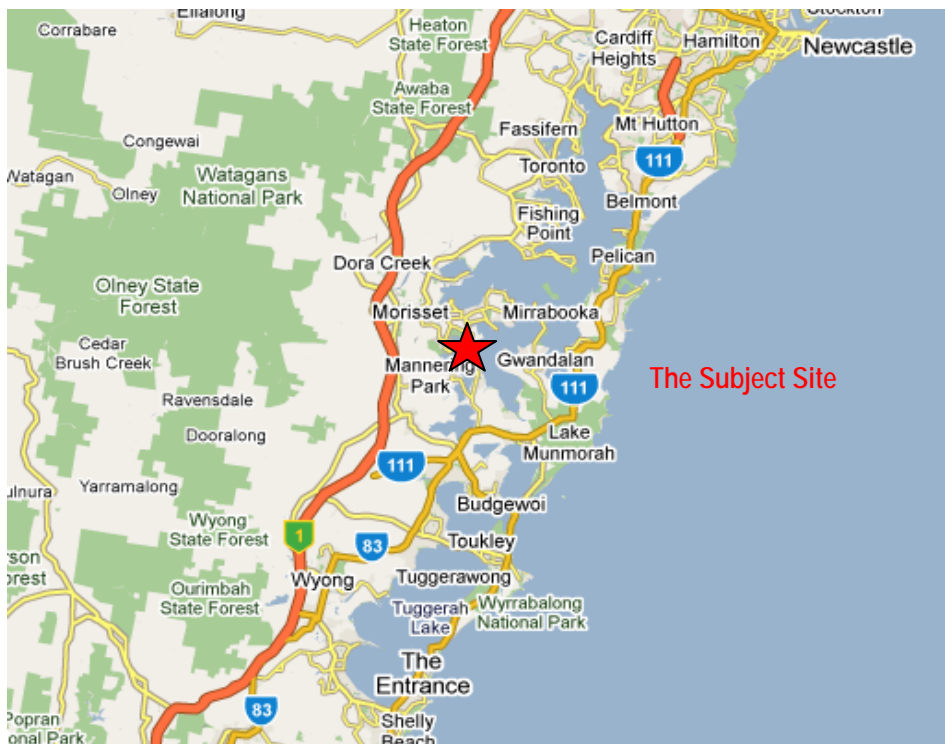


Figure 1.1 – Site Location (Regional Context)

The subject site is located within the local government area of Lake Macquarie City Council.

The land component of the site, at 48C, 49 and 71 Trinity Point Drive, (Lot 33 DP 1117408, Lot 32 DP 1117408, Lot 31 DP 1117408), is owned by The Trustees of the Hospitaller Brothers of St John of God and was previously used by the St John of God Order to house and school boys with special needs. The proposal also includes part of the Lake of which the Department of Lands are the owner. Figure 1.2 outlines the property descriptions and indicates the site subject to this application. Figure 1.3 outlines the context of the site in relation to adjoining land uses.



Figure 1.2 – Property Descriptions

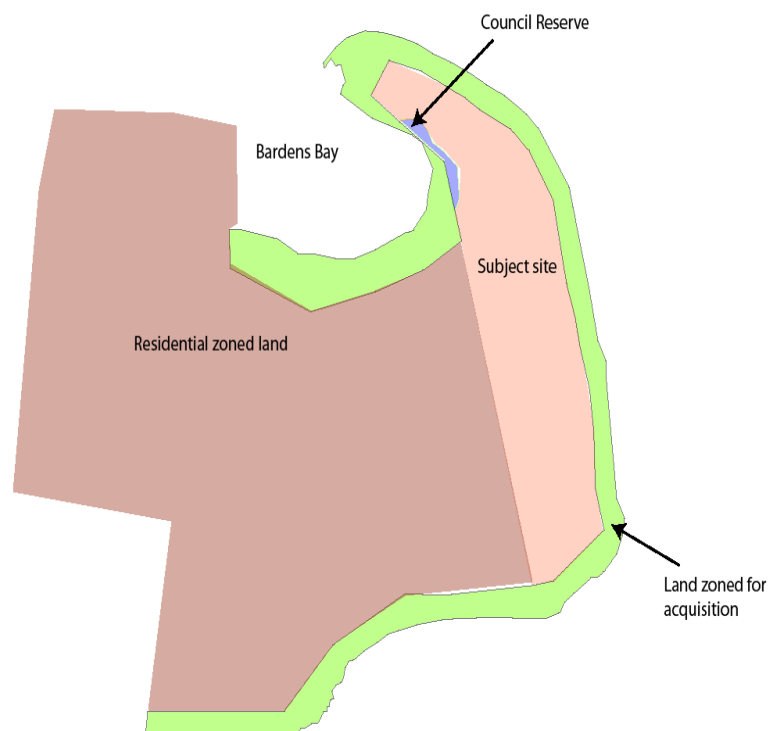


Figure 1.3 – Use context

1.1.2 Existing site features

The subject site is currently vacant. The site falls from Bluff Point in the south at 8.5 m to low lying land in the north at 0.9m, to the lakes edge to the north and east. There is minimal vegetation on the subject site other than that within the proposed foreshore reserve on the lake edge to the east and south. There is salt marsh and mangrove vegetation around the edge of Bardens Bay and in the unnamed bay to the north and north east of the site.

The area of the lake proposed to be developed for a marina has water depths from zero at the shoreline to approximately 6 metres at the eastern extremity. The water depth increases from 0-3m within 30m of the shoreline.



Figure 1.4 – Subject site looking north along eastern edge



Figure 1.5 – Subject site looking south along the eastern edge



Figure 1.6– Centre of the Subject site looking north toward Bardens Bay



Figure 1.7 – Subject site as viewed from the east (on water)



Figure 1.8 – Subject site as viewed from the north east (on water)



Figure 1.9 – Subject site as viewed from the north east (on water)



Figure 1.10 – Subject site as viewed from the north east (on water)



Figure 1.11 – Subject site as viewed from the north (on water)



Figure 1.12 – Subject site as viewed from the South (on water)



Figure 1.14 – Subject site as viewed from the South (on water)

1.1.3 Surrounding Development

The subject site is adjoined to the west by a recent residential subdivision by JPG. This subdivision is still under construction, some one and two storey detached housing has been constructed. A component of the subdivision, closest to the development site has been set aside for small lot housing, being slightly denser than the detached homes.

The area in general is typically characterised by detached one and two storey dwellings. The site is surrounded to the north, east and south by Lake Macquarie. The closest development across the Lake is to the North, and North east in the suburb of Brightwaters. This is approximately 680-800 metres away. This development is also typically characterised by single and double storey detached housing.

Morisset Park is a relatively quiet locality within Lake Macquarie. Bardens Bay which the development site fronts is a tranquil area of the lake, with approximately 21 boats moored on swing moorings. Small fishing boats can also often be seen in this area. It is popular for fishing and waterskiing due to its protected nature.

There are two other small inlets/ unnamed bays that flow from this main bay. The protected nature of the bay presents problems, due to the limited water flow/flushing that occurs.



Figure 1.15 and 1.16 – Subject site and Aerial context

1.2 SITE HISTORY

1.2.1 Zoning

During exhibition of the draft Lake Macquarie Local Environmental Plan 2004 (LMLEP2004) in 2001 and 2002 there was considerable public interest in the future zoning of the St John of God Site. A 6(2) Tourism and Recreation Zone was initially proposed for the whole site, consistent with LMCC's adopted City Strategy, Lifestyle 2020 workshops. However, the St John of God Order sought a predominantly residential zoning of the site, in order to achieve a higher market value for the land. The Order believed that tourist development would not be viable on the land, severely limiting its market value. A number of studies indicated that the potential of the whole of the St John of God site exceeded that of tourism/recreation.

The need to determine the highest and best long term use of the site that would benefit all sectors of the local and sub-regional community was considered paramount. Therefore, the site was designated a deferred matter in the final draft LEP.

At its Strategy Committee Meeting held on 19 January 2004, following meetings involving the Minister for Planning, LMCC and local residents, Council agreed on a rezoning plan for the site that incorporated residential, tourism and open space zones.

When LMLEP was gazetted on 19 March 2004, most of the 23 hectare St John of God site was zoned 2(1) Residential. The balance was zoned 6(2) Tourism and Recreation with a 6(1) Open Space zone along the foreshore, as shown in Figure 1.17.

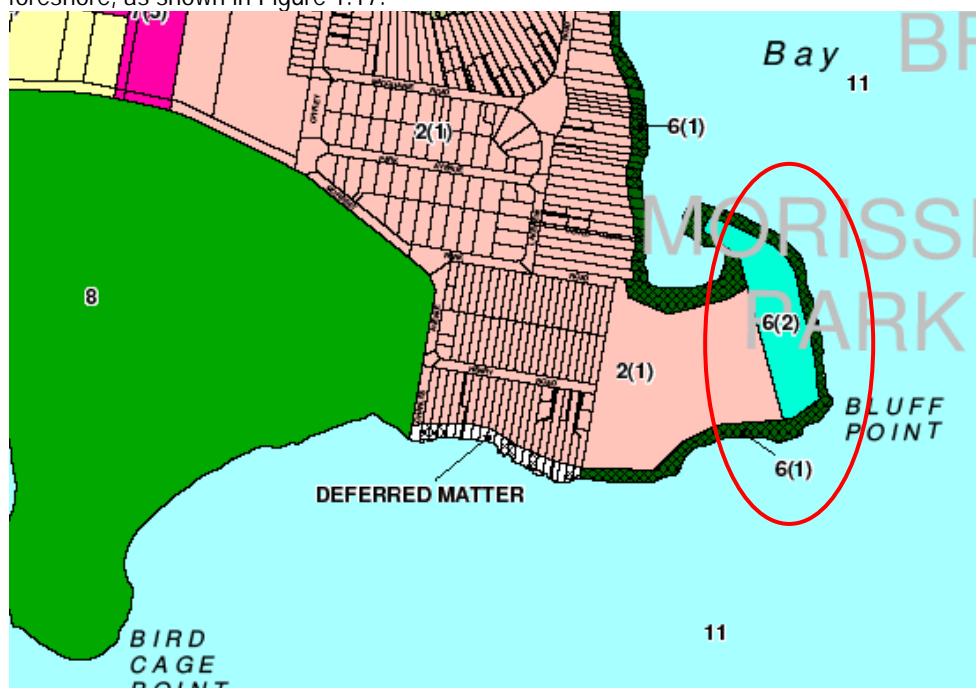


Figure 1.17 – LMLEP 2004 Zoning

1.2.2 Master Plan

The gazettal of LMLEP 2004 also required the preparation of a master plan for the 23 hectare site, prior to any development approvals being issued for the site. Item 2 and 3 in Schedule 8 of LMLEP 2004 states:

Land at Morisset Park, being Lot 38 DP 755242, as shown edged heavy black on the map marked "Lake Macquarie Local Environmental Plan 2004".	<p>A master plan must have been adopted by the Council before consent is granted for any development. This master plan must include recommendations about the following:</p> <ul style="list-style-type: none"> a) measures to assess, support, manage and conserve places and items of cultural heritage, b) measures to deliver a diversity of social and economic opportunities
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	<p>including employment,</p> <ul style="list-style-type: none"> c) a strategy for the staged delivery of social infrastructure and services, d) measures that will achieve a balance between ecological, visual, scenic, cultural and heritage values and site sensitive development, e) the application of ESD principles, f) principles and a detailed strategy for the management of natural features, foreshore processes and hazards, g) measures to achieve development that is complementary to and reflects the character of surrounding urban developments, h) the location and design of development in a manner that complements the on-site and surrounding natural environment, including recommendations for the retention of vegetation, i) the precise location of development within different parts of the site to allow detailed site planning to achieve the most appropriate configuration of buildings, roads and other works to minimise potential environmental and visual impacts, j) providing for a diversity of built form that considers building height, form, massing, materials, colour and reflectivity, among others, in the design process with the intent of minimising impacts with surrounding developments and the lakeshore environment, k) meeting the objectives of the NSW Coastal Policy in planning and design across the site, l) retaining the natural form of the foreshore of Lake Macquarie and providing for public access links to the adjoining Lake Macquarie State Recreation Area, m) an urban form and structure that encourages walking, cycling and public transport use, n) the location and design of roads and pedestrian/cycleway systems to maximise the opportunity for public access to foreshore areas.
Land at Morisset Park in Zone 2 (1) as shown edged with a broken black line within the area edged heavy black on the map marked "Lake Macquarie Local Environmental Plan 2004", being part Lot 38, DP 755242.	<p>For all land described opposite, the master plan referred to in item 2 above must include recommendations about the following additional matters:</p> <ul style="list-style-type: none"> a) location and design of development in a manner that allows site sensitive residential development that responds to existing vegetation values, ecological values and visual aspects of this part of the site, b) location and design of developments in a manner that complements the on-site and surrounding natural environment, including retention of existing vegetation, c) measures to locate and design development within this part of the site to conserve and enhance the visual, ecological and environmental values of the site, including recommendations for the retention of vegetation, d) measures to provide for a diversity of built form that considers building height, form, massing, variable roof forms, materials, colour and reflectivity, among others, in the design and process and complements surrounding developments and the lakeshore environment, e) measures to site, consolidate and/or cluster buildings to create built forms that maintain existing vegetation cover and minimise potential environmental and visual impacts.

In July/August 2004 the draft Master Plan was publicly exhibited for the site, with 27 submissions received. Council also engaged Don Fox Planning to review the draft Master Plan. Don Fox Planning recommended that details in the Master Plan be extended to include the Tourism and Recreation Zone. It was advised that within this zone, the Master Plan should indicate where buildings could be established, their heights, built form, colours, impact on views from within and the waterways of the site, interface with adjoining residential development and open space areas, adequacy of vehicular and pedestrian access to the tourist and open

space foreshore zones, areas impacted by fill, flooding, contamination, vegetated areas that could be preserved and the like.

In February 2005, an amended Master Plan was prepared by Architectus. The amended plan addressed Council requirements, considered the aims and objectives of State Environmental Planning Policy 71 – NSW Coastal Zone and was consistent with the objectives of LMLEP 2004.

Within the Tourism and Recreation zone, the amended Master Plan identified an indicative building zone in which accommodation buildings were to be generally located. An indicative development plan also identified locations for public and community facilities. All buildings were to be no higher than two storeys.

The modified Master Plan was re-exhibited in April 2005, when 15 submissions were received. The applicant also held two community open days on-site and on the second open day in April 2005 distributed survey forms requesting comments on the provision of recreation facilities and use of the Tourism zoned land. 41 survey forms were returned.

Local residents voiced a number of objections to the exhibited Master plan relating to traffic impacts, high housing density and small lot sizes out of character with the area and resulting loss of amenity, capacity of utility services, environmental impacts including flora/fauna and pollution of the lake and impacts on direct neighbours of the site.

The Master Plan was approved by Council on 25 July 2005. The approved Plan provided for redevelopment of the 23 hectare site for residential, open space, recreation and tourist purposes. The plan provided for a public reserve around the majority of the foreshore, and retention of the Casuarina, Mangrove and Salt Marsh areas adjacent to Bardens Bay. Figures 1.18 and 1.19 are excerpts of the approved master plan.

An assessment of the PPR against the master plan is contained in section 3.6.11.



Figure 1.18 - Master Plan Building footprints **Figure 1.19 - Master Plan - Tourism zoned land**

The proponent has stated "that The Kendall Grange Master Plan was prepared to guide development of the whole of Trinity Point including the 194 lot residential subdivision and site the subject of this Concept Plan application. Whilst the LEP calls for a Master Plan it does not specifically refer to the Kendall Grange

master plan or require that the development comply with it. In this regard, the document is able to be amended by a concept plan to reflect a revised development. Notwithstanding this, the principles of the plan have been given careful consideration and analysis in preparing the Concept Plan for the site."

Due to the time lapse, market changes and further research the proponents are seeking an outcome different from that in the approved master plan. There is no legal impediment preventing the proponent from submitting a revised scheme such as the Concept Plan. The assessment of the concept plan will consider all relevant issues.

2 THE PROPOSED DEVELOPMENT

2.1 BACKGROUND

The proponent made the original request to the DOP regarding Part 3A on 29 November 2008. The proponent was advised by DOP that the matter would not be considered under Part 3A unless an amendment to the LMLEP2004 was prepared.

Lake Macquarie City Council resolved to prepare a draft amendment to LMLEP2004 on 12 June 2007.

The draft Environmental Assessment (EA) was lodged on 27 June 2008 and failed to adequately address the DGRs. An amended EA was lodged on 18 November 2008 and was considered adequate and subsequently placed on exhibition.

The proponent was advised of the assessment issues on 24 April 2009 and subsequently lodged a PPR on 5 June 2009.

2.2 CONCEPT PLAN

This is an application for approval of a concept plan which originally sought approval for:

- A staged 308 berth marina covering 9.34ha of the Lake, for craft in length range of 8m to 20m. 18 x 8 metre, 30 x 10 metre, 118 x 12 m, 110 x 14 metre, 22 x 16 metre, 7x 18 metre, 3 x 20 metre boats;
- Breakwater;
- Small marina lounge;
- Chandlery;
- Marina operations/management /administration; 1-2 storeys;
- Marina manager residence; 1- 2 storeys;
- Associated boat maintenance facilities including a travel lift, hardstand area and workshop;1-2 storeys;
- Helipad (max 4 movements a day);
- Associated commercial infrastructure such as a café (30 seats) restaurant (up to 200 seats) and function rooms (up to 300 seats), serviced meeting rooms, ancillary uses such as convenience store, gym/fitness facility, beauty, tourism operators, tourism operations, management and administration;
- Public village square;
- Associated public, communal and private domain , car parking, landscaping, servicing and infrastructure;
- Tourist accommodation (up to 75 units) two to five storey and five and six storeys on an elevated village square; and
- Residential accommodation (up to 75 units), generally two to five storeys.

Figure 2.1 shows the original concept plan.

In response to a number of concerns raised with this proposal in the submissions and by the assessing officer amendments have been made and a PPR lodged.

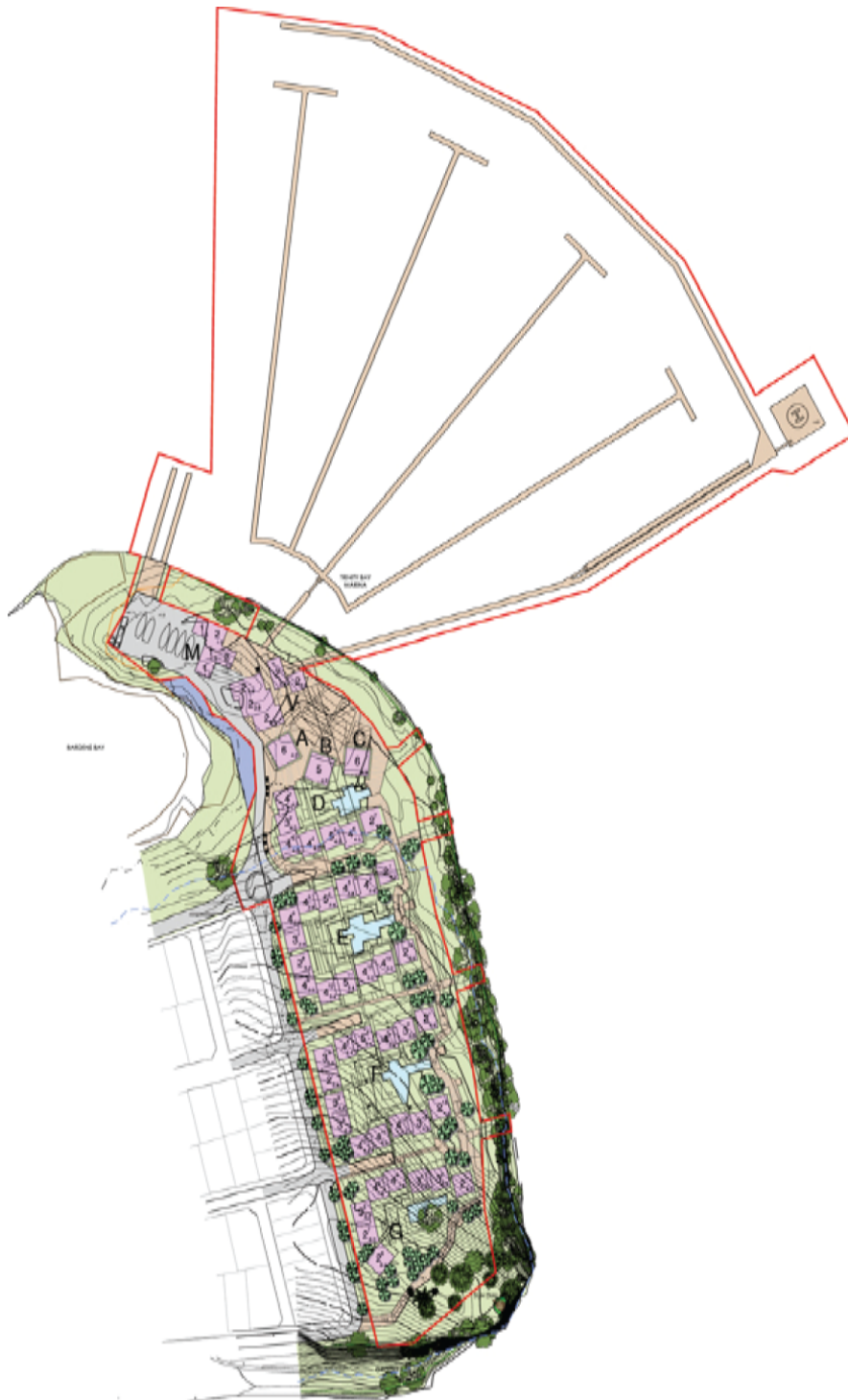


Figure 2.1: The original concept

2.3 PREFERRED PROJECT REPORT

The PPR, submitted on 5 June 2009 incorporated the following amendments to the original concept plan:

- Reduced number of marina berths from 308 berths to 188 berths;

- Proposed construction of Marina in two stages, 94 berths each stage with the second stage being triggered by 100% take up and monitoring of stage one;
- Deletion of the proposed helipad;
- Maintains 150 accommodation units spread across the site, however making the accommodation units 100% available for tourism use of which a maximum of 50% could be also available for permanent residential use;
- Increased setbacks to eastern open space zoned lands to predominantly 20m (ie. generally 40m setback from lake edge);
- Revised urban design structure, providing for internal 15m wide streetscapes on a grid layout (low speed road system), which incorporate public access pedestrian paths and increases structured 'permeability' through the site;
- Includes a north-south internal street connecting Bluff Point to Village Piazza which is also supplemented by perimeter road edge to Bluff Point and an additional 8m wide east-west connection as part of 'permeability' solution;
- Redesign of previous 2,3,4 and 5 storey 'U' shaped built form arrangement to include precincts created by the new grid layout. Heights in this area are generally of 2-3 storey with pitched roof forms. The central and eastern part of site is small lot residential/tourism development with articulated built form, to be detached and compact, domestic in form and character, including individual lot parking. A more continuous street façade fronts Trinity Point Drive, likely attached form with grade change to accommodate parking under (not full basement) and access via rear lane., and includes nominated 'accent' buildings to reinforce the site structure;
- Reorients marina utility buildings and increases setback to north-eastern open space (min 8m);
- Updates to minimum flood planning levels and additional principles provided relating to adaptation to sea level rise and evacuation management;
- Revises the shape and orientation of the raised public space and revises the built form framing it and provides a minimum 6m setback to the piazza structure;
- Additional principles added relating to edge treatment of piazza to ground level (design of edge and an activating land use to eastern boardwalk) and for visual connectivity to piazza from the west, south and east.

As such Concept approval is now sought for:

- A 188 berth marina covering 5.9ha of Lake, for craft in length range of 8m to 20m. It is proposed to be constructed in two stages of 94 berths each, stage 1 being 3.17 ha;
- Breakwater;
- Small marina lounge;
- Chandlery;
- marina operations/management /administration; 1-2 storeys;
- marina manager residence; 1- 2 storeys;
- associated boat maintenance facilities including a travel lift, hardstand area and workshop-1-2 storeys;
- associated commercial infrastructure such as a café (30 seats) restaurant(up to 200 seats) and function rooms (up to 300 seats), serviced meeting rooms, ancillary uses such as convenience store, gym/fitness facility, beauty, tourism operators, tourism operations, management and administration;

- Public village square;
- Associated public, communal and private domain , car parking, landscaping, servicing and infrastructure; and
- 150 Tourist and Residential accommodation units/dwellings with a maximum of 50% for residential use.



Figure 2.2: Proposed development layout

As the deemed refusal period is 60 days, and there being no provision in the Act, the PPR was not advertised. It was made publicly available for view by being placed on LMCC and DoP web sites.

2.4 PREFERRED PROJECT REPORT DEVELOPMENT DATA

2.4.1 Land Use

The Concept Plan states the objective of the proposed land use is to ensure a mix of uses to generate vibrancy, social interaction, activity and surveillance, and importantly to ensure viability into the future. It also seeks to ensure uses are appropriately located to generate the greatest synergy between them.

It further states that the site and proposed usage lends itself to a graduation of uses extending from the Marina in the north to the south. It seeks to locate the busy and active land uses near the Marina. The location of the Marina to the north is the most accessible location, accounting for site topography and is optimal to minimise foreshore and environmental impact.

Figure 2.3 outlines the location of the proposed uses across the site.

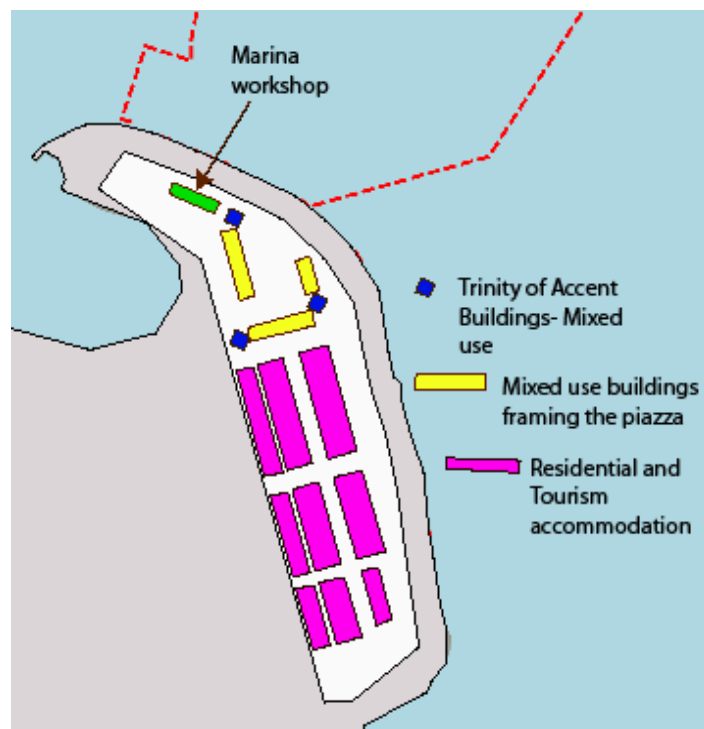


Figure 2.3: Key Land uses

The proposal now includes the residential and tourism accommodation throughout the entire site. The original proposal had these uses as distinctly separate in order to assist in resolving conflicts between the two user groups however the site appeared to be mostly set aside for residential uses.

This amend proposal now allows the whole site to be used for tourism accommodation subject to demand and ensures activity over the entire site during low tourism trade times. 100% of the accommodation can be used for tourism with a maximum of 50% to be available for residential occupation.

The mixed use buildings include a mix of tourism and residential accommodation along with uses such as a function centre, restaurant, café, office, meeting rooms, chandlery and the like which form and edge around the village piazza.

2.4.2 Setbacks

The Concept Plan states the objective of the proposed setbacks is to provide setbacks to the lake edge, site boundaries and between buildings to provide for vistas and amenity for the future occupants and all visitors and public to the site. Figure 2.4 outlines the key building setbacks proposed within the PPR.

Outside the piazza area, south of the Trinity Point Drive extension

- A minimum 20-metre setback from the 6(1) Open Space zoned land to the east which results in a 40-metre setback from the lake edge.
- A minimum 45 setback from the 6(1) Open Space zoned land to the south resulting in a total setback of 65 metres from the lake edge providing a curtilage around the cultural features of Bluff Point;
- A minimum 15-metre building separation between buildings fronting the extension of Trinity Point Drive and Celestial Drive (allows east west vistas through the site);
- A minimum 8-metre building separation along the alignment of the southern most road extension from the subdivision (allows east west vistas through the site);

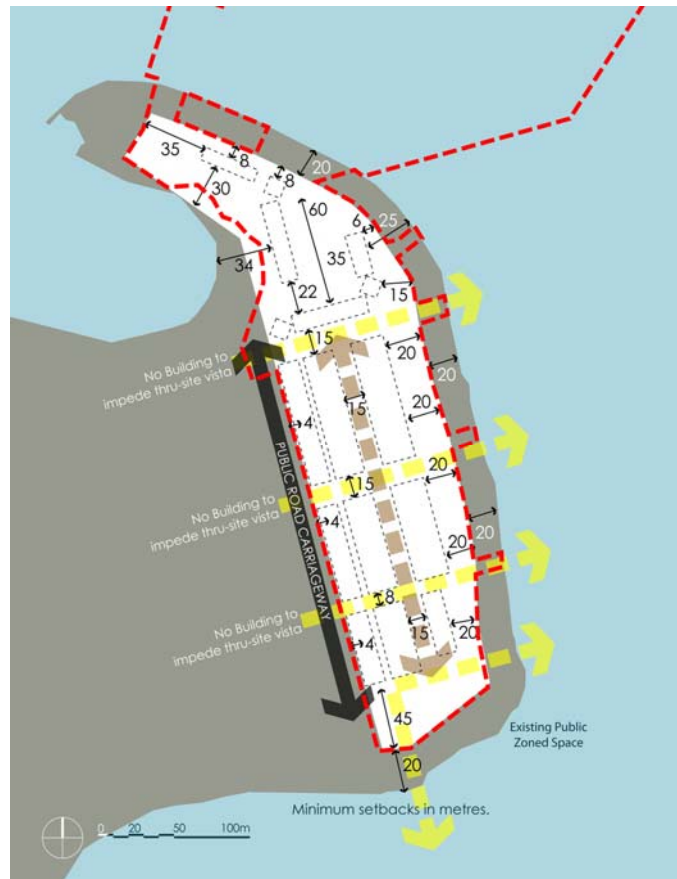


Figure 2.4: Key Building Setbacks

- A 4-metre building setback along Trinity Point Drive with the exception of the intended accent Buildings.
- A 15 metre building separation internal to the site (allows north-south views and connects Bluff Point with the Piazza area).

Within the piazza area, North of the Trinity Point Drive extension:

- Possible zero setback to Trinity Point Drive for the accent building facing west on Trinity Point Drive;
- A minimum 6m setback from the 6(1) Open Space zoned land to the east which results in a 26-metre setback from the lake edge.
- A minimum 30m building setback to the unnamed bay to the north west of the development site.

2.4.3 Heights

The Concept Plan states the objective of the proposed heights is to adopt taller building forms allowing for larger areas of open space and greater setbacks (such as to the lake and within the site) and thereby ensuring a higher level of amenity, vistas, public access and permeability for future occupants of the development, the general public and visitors to the site. Provide within the northern village piazza the opportunity to use height as a means of achieving iconic high quality design buildings consistent with the overall principle of creating a destination and anchoring and marking that space. Ensuring however, that building heights outside the village consider site topography, existing and future tree heights and the views of the site from the surrounding area including the lake. Generally outside the village piazza, heights are to reflect a more domestic scale, taking into account general residential height context and height and form opportunities directly opposite the site.

Figure 2.5 and 2.6 outline the key building heights proposed within the PPR.



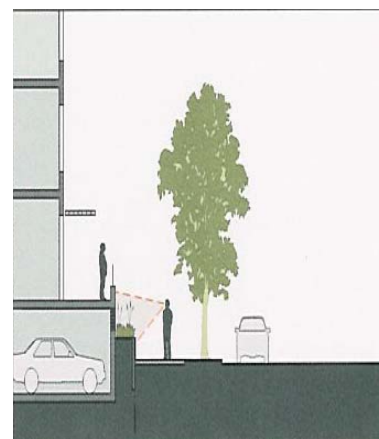
Figure 2.5: Building Heights (within the Piazza) Figure 2.6: Building Heights (Outside the Piazza)

The heights shown in Figure 2.5 (within the Piazza area) can be summarised as follows:

- 2 storey marina building with a finished floor level of 1.2AHD (shown in olive green in figure 2.5) (natural ground is 1.0AHD);
- 4 storey plus pitched roof form- northern accent building which consists of parking at ground, restaurant at piazza level, 2 storeys of residential plus pitched roof form (shown in dark blue in figure 2.5);
- 4 storey plus pitched roof- buildings on the western and southern edge of the piazza which consist of parking at ground, function centre and retail/commercial at piazza level, 3 storeys of residential one of which is included within the pitched roof form (shown in pink in figure 2.5);
- 3 storey plus pitched roof form- building on eastern edge of piazza which consists of parking at ground (under half the building) café at ground adjoining the pathway split level so it also adjoins the piazza level, plus 2 levels of residential one of which is contained within the pitched roof form (shown in orange in figure 2.5); and
- 5 storey plus pitched roof form- remaining 2 accent buildings which consists of parking at ground, retail/business centre at piazza level, 3 storeys of residential and a pitched roof form (shown in light blue in figure 2.5).

The heights shown in Figure 2.6 (outside the Piazza area) can be summarised as follows:

- 1, 2 and 3 storey plus pitched roof form with an option for partially exposed parking structure as shown in the above diagram, up to 1.2m fronting Trinity Point Drive.



- 2 storey plus pitched roof (with some building elements on a number of buildings to 3 storeys subject to detailed design and merit assessment) adjoining the setback area along the eastern side of the development and the section central to the site .

The east west section below in Figure 2.7 below demonstrates some of the height relationships in the accommodation area.

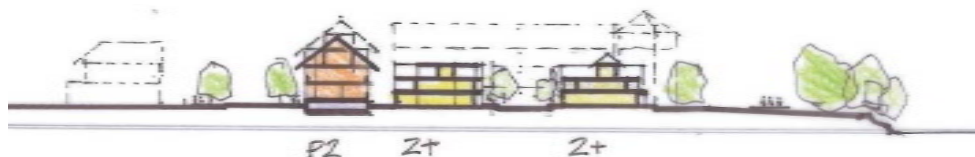


Figure 2.7 East- West Section Through Accommodation Area.

2.4.4 Public Access and Open space

The objective for public access and open space within the development is to maximise access opportunities through the site and ensure a high level of amenity for pedestrians through design quality and site interpretation of themes associated with heritage, culture, environment and the lake. The site should be linked to the surrounding access network through appropriate integration and ensure that development of the site does not preclude public authority access for works within existing and proposed future public lands.

Figure 2.8 shows the areas of the site which are available for public access and considered as open space. The open space is in many forms, including a pocket park in the south near bluff point, pedestrian and cycle boardwalk/access path along the eastern edge of the development, a public village piazza in the northern section of the site and the many roads and pathways throughout the development. Public access is also proposed over the boardwalk around the marina.

Public access across the proposed marina travel lift area within the 6(1) zoned land is to be managed to ensure public safety when the travel lift is in operation with details of proposed management measures to be provided with future Project Applications. This design is not to preclude or compromise all pedestrian access at all other times.



Figure 2.8 Proposed Public Space Locations And Public Access Rights.

2.4.5 Floor Space ratio

The objective of the floor space ratio for the development is to provide for a Floor Space Ratio (FSR) consistent with the overall objectives and other principles for the site. It is proposed to ensure that the FSR proposed is based on the site's capability identified through site analysis and consistent with the vision to create a destination with a desire to maximise public access, pedestrian linkages, vistas, setbacks, open space and landscaping opportunities. The floor space ratio proposed for the site is .65:1.

2.4.6 Staging

The objective of the staging for the development is to ensure that staging, subdivision, operation and management of the development is orderly.

The main components of the marina are proposed to be developed in two stages, generally as described in Principle 13, of the Proffered Project report concept plan document being:

- Marina Stage One – 94 private berths on floating arms with jetty connecting to foreshore, fuel and pump out facilities and services, necessary component of breakwater (southern and part eastern) which includes public day berthing area.
- Stage 1 may also include travel lift, hardstand area and repair / maintenance facility, service facilities (tanks, pumping stations and the like), office, marina lounge and managers residence, plus necessary access and car parking to cater for uses.
- Marina Stage Two – 94 private berths on floating arms, services, additional component of eastern breakwater, and necessary access and car parking to cater for stage two use. It is anticipated that any Concept Plan approval (and subsequent project approvals) will specify the terms and requirements to enable construction of Stage 2 to proceed, which may include:
 - 100% take up of Stage 1 berths
 - Results of Stage 1 construction and operational management and monitoring plans, and environmental licence performance, including but not limited to water quality monitoring program and sea wrack management and movement.

The land based components are not subject to definite staging at this Concept Plan stage as flexibility is sought.

The proponent proposes the following principles to guide staging when it is proposed:

- It is important to create the village piazza in an early stage and some of the activating land uses.
- Staging of development for residential purposes is to be consistent with land use provisions provided within the concurrent LEP amendment for this site – eg, in a staging sense, the number of residential dwellings is not to exceed the number of tourist accommodation units at any stage.
- Whilst the public pathway, spaces and their improvements will be staged, it is important that each stage provides a temporary pedestrian circulation system back to the public road network until it is replaced by subsequent final works in subsequent stages.

The above staging of the marina is not sequentially linked to staging of the remaining components of the land use proposal.

Project Applications / Development Applications are to provide details on intended subdivision, titling, operation, and management of the development, and link that into management of potential conflicts between on site uses and necessary management of other operational issues such as marina operation, noise management, public domain management and maintenance and the like.

3 STATUTORY CONTEXT

3.1 MAJOR PROJECT DECLARATION

The Minister for Planning declared the proposal a Major Project under Part 3A of the Act being a development described in Schedules 1 and 2 of the State Environmental Planning Policy (Major Projects) 2005, -namely schedule 1 clauses 14(1)(b)-marina facilities to moor, berth or store more than 80 vessels in other waters, and schedule 2 clauses 1(1)(f)-recreational or tourist facilities in a sensitive coastal location providing accommodation for any number of persons and 1(1)(g)- buildings or structures greater than 13m in height in a sensitive coastal location.

The opinion was formed by the Minister on 7 April 2008.

3.2 PERMISSIBILITY

Under the Lake Macquarie City Council Local Environmental Plan 2004 (LMLEP2004), the subject land is zoned 6(2) Tourism and Recreation and 6(1) Open Space. The lake is zoned 11 Lakes and Waterways(as shown in Figure 1.7). The proposed development is predominantly situated on the 6 (2) Tourism and Recreation zoned land.

The proposed development is permissible within the zone, with the exception of permanent residential occupancy, and complementary business uses, such as serviced meeting rooms, that intend to provide services beyond the usual needs of tourists.

An amendment to the LMLEP2004 to allow these additional uses (with limitations) is being considered concurrently with this application.

Under section 75J(3) and 75O(3) of the Act and Clause 8N of the Act approval may not be given under Part 3A of the Act for any project, or part of a project, that:

- (a) is located within an environmentally sensitive area of State significance or a sensitive coastal location, and
- (b) is prohibited by an environmental planning instrument that would not (because of section 75R of the Act) apply to the project if approved.

The subject site falls within the definition of sensitive coastal location and as stated above part of the proposal is currently prohibited. As such the Minister is unable to approve this development without the LMLEP2004 being amended.

The marina development is located on land zoned 6(1) Open space, 6(2) Tourism and Recreation and also in the 11 Lakes and Waterways Zone. Marinas are permissible in all three of these zones under LMLEP2004.

3.3 EXHIBITION AND NOTIFICATION

The Concept Plan and Environmental Assessment were placed on public exhibition for a period of 73 days from 17 December 2008 to 28 February 2009 and submissions were invited in accordance with section 75(H) of the Act.

3.4 MINISTER'S POWER TO APPROVE

The purpose of this submission is for the Director-General to provide a report on the project to the Minister for the purposes of deciding whether or not to grant approval to the project pursuant to Section 75J of the Act. Section 75I(2) and Clause 8B of the Regulation set out the scope of the Director-General's report to the Minister. Each of the criteria set out therein have been addressed below, as follows:

Section 75I(2) Criteria	Response
A copy of the proponent's environmental assessment and any preferred project report	The proponent's EA is included at Appendix F whilst the preferred project report is set out for the Minister's consideration at Appendix G .
Any advice provided by public authorities on the project; and	All advice provided by public authorities on the project for the Minister's consideration is set out in Section 4.3 below.
A copy of any report of the Planning Assessment Commission in respect of the project, and	The Planning Assessment Commission was not involved in the assessment of this project.
A copy of or reference to the provisions of any State Environmental Planning Policy (SEPP) that substantially govern the carrying out of the project	An assessment of each relevant State Environmental Planning Policies that substantially govern the carrying out of the project is set out in Appendix D .
A copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division	An assessment of each relevant EPI that substantially govern the carrying out of the project is set out in Appendix D .
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate.	The environmental assessment of the project is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The Director-General's Environmental Assessment Requirements (DGRs) were issued on 17 April 2008 and are at Appendix A . The EA lodged by the proponent on 17 November 2008 was considered to adequately address these requirements in order for assessment. A detailed assessment of how the proponent has addressed these issues is provided in Section 5 of this report.
Clause 8B Criteria	Response
An assessment of the environmental impact of the project.	All environmental impacts associated with the development are discussed in Section 5 of this Report. ESD is discussed in Section 3.7 of this Report.
Any aspect of the public interest that the Director-General considers relevant to the project.	The public interest is discussed in Section 5 of this Report.
The suitability of the site for the project.	The site is considered suitable for the project based on the limited off site impacts. The relationship between the lake and the land also make the site suitable for the uses proposed. The site is large enough to cater for the development as proposed.
Copies of submissions received by the Director-General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	All submissions provided by agencies are summarised at Section 4.3 and a summary of public submissions is attached at Appendix E .

Table 2– Compliance with Section 75I(2) and Clause 8B Criteria

The Department has met its legal obligations and the Minister has the power to determine this project subject to LMLEP2004 being amended as per section 75J(3) and 75O(3) of the Act and Clause 8N of the Act

3.5 ENVIRONMENTAL PLANNING INSTRUMENTS (EPIs)

3.5.1 Application of EPIs to Part 3A of the Act

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes reference to the provisions of the environmental planning instruments (EPIs) that substantially govern the carrying out of the project and have been taken into consideration in the environmental assessment of the project.

The provisions of all relevant EPIs are relevant considerations as the DGRs require the proponent to address such standards and provisions. Accordingly the objectives of a number of EPIs and the development standards therein that substantially govern the carrying out of the project are appropriate for consideration in this assessment.

3.5.2 State Environmental Planning Policy 19 – Bushland in Urban Areas (SEPP19)

Existing vegetation located within the adjoining open space zone along the lakes edge is to be protected and preserved other than a small portion (400 m²) on the northern edge of the site to cater for the boat ramp facility. Off sets are proposed to compensate for the area being removed. Protective measures are to be included in regard to treating and protecting the bushland on the 6(1) zoned land. The proposed development is generally consistent with the SEPP.

3.5.3 State Environmental Planning Policy 33 – Hazardous and Offensive Development (SEPP33)

Fuel storage for boats will be required and will be dealt with specifically as part of project applications at a later date at which time the provisions of SEPP 33 will need to be considered. There appear to be no impediments that prevent the development from complying with the intentions of the SEPP.

3.5.4 State Environmental Planning Policy 44 – Koala Habitat Protection (SEPP44)

This policy encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. The policy applies to 107 local government areas. Local councils cannot approve development in an area affected by the policy without an investigation of core koala habitat. The policy provides the state-wide approach needed to enable appropriate development to continue, while ensuring there is ongoing protection of koalas and their habitat.

The Terrestrial Ecological assessment by Harper Somers O'Sullivan indicates that **whilst the subject site** offers potential Koala habitat, the lack of recent records combined with no evidence of Koala's within the subject site indicates that a resident population is unlikely to occur. As a result, the subject site does not constitute core Koala habitat under SEPP 44 and no further provisions of SEPP 44 apply to the subject site.

3.5.5 State Environmental Planning Policy 55 – Remediation of Land (SEPP55)

The object of this Policy is to provide for a State wide planning approach to the remediation of contaminated land. The site, has been the subject of contamination, and has already been remediated to the appropriate standard for the purpose of the proposed development.

3.5.6 State Environmental Planning Policy 64 – Advertising Signage (SEPP64)

Given that the main focus of the proposed development is on marina and tourist related activity,

advertising signage is likely to be proposed as part of any detailed application stage and will be assessed against this policy at that time. There is no obvious impediment to signage complying with the requirements of this policy.

3.5.7 State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings (SEPP65)

This SEPP aims to raise the design quality of residential flat development across the state through the application of a series of design principles

SEPP 65 applies to the village square and possibly (subject to typology decisions to be made at detailed application stage) to the accommodation buildings outside the village square that front Trinity Point Drive.

The requirements of SEPP 65 are addressed in Appendix D. The need for future applications to comply with the Policy has been noted within the PPR-Concept Plan document (page 14).

The original concept plan was referred to the LMCC Design Review Panel and their comments and assessment of the proposal are discussed further in section 5.7 of this report.

3.5.8 State Environmental Planning Policy No. 71 – Coastal Protection (SEPP71)

SEPP71 applies to the site as the site is located within the coastal zone. The proposal is consistent with the controls within SEPP 71. A full assessment of the requirements of SEPP71 is contained in appendix D.

3.5.9 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP)

The BASIX SEPP applies to the accommodation buildings within the development. As this application is for a concept plan the specific design components of the development are not known and compliance with the BASIX SEPP can not be determined. The Concept Plan Site Principle 17-Sustainable Development includes a requirement that all future applications for relevant components of the development meet the requirements of BASIX SEPP.

3.5.10 State Environmental Planning Policy (Infrastructure) 2007(ISEPP)

The project falls under the Schedule 3 of the ISEPP and requires referral to the NSW Roads and Traffic Authority (RTA). The concept plan was referred to the RTA. This is further discussed in section 4.3.5 of this report however in summary the RTA advised the information was adequate for a Concept Plan and further information would be required at Development Application stage.

3.5.11 State Environmental Planning Policy (Major Projects) 2005 (MPSEPP)

The Major Project SEPP applies to the project as discussed in section 3.1 above.

3.5.12 Lake Macquarie Local Environmental Plan 2004 (LMLEP2004)

Under the Lake Macquarie City Council Local Environmental Plan 2004 (LMLEP2004), the subject land is zoned 6(2) Tourism and Recreation and 6(1) Open Space. The lake is zoned 11 Lakes and Waterways (as shown in Figure 1.7). The proposed development is predominantly situated on the 6 (2) Tourism and Recreation zoned land.

The proposed development is permissible within the zone, with the exception of permanent residential occupancy, and complementary business uses, such as serviced meeting rooms, that intend to provide services beyond the usual needs of tourists.

The permissibility issues of the proposal are discussed in section 3.4 above. A summary of the other requirements of LMLEP2004 is contained within appendix D.

The development is considered to be generally consistent with the requirements of LMLEP2004, with the exception of the permissibility issues as discussed previously.

3.6 OTHER LEGISLATION, PLANS AND POLICIES

3.6.1 Lifestyle 2020

Lifestyle 2020 is Lake Macquarie Council's primary Strategic Planning document, setting out city wide core values and strategic directions. It establishes four core values, being sustainability, equity, efficiency and liveability.

The Vision Values and Aims of Lifestyle 2020 are contained within the LMLEP2004 and as such are addressed in Appendix D.

3.6.2 Lake Macquarie City Council Development Control Plan Number 1- Principles of Development (DCP1)

DCP 1 is a comprehensive city wide DCP and will be considered in detail during the assessment of the detailed project/development applications for the proposed development.

Relevant components of the DCP are discussed throughout the environmental assessment in section 5 of this report.

3.6.3 NSW Coastal Policy 1997 and NSW Coastal Design Guidelines

By virtue of section 2.4 the NSW Coastal Policy does not apply to the landward areas of LMCC Local Government area. The Coastal Policy aims to better co-ordinate the management of the coast by identifying, in a single document, the State's various management policies, programs and standards as they apply to a defined coastal zone. These policies, programs and standards frequently obtain their legitimacy from other legislation. To this end the Coastal Policy predominantly identifies issues and assigns responsibility for their management or resolution rather than provide specific advice about individual development sites and as such no detailed assessment of the proposal against this policy has been undertaken.

The NSW Coastal Design Guidelines provide a structure for consideration of development on the NSW Coast. In doing so, it identifies a broad hierarchy: Coastal Cities, Coastal Towns, Coastal Villages, new coastal neighbourhoods (hamlets and villages) and isolated coastal dwellings. This Hierarchy is a tool to assist in achieving appropriate development outcomes.

In reviewing the guidelines the proponent states that "the site is considered to be a suburb of a Town and as such assessed the development against the criteria for a Coastal Town.

The NSW Coastal Design Guidelines define Coastal towns as small centres that vary in size and have a population ranging from 3,000 to 20,000 people. Coastal towns offer a range of services and facilities which may include:

- a commercial, retail town centre and suburbs
- parks, playing fields and caravan parks
- a main street
- churches and education institutions
- medical facilities.

The NSW Coastal Design Guidelines define Coastal villages as small centres with a population of up to 3,000 people. Villages are located remote from other settlements or may be the outlying suburbs of larger settlements where they have a similar population and comparable present issues and future opportunities

On the above definitions it is considered that the development is more appropriately defined as a coastal village and as such an assessment of the proposal against both definitions and there applicable guidelines is attached in Appendix D.

The development is consistent with all of the relevant principles within the NSW Coastal Design Guidelines.

3.6.4 Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy was released in October 2006. The Regional Strategy is the strategic land use planning framework to guide the sustainable growth of the Lower Hunter over the next 25 years. The Governments vision for the Lower Hunter embraces a sustainable future for the region - balancing environmental, economic and social outcomes so that the quality of life can be enhanced without burdening future generations. The aspiration is based on characteristics unique to the region, but also reflects what is important to people wherever they might live.

The key elements of the Strategy relevant to this site and proposal are:

- Provide for up to 115 000 new dwellings by 2031 ensuring the potential to accommodate both the changing housing demands of smaller households and reduced occupancy rates of the existing population as well as meeting the housing demands for an additional 160 000 people.
- Promote Newcastle as the regional city of the Lower Hunter, supported by a hierarchy of major regional centres at Charlestown, Cessnock, Maitland and Raymond Terrace, emerging major regional centres at Morisset and Glendale - Cardiff as well as specialised centres and lower older centres.
- Boost the economic and housing capacity of key centres by refocusing a higher proportion of new housing in these centres. This will help to maintain the character of existing suburbs, provide greater housing choice, maximise use of existing and future infrastructure, including public transport, and achieve a more sustainable balance of infill to Greenfield development.
- Utilise dwelling and employment projections as a focus for detailed planning of centres.
- Provide capacity within employment zones, major centres and strategic centres to accommodate up to 85 percent of the anticipated 66 000 jobs required by 2031.
- Identify and protect environmental assets, rural land and natural resources, landscape and rural amenity, rural communities and the character of existing rural villages.

The proposal is consistent with these key elements.

3.6.5 Lake Macquarie Estuary Management Plan

The Lake Macquarie Estuary Management Plan defines a series of actions which if implemented, will help maintain and improve Lake Macquarie's environmental and socio-economic values. They will help develop a greater awareness and understanding of the benefits of lake management actions within the community and as such enhance recreation, tourism, community attitudes, commercial opportunities and the general well-being of the Lake.

Management Plan actions relevant to new foreshore development and boating facilities are as follows:

- rigorously enforce sediment and erosion control requirements on construction sites;
- require water sensitive urban design techniques in new development areas and infill development;
- provide more boat sewage discharge facilities around the lake;
- liaise with relevant government agencies and boat owners to ensure that all new moorings are of a type that would not damage seagrasses;
- create riparian buffer zones; and
- enhance and maintain foreshore vegetation.

The proposal will assist in achieving a number of these actions.

3.6.6 Lake Macquarie Mooring Management Plan (LMMMP)

The aim of this plan is to ensure that future mooring management practices support the Waterways Authority's marine safety and environmental sustainability goals.

The purpose of this plan is to ensure the following:

- Integrated decision making by the Waterways Authority, State and Local government agencies, particularly to ensure the appropriate location of moorings and appropriate land-based infrastructure to service them;
- Fair and equitable access to the Lake for all user groups within the region;
- An increased level of public participation in the decision making processes for which the Waterways Authority is responsible which would include any revision to the Plan;
- A strategic plan is in place in anticipation of further urbanisation likely to bring an increased demand for moorings.

Whilst this development does not propose any moorings, there are moorings currently located within Bardens Bay in which the marina component of the development is proposed. No moorings will be displaced if the marina is built.

The mooring management plan states criteria for ideal locations for a moorings, which are considered relevant for a marina location as well. The ideal locations are those:

- which provide sufficient shelter from winds and waves;
- are sufficiently deep for the draught of the vessel being moored;
- allow movement of other vessels through a navigation channel; and
- that consider the location of seagrass beds and other, similar, aquatic habitats.

The proposed marina size and location is:

- not ideal in terms of having natural shelter from the wind and waves and as such requires the construction of a breakwater;
- Ideal in regard to having sufficient draught for vessels, with no dredging required for the development of the marina.
- Not ideal in terms of the length in which the Marina extends into the Bay. The marina limits the navigational width of the bay.
- Suitable in terms of not requiring the harm or removal of any seagrass. There is a large bed of seagrass located to the south of the marina and potential changes to the water flow due to the breakwater structure may impact this seagrass. This is discussed further in section 5 of the report.

3.6.7 Lake Macquarie Foreshore Stabilisation & Rehabilitation Guidelines

The intention of this guideline is to assist landowners and land managers to determine which foreshore stabilisation treatment and construction techniques suit their situation. The Guidelines are a support document to LMLEP 2004 and DCP1, specifically in relation to Section 3.1.1 – Development Adjoining the Lake and Waterways Zone. The general aim of the Guidelines is to assist in re-establishing a 'stable', and preferably a natural, foreshore around the lake and along its tributaries.

The PPR includes a level of detail that complies with this guideline. As this application is a concept plan, the full detail of the proposal is not known however any future application must have regard for these guidelines.

3.6.8 NSW Threatened Species Conservation Act 1995

A Terrestrial Flora and Fauna Assessment prepared by Harper Somers O'Sullivan (Appendix S of the original concept plan documents) and an aquatic ecology assessment undertaken by the Ecology Lab (appendix T of the original concept plan documents) demonstrate compliance with this Act.

3.6.9 Protection of the Environment Operations Act 1997

The purpose of this Act is to control pollution and set up a licence regime. It is possible that filling of the site will require a licence depending on the type and quantity of fill. This issue will need to be addressed as part of the project application submission. Trinity Point Marina and Mixed Use Development will require licensing due to the marina and boat repair facilities associated with the development.

DECC have reviewed the concept plan in this regard and have provided likely conditions for any such licence.

3.6.10 Environment Protection and Biodiversity Conservation Act 1999 (EPBC)

The objects of this Act are:

- a) To provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance; and
- b) To promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and
- c) To promote the conservation of biodiversity; and
- d) To promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and Indigenous peoples; and
- e) To assist in the co-operative implementation of Australia's international environmental responsibilities; and
- f) To recognise the role of Indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- g) To promote the use of Indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

The proponent states that the proposed development, , does not impact on matters referenced by the EPBC Act. Specifically, the proposed development does not impact on migrating species, RAMSAR wetlands and species listed under Section 18 & 18A of the EPBC Act. They also state that the proposal does not impact on any World Heritage area or places listed under the National Heritage list. Accordingly, a referral to Department of the Environment, Water, Heritage & the Arts is not required.

EPBC species that have been recorded within the vicinity of the site include the green turtle (82 sightings within Lake Macquarie) and the loggerhead turtle. Six green turtles have recently died within Lake Macquarie, a number within the vicinity of Trinity point. It is unknown whether the cause of death is due to pollution, boat strikes, illegal netting or rubbish dumping. The marina proposed at Trinity Point may increase pollutants, boat strikes and rubbish dumping that threaten marine turtles. The proposed marina will likely increase the number of large boats traversing Lake Macquarie in a path possibly used frequently by Marine turtles (ie; between Swansea channel and the warmer waters surrounding the Eraring Power Station).

The application has not been referred to the Department of Environment, Water, Heritage and the Arts (DEWHA) by the applicant. As part of the assessment process the ecology report was referred in the event that DEWHA decide to require it. A response to say the information has been passed onto the relevant section was received and no further advice has been forthcoming.

3.6.11 Related Development Applications, Consents and Master Plans

As discussed in section 1.2.2 above a master plan has been approved for the subject site by DA/3737/2004 titled the Kendall Grange Master Plan.

The master plan relates to the adjoining residential zoned land the west as well as the subject site. Figures 1.18 and 1.19 in section 1 of this report indicate the overall master plan and the layout for the 6(2) Tourism and Recreation zoned land being the subject site.

The main guidelines contained within the Master Plan are located under the heading of Urban Design Principles, starting at page 22.

The following plan, extracted from the Master plan, shows the general structure as envisaged.



Figure 3.1 Structure Plan (extract from the approved Kendal Grange Master Plan)

The numbers on the plan refer to specific key design principles. The key design principles are:

1. Retain assets of cultural significance such as the existing lake baths and grotto on the south-eastern shore.

Comment:

The proposed development is consistent with the retention of assets of cultural significance. The sun dial and grotto will be retained, and Aboriginal items will be respected, with the opportunity provided for salvage of these. It is also intended that interpretive signage will be provided throughout the site, relative to these items. The baths were proposed to be retained however Lake Macquarie City Council has advised they will be a significant management liability and as such do not require them to be retained. The approval of the Master Plan by Lake Macquarie City Council stated that the existing baths shall be removed and the applicant shall provide evidence that the permissive occupancy over the structure has been cancelled or that the Department of Lands requires the permissive occupancy to be retained for any proposed boat exclusion area.

2. Provide social and economic opportunities through the location and design of open spaces, and through the provision of small scale public facilities on the north-eastern shore of the site.

Comment:

The proposed development includes public facilities on the north-eastern shore of the site for social and economic opportunities via the proposed marina and complementary shore-based facilities, such as a café, restaurant, meeting rooms, function centre and public piazza area. They are not considered small scale though as stated in the mater plan principle.

Open space is also proposed along the length of the eastern edge of the development with a 20 metre wide strip adjacent the 6(1) Open Space zoned land. There is also an area of open space approximately 45 m by 65m in the southern area of the site adjacent Bluff Point.

3. Appropriately balance the ecological, scenic and cultural character of the site through provision of direct open space linkages maintenance and creation of view corridors and subdivision strategies that result in retention of existing significant vegetation.

Comment:

This principle relates mainly to the residential section of the master plan however the subject site does meet this with the extension of the road pattern of the subdivision providing view corridors. The significant vegetation discussed in the Master Plan primarily relates to the residential zoned land. The subject site has limited significant vegetation on site.

4. Provide an interconnected street system for easy circulation and direct linkages with the surrounding street network. Generally, streets should terminate with view of open space or water.

Comment:

The proposed development provides an extension to the interconnected street system from the adjoining network by way of vistas created by the introduction of a similar road system, building separations and the inclusion of pedestrian pathways.

5. Morisset Park Road is to be extended into the site as the principal vehicle access. Design new streets to generally align with the shape and topography of the peninsula in a crescent pattern.

Comment:

This is not relevant to the subject site.

6. Excellent solar access with predominantly east west streets providing a majority of lots with a northern aspect.

Comment:

This principle relates primarily to the residential section of the master plan area however the detailed design of the subject site will consider the provisions of solar access as required by SEPP65 and DCP1.

7. Retain and enhance existing vegetation in a foreshore buffer area, particularly adjacent to the mangrove/salt marsh area on Bardens Bay and restrict access to foreshore hazards such as steep and unstable land.

Comment:

The proposed development will retain and enhance the existing vegetation buffer area along the northern edge and also the mangrove /salt marsh area of Bardens Bay. Revegetation and rehabilitation of this area is proposed. Access to hazards will be restricted. This restriction has also been requested by DECC.

8. Provide appropriate pedestrian and cycle connections (on and off street) that provide direct access to the foreshore area and provide for connections into a wider pedestrian and cycle network.

Comment:

The subject development includes pedestrian/cycle links within the development and the 6(1) Open Space land adjoining to the east also has the ability to cater for this activity. The design of the layout and street configuration also provides for pedestrian and cycle connections.

9. Optimise views of the lake from both the private and public domain.

Comment:

The design optimises views of the lake from both the public and private domain.

10. Housing types to respond to the varying site constraints such as topography and the retention of existing vegetation. Standard detached housing is appropriate for most of the site while small lot housing is appropriate only for the east west lots in order to maximise northern exposure.

Comment:

This principle primarily relates to the residential component of the master plan.

11. Employ strategies to retain significant vegetation wherever possible such as the location of open space, positioning of new dwellings, lot sizes and alignment of their boundaries.

Comment:

There is limited significant vegetation on the subject site. The majority of vegetation is on the 2(1) residential land to the west.

12. Development within the tourist zone should maintain visual and access links to the water and open space and should provide social and economic opportunities through the provision of employment uses and community/meeting facilities.

Comment:

The proposed development will maintain and enhance visual and access links to the water and open spaces within the site and provide social and economic opportunities, including employment, community and meeting facilities.

13. Provide for potential future subdivision of neighbouring lots on the northern side of Henry Road with an access connection extending in form the master plan site.

Comment:

This principle relates to the residential component of the master plan.

Figure 1.19 in section 1 of this report indicates the proposed development of the tourism area under the Kendal Grange Master Plan. The following is a discussion on the components of the tourism area as described in the Kendal Grange Master Plan and indicated in Figure 1.19.

Northern Tourism zone

This part of the tourism zone was intended to accommodate a range of public/community facilities that will be available for the residents of the site and surrounding areas.

This remains the same in the proposed development with a café, function centre, restaurant, meeting rooms, public piazza and other associated shops located within this area. Additional uses of residential and tourist accommodation are also now proposed in this area. The master plan also notes that the location of the development in this area is constrained by the low lying and sensitive salt marsh/mangrove areas of Bardens Bay, and such development needs to be carefully sited.

Central (accommodation) Zone

The master plan states that the central zone within the tourism area will be the location for future accommodation buildings. It also states that whilst indicative, the form of the accommodation is envisaged as small scale detached and semi detached buildings broken into three clusters.

The master plan also sets guidelines for development of this central zone and the proposal fails to meet one of those guidelines, which states a maximum height of 2 storeys.

This central part of the site remains an accommodation zone. The building form is a combination of detached and attached forms. The amended proposal as shown in the PPR includes small scale development in the majority of this central zone.

Scale can be defined as the size of a building and its relationship with its surrounding buildings or landscape. This component of the proposed development is reflective of the built form surrounding it (both existing and proposed) and affords adequate area for landscaping.

The accommodation is broken into three sections. The first area is that closest to the foreshore reserve area, to the east of the site. This is proposed to be single detached housing typically two storeys in height plus a pitched roof with some small three-storey elements. The middle section of the accommodation zone is also single detached houses typically two storeys in height with some small three-storey elements plus pitched roofs.

The third section is the area that fronts Trinity Point Drive. This area is proposed to be of attached form either terrace house types or residential flat buildings. The buildings include basement parking that is to be 1.2 metres out of the ground and then be of two and three stories with pitched roofs. Habitable rooms are also proposed within the roof pitch.

Southern (Open Space) Zone

The intentions of the master plan for this southern area of the site is to integrate with the open space zoned land to create a publicly accessible open space area on the bluff overlooking Lake Macquarie.

The proposal includes a 45m by approximately 65m area of publicly accessible open space adjoining Bluff point along with a 20 metre wide strip along the eastern edge of the development adjoining the proposed foreshore reserve.

3.7 ECOLOGICALLY SUSTAINABLE DEVELOPMENT (ESD) PRINCIPLES

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

3.7.1 Integration Principle

In assessing this proposal long term and short term environmental, social and economic matters have been considered.

At a concept plan level the proponent has generally demonstrated that the development will be a social and economic benefit in the long term for the area though the creation of tourist and residential accommodation, additional services and facilities and provision of employment opportunities at the construction stage and for the servicing of the development. In the short term there is likely to be an impact to the community through construction and through the change of use of the site. The site has typically included extensive areas of undeveloped land and had a typically residential type use.

The impacts of the marina are of most environmental concern. These matters are further considered in section 5 of this report. A number of modifications and conditions are proposed to address these concerns.

3.7.2 Precautionary Principle

At the concept plan level, the proponent has generally demonstrated that the development will be beneficial for the area in both economic and social terms.

It is very difficult to be satisfied of the environmental impacts of the proposed marina at a concept level. These impacts are further considered in Part 5 of this report. The marina is proposed in two stages to enable monitoring of the impacts of stage one, prior to approval stage two. This is a beneficial amendment to the proposal however additional information will be required to ensure the construction of stage one is acceptable from an environmental perspective. A number of modifications and conditions are proposed in this regard.

3.7.3 Inter-Generational Equity

A number of submissions raise concern with the development stating that they would prefer the site to remain as is, and for the marina to be deleted to ensure the lake and the bay are protected for future generations to enjoy as they have.

The proposal will provide additional housing and tourism options that are not available now, and will also provide additional services and facilities such as the marina and its associated uses.

The staging of the marina and the modifications and conditions as proposed further support the implementation of the inter generational principle.

3.7.4 Protecting Biodiversity

The biodiversity of the site has been considered particularly in regard to the endangered ecological communities on the site.

The proposal has been referred to the NSW Department of Environment and Climate Change (DECC) for review concerning biodiversity impacts amongst other things. DECC generally support the proposal and have provided conditions for any approval.

3.7.5 Improved Valuation

The proposal has incorporated principles of water sensitive urban design and includes a number of other environmentally sustainable outcomes. These measures will help future accommodation development applications for the site comply with BASIX. It is evident that the value of the endangered ecological communities is understood with regeneration and revegetation of endangered ecological communities also proposed. A number of best practice methods are proposed throughout the concept plan.

3.8 OBJECTS OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The objects of any statute provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of a project application under Part 3A must be informed by the relevant provisions of the Act, consistent with the backdrops of the objects of the Act.

The objects of the Act in section 5 are as follows:

(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,
- (iii) the protection, provision and co-ordination of communication and utility services,
- (iv) the provision of land for public purposes,
- (v) the provision and co-ordination of community services and facilities, and

- (vi) the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and;
 - (vii) ecologically sustainable development, and;
 - (viii) the provision and maintenance of affordable housing, and;
- (b) to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and;
- (c) to provide increased opportunity for public involvement and participation in environmental planning and assessment.

Of particular relevance to the assessment of the subject application is consideration of the Objects under section 5(a). Relevantly, the Objects stipulated under section 5(a) (i), (ii), (iii), (iv), (v), (vi), (vii), are significant factors informing the determination of the application. The project does not raise significant issues concerning (viii).

The proposed development will benefit the social and economic welfare of the community by providing additional sites of social attraction, increased employment opportunities, and increased housing choice. The proposed development as modified is considerate of the environment.

The proposed development is consistent with the object of promotion and co-ordination of the orderly and economic use and development of land. The proposal relies on a simple extension of existing utilities and services. The proposed development ensures the economic use of land, promoting the principles of highest and best use.

The proposed development does not inhibit the protection, provision, and co-ordination of communication and utility services.

The design of the proposed development encourages public access to the foreshore and utilisation of the various tourist facilities by the public. The immediate foreshore is to be acquired by LMCC for ownership and use by the public.

The proposal includes a number of facilities that will be able to be utilised by the community.

The proposed development is consistent with the object of protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats. The development includes the removal of a small area of EEC however offsets are proposed in this regard.

With respect to ESD, the Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The Objects of the Act, have been considered including the encouragement of ESD in the assessment of the concept plan application.

3.9 FUTURE APPLICATIONS

It is appropriate for the future applications to be considered under part 4 of the EP and A Act 1979 given the broad parameters for the site will have be approved in the concept plan as modified.

4 CONSULTATION AND ISSUES RAISED

4.1 PUBLIC EXHIBITION DETAILS

The major project application was exhibited for 73 days from 17 December 2008 to 28 Feb 2009.

Notification of the exhibition was given in advertisements in:

- The Newcastle Herald on 17 December 2008 and 14 February 2009;
- The Central Coast Advocate on 17 December and 18 February 2009;
- The Post on 17 December and 18 February 2009;
- The Star on 17 December and 18 February 2009; and
- The Lakes Mail on 18 December and 18 February 2009

Exhibition locations were at:

- Department of Planning Head Office, Bridge Street Sydney;
- Department of Planning Newcastle Office, Honeysuckle Drive, Newcastle;
- Nature Conservation Council, Level 2, 301 Kent Street, Sydney;
- Lake Macquarie City Council (LMCC) Admin Office, Main Road Speers Point;
- Lake Macquarie City Council Library- Morisset;
- Lake Macquarie City Council Library -Wangi;
- Lake Macquarie City Council Library -Toronto; and
- Lake Macquarie City Council Library -Swansea.

Letters were sent to approximately 4300 adjoining and affected owners notifying of the exhibition and inviting submissions. The EA was also provided for download on the Lake Macquarie City Council and the Department's website.

As the deemed refusal period is 60 days and there being no provisions within the Act the PPR was not exhibited. It was made publicly available for view on both LMCC and the Department of Planning websites.

The Environmental Assessment (EA) has therefore been exhibited in accordance with section 75H (3) of the Act.

4.2 SUBMISSIONS FROM THE PUBLIC

4.2.1 Pre Exhibition

199 public submissions were received prior to the exhibition period. 174 of the submissions supported the proposal. 154 of these submissions were general pro forma letters. 23 of the submissions opposed the proposal, 5 of which were general pro forma letters.

4.2.2 During Exhibition

During exhibition, a total of 535 submissions were received. 174 submissions supported the proposal with 170 of these being general pro forma letters and 3 requested an extension of time.

358 of the submissions opposed the proposal with 39 of these being general pro forma letters.

A summary of these submissions is attached at Appendix F and the proponents response is attached at Appendix G.

Generally there appears to be widespread opposition to the proposal.

During the public exhibition period, submissions against the proposal were lodged by concerned individuals, community groups in the area, by both Lake Macquarie City Council and Wyong Shire Council and by LMCC committees with responsibility for the lake.

During the exhibition period there were 323 personally written submissions, of which 319 opposed the development proposal.

The community groups within the area who oppose the development include:

- Southlake Business Chamber and Community Alliance
- Lake Macquarie Tourism Association
- Bonnells Bay Progress Association
- Coal Point Progress Association
- Dora Creek Progress Association
- Sunshine Progress Association
- Community Environment Network Inc
- United Residents Group for the Environment of Lake Macquarie
- Pillapai Road Water Front committee
- Morisset Park & District Action Group

The following issues were raised in the public submissions objecting to the proposal:

- Loss of amenity due to increased persons using the lake and area in general
- Built form is not sympathetic and is too tall and large, bulk and scale is excessive
- Lack of car parking and coach/bus parking
- Inadequate community consultation
- Likelihood the development being half built and being a white elephant
- Concern with the tourism component being converted to residential in the future, when the tourism component does not work.
- Designed to have the tourism development fail
- Failure to comply with the master plan
- The development will not bring the projected employment
- Marina is too big
- The marina will not be viable
- The public use facilities such as the café and the like will not be utilised and therefore will be unviable
- The development will lead to the reduction in use of the lake by residents and visitors
- The tourism component is located within the flood liable area
- Flora and Fauna will be adversely impacted
- Concern with noise from the helipad
- Heritage impacts
- Exclusiveness of the development
- Currently an under supply of tourism land and this proposal is wasting it for residential development
- Inappropriate use of the land
- Traffic impacts
- Lack of infrastructure
- Environmental impacts of the marina in terms of seagrass, water quality, water movement and foreshore erosion
- Impact on the recreational amenity of the lake
- There is no need for a marina of this scale or the land based development.
- Unacceptable noise from the marina hardstand operations
- Pollution
- Overall size of the development is excessive
- Restrictions on the public land
- Loss of views

The following issues were raised in the public submissions supporting the proposal:

- Good to have the additional facilities proposed
- The development is consistent with other large built forms on the lake such as the power stations
- The development assists in reducing urban sprawl
- Positive economic impacts
- The area is already subject to regular helicopter landing and they are not considered intrusive.

Discussion on the key issues raised in the submissions is included in **Section 5** of this report.

4.2.3 Preferred Project Report (PPR)

A PPR was lodged on 5 June 2009. As the deemed refusal period is 60 days and there being no provision in the Act, the PPR was not advertised. It was made publicly available for view by being placed on LMCC and DoP web sites.

To (9 July 2009) a total of 34 submissions received in respect of the PPR. All of these submissions oppose the proposal. The following community groups remain concerned with the proposal:

- Lake Macquarie Tourism Association
- Bonnells Bay Progress Association
- Coal Point Progress Association
- Dora Creek Progress Association
- Sunshine Progress Association
- Community Environment Network Inc
- United Residents Group for the Environment of Lake Macquarie
- Pillapai Road Water Front committee
- Morisset Park & District Action Group

The issues raised in regard to PPR relate to:

- The size of the marina
- The suggestion that the original plan was an ambit claim to make the modified proposal seem acceptable when the proposal was reduced - Inflation of original proposal
- Amenity
- Built Environment
- Departure from original proposal
- Documentation
- Economic impacts
- Flooding
- Flora and Fauna
- Inappropriate use of the site
- Noise
- Lack of Infrastructure
- Lack of public facilities
- Pollution
- Size of the development
- Use of public land
- Views
- Water quality

4.3 SUBMISSIONS FROM PUBLIC AUTHORITIES

As the assessment function of the Concept Plan was delegated to Lake Macquarie City Council there was no referral to it. The delegated officer received comments from relevant staff within Council which forms part of the

overall assessment. The elected Councillors made a submission and it has been considered together with the other public submissions.

Submissions were received from a number of public authorities the details of which follow.

4.3.1 NSW Department of Lands

The Department of Lands advised on 14 July 2008 that the documentation submitted was adequate for assessment.

During the assessment and exhibition period of the application, the Department of Lands advised that they had no comment to make on the proposal. The department also stated that:

"the department has been working closely with the proponent for this proposal over a number of years as part of our requirements to attain owners consent to the proposal and a number of solutions to problems identified during this process has been incorporated into the proposal. We are moving to enter into a development deed of agreement once the proposal has been determined, if required.

4.3.2 NSW Department of Primary Industries-Fisheries

In a letter dated 8 July 2008 The NSW Department of Primary Industries-Fisheries advised the Environmental Assessment was adequate for assessment.

During the assessment and exhibition period on 6 January 2009, they advised that "The department has assessed the information provided to support the proposal and has no statutory objections to an approval being given, as there are no activities being undertaken that would trigger objections under part 7 or 7a of the Fisheries Management Act."

4.3.3 NSW Department of Water and Energy (DWE)

In a letter dated 16 July 2008 the Department of Water and Energy advised that additional information was required for assessment. The following issues were required to be addressed:

- Details of the highest predicted groundwater table for areas of proposed excavations
- Details if the proposed excavations will intercept the groundwater table
- Plans and elevations detailing the depths proposed excavations in relationship to the highest predicted groundwater table.
- Acknowledgment that excavations that intercept the groundwater table and the activity of temporary de-watering require prior approval from DWE under Part 5 of the water Act.
- The preparation of a contingency plan with trigger mechanisms, remediation actions and communication strategies for events that have potential to contaminate the aquifer and establish a groundwater monitoring network/reporting program, linked to a contingency plan.

The Environmental Assessment was referred to Department of Water and Energy for assessment in December 2008. The Department reviewed the documents and provided the following comments:

- The assessment adequately addresses the requirements for a bore licence
- The construction of bio-retention structures and infiltration swales should not be at a depth that will permanently expose the water table.
- Due to the presence of Acid Sulphate Soils DWE supports the preparation of an Acid Sulfate Soils Management Plan and Groundwater Management Plan to mitigate the risk
- Where potential impacts are identified the contingency plan to identify limits to the level of impact and the measures that would remediate, reduce or manage potential impacts to the existing groundwater resources and any dependant groundwater environment.

These issues have been addressed and included in Site Principles 11-Water Management of the Preferred Project Report Concept Plan.

4.3.4 NSW Department of Environment and Climate Change (DECC)

The Department of Environment and Climate Change raised concern with the adequacy of the Environmental Assessment during the test of adequacy phase of the process. DECC's letter dated 16 July 2008 raised the following concerns:

- Issues with the clarity of the noise assessment
- Deficiencies with the threatened species and flora and fauna assessments
- Inadequate consideration of dust emissions
- Inadequate detail about Chemical and fuel storage
- Inadequate consultation with the aboriginal community
- The need for a cultural heritage management plan.

A meeting was held between DECC, the proponents and the assessing officer to discuss the outstanding flora and fauna issues.

The revised Environmental Assessment was referred to DECC during the exhibition and assessment period. DECC advised on 13 February 2009 that if the matter was to be approved conditions of consent as attached to the DECC letter should be incorporated into the consent.

DECC advised that the Marina will require an Environmental Protection Licence under the POEO Act.

Another list of issues were provided and suggested that the proponent be required to demonstrate compliance prior to project application approval. As this application is for a concept plan, the detail referred to by DECC will be required at Project application stage and does not prevent the approval of the concept plan, subject to conditions.

4.3.5 NSW Roads and Traffic Authority (RTA)

During the test of adequacy phase of the development the RTA raised concern and requested additional information relating to:

- Current traffic counts of all intersections
- Marina trip generations
- Inbound/outbound trip ratios
- Additional intersection analysis.

On 3 December 2008 and 12 January 2009 the RTA advised that the application was considered adequate for exhibition and that the further detail is required by the RTA prior to the RTA providing comment on any development application. These issues are included in Site Principle 10 Roads, Vehicular Access and Parking of the preferred project report concept plan.

4.3.6 NSW Maritime

NSW Maritime provided advice on 7 July 2008 and again on 13 January 2009 stating that NSW Maritime has no navigational objections to the proposal and provided the follow comments:

- NSW maritime suggest a no wash area be signposted along the outside of the marina wall and a 4 knot idle manoeuvring within the marina
- A medivac point should be considered providing easy access for rescue helicopter and ambulance
- Navigation aids such lighting the existing cardinal mark No.061, installing new east cardinal mark and light on the eastern corner and marking the entrance to the marina by port and starboard navigation fixtures will be required

- Boat exclusion zones may be unnecessary as the area of the proposed exclusion zone is shallow which prevents boat access
- A policy will be required in relation to persons living aboard vessels within the marina.

These detail issues will be addressed by any future application

4.3.7 Awabakal Traditional Owners Aboriginal Corporation

The Environmental Assessment (EA) was referred to the Awabakal Traditional Owners Aboriginal Corporation for comment during the adequacy and exhibition stages of the assessment.

In its letter dated 10 July 2008 the Awabakal Traditional Owners Aboriginal Corporation state that the EA does not adequately address the DGRS.

The concerns relate to:

- The shell middens, scarred tree and axe grinding grooves within the proposed development are in danger of being further destroyed. Measures need to be taken to protect these in-situ
- No safety measure have been proposed to ensure the protection of the registered shell midden where the public baths are located
- The need for site protection for the fragile shoreline that contains an in-situ napping site from the water disturbance from vessels that will be utilising the proposed marina
- The lack of communication and consultation with the Awabakal Traditional Owners

The Awabakal Traditional Owners Aboriginal Corporation were notified of the amended EA and in its response dated 14 February 2009 still raise concern with the proposal and its impact to the aboriginal cultural heritage of the site.

The items listed are located within the 6(1) zoned land that is currently under acquisition by LMCC. The PPR Concept Plan includes an updated Site Principle 18- Indigenous and European Heritage which includes the requirement for a Aboriginal Cultural Heritage Management Plan and Heritage Interpretation Policy to be prepared and all future development to be carried out in accordance with this. These documents are also required to be prepared and include ongoing consultation and involvement of the aboriginal community and as such adequately address these concerns.

4.3.8 NSW Aboriginal Land Council (NSWALC)

The Environmental Assessment (EA) was referred to the NSW ALC for comment during the adequacy and exhibition stages of the assessment.

In its letter dated 10 July 2008 the NSW ALC advise that the response has been prepared on advice from the Kooppahtoo Local Aboriginal Land Council.

The letter states that neither the Kooppahtoo Local Aboriginal Land Council or NSW ALC want to stop the development from taking place, being acutely aware of the economic benefits that such a development could generate.

Concern is raised however with the Aboriginal heritage significance of the site and the need for reasonable steps to be taken to either protect or effectively mitigate the destruction of known and discovered aboriginal sites and the EA is considered inadequate at this time in regard to:

- Level of significance of the heritage value of the site;
- Differences of opinion between the aboriginal community and the aboriginal study submitted with the application; and
- Inadequate Mitigation strategies.

The amended EA was placed on exhibition and relevant agencies notified. The NSW ALC advise in its letter dated 27 February 2009 that on the basis of most recent discussions with the CEO and Aboriginal site Officer at Koombahtoo Local Aboriginal Land Council, NSWALC supports the Trinity Point development being approved subject to certain conditions and conservation strategies. These include:

- The construction of a break wall to provide protection for the midden located on the southern foreshore from wash of boats
- Rightful members of the aboriginal community being provided with access to the site for cultural purposes such as collection of ochre;
- JPG employ appropriate aboriginal people to monitor all subsurface digging for the development given the potential for additional sites to be found;
- The establishment of a keeping place/education centre to provide visitors and residents with an opportunity to gain better understanding of the aboriginal and heritage values
- The construction of boardwalks to protect certain sites from possible damage, particularly with respect to the midden located on the southern foreshore; and
- The erection of plaques and the employment of local aboriginal people who can assist with providing information and an interpretation about the cultural and heritage significance of the trinity point site.

The documentation submitted with the PPR states that JPG are confident the principles and commitments given to date including DECCs 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 the NSWALC strategies:

- JPG do not propose to construct a break wall to protect the southern foreshore.
- Ultimately the open space zoned land will be owned and managed by LMCC for public use. Council will be responsible for access to the land, including considerations such as cultural access
- JPG has provided commitments to employ aboriginal people as part of the salvage excavations recommended by the project archaeologist and included within Site Principle 18- Indigenous and European Heritage of the Preferred Project Report Concept Plan.
- An opportunity for the public to gain a better understanding of the aboriginal culture and heritage values of the site will be via integrated interpretation/history boards and artefact display cases (not a separate education centre. This has been reinforced in Principle 18.
- 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 is reinforced in Principle 18 and DECC's requirements for the Bluff point area also adds to the access control.

These responses are reasonable and adequately deal with the issues raised. The request for a break wall around the southern foreshore of the site is not a reasonable request as the marina is proposed on the northern end of the point and is not likely to impact the middens on this southern foreshore.

4.3.9 NSW Department of Planning- Heritage Branch

The NSW Department of Planning Heritage Branch advised by letter dated 25 July 2008 that the documentation supplied was generally adequate to meet the DGRs in regard to non-indigenous heritage issues.

On assessment of the application during the exhibition and assessment period the NSW Heritage Office in their letter dated 12 March 2009 advise of conditions for any approval that may be granted.

4.3.10 Energy Australia

Energy Australia advised on 11 July 2008 that it is working with the developer to guarantee supply to the development and the expected electrical load.

4.3.11 Hunter Water

In its letter dated 9 July 2008 Hunter water advised that the proponent has submitted water supply and wastewater servicing strategies for the subject development. Hunter water are satisfied that there is sufficient capacity in the existing water and wastewater networks for the proposed development.

4.3.12 Mine Subsidence Board (MSB)

The MSB advised on 2 July 2008 that it has been involved in consultation with the applicant and has no objection to the proposal proceeding. It states that any development on the subject site (Lot 31) will be required to be designed for the following mine subsidence parameters:

- Subsidence: 150mm
- Strains: $\pm 2\text{mm/m}$
- Tilt: 2mm/m

Engineer certification will be required when construction details are finalised.

4.3.13 Civil Aviation Safety Authority (CASA)

The heliport has been deleted from the proposal and as such the advice from CASA is now not relevant.

4.3.14 NSW Rural Fire Service (RFS)

The RFS advised they have no concern with the proposal as long as the landscaping of the site complies with the principles of Appendix 5 of the Planning for Bushfire Protection 2006, and that the enhancement of the foreshore vegetation should not increase the bushfire risk.

4.3.15 Awabakal Descendants Aboriginal Corporation

The Awabakal Descendants Aboriginal Corporation responded to a request for advice on the adequacy of the Environmental Assessment.

In a letter dated 14 July 2008 the Awabakal Descendants Corporation state that they believe the development will have detrimental effects on the Aboriginal Heritage values of this area no matter what mitigation practices are put in place to protect them.

The concerns relate to :

- Increased pedestrian traffic in areas of significance;
- The affects of the marina on the shoreline due to increased marine traffic and the marine life along with the flora and fauna;
- Communication between the developers and the Traditional Awabakal people required.

The amended Environmental assessment was also referred to the Awabakal Descendants Aboriginal Corporation however no response has been received.

The issues raised are similar to those raised by the Awabakal Traditional Owners and the NSW ALC and are now adequately addressed by Principle 18 in the Preferred Project Report Concept Plan.

5 ASSESSMENT OF ENVIRONMENTAL IMPACTS

Key issues considered in my review of the Environmental Assessment, Concept Plan, PPR and the proponent's draft Statement of Commitments include the following:

- Strategic Justification and Rezoning
- Flooding and Climate Change
- Aboriginal and Cultural Heritage
- Ecological Impacts
- Foreshore Recession
- Visual Impact
- Urban Design
- Public Access
- Marina Development and Potential Impacts
- Establishment of The Helipad and Associated Acoustic Issues
- Other Acoustic Issues
- Water Cycle Management
- Traffic and Access
- Waste Management
- Groundwater
- Natural Hazards
- Section 94 and Other Developer Contributions, and
- Sustainability

5.1 STRATEGIC JUSTIFICATION AND REZONING

5.1.1 Introduction of residential use

Concern has been raised with the introduction of a residential use onto this site. There is a separate rezoning application being assessed concurrently dealing with this however it needs to be understood in the context of this application.

The subject site is zoned 6(2) Tourism and Recreation and as outlined earlier in section 1.2.1 significant negotiation took place to achieve the zoning layout as existing. LMCC have consistently sought a tourism use on this site to support the economic sustainability of south western Lake Macquarie, as described in the city's adopted strategy, lifestyle 2020.

The introduction of residential development as a permissible use on this site, on the face of it, seems to further erode the land available for tourism. The layout of the original development proposal as submitted on 27 June 2008 raised that concern, with approximately 70% of the site set aside for residential development.

With appropriate occupant densities and ratios, permanent residential accommodation has been seen by some NSW Coastal Councils, e.g. Tweed, Coffs Harbour and Hastings, as an appropriate use in tourism zones.

The seasonal nature of tourism makes it difficult to provide a year-round base income exclusively from tourism operations. Having land use controls exclusively for Tourism uses is often seen as too restrictive. The seasonal return from such areas is not sufficient to make them viable, necessitating the introduction of additional uses unrelated to Tourism as well as opportunities for limited permanent residential accommodation.

In many cases, investment in tourist development relies on creating growth above projected demand. That is, supply of tourist facilities often exceeds current demand, but increasing supply creates demand. This requires risk taking by development companies. Experience from other areas (e.g. Tweed, Coffs Harbour, Hastings and Wyong Council areas) indicates the offer of a proportion of permanent residential accommodation in an area that may otherwise prohibit it, can provide sufficient incentive for investment in tourist development.

However, the use of incentives to create "supply-led" tourist development does give rise to the potential for such developments to be converted to permanent residential accommodation in the event that the tourism growth does not occur. This would defeat the purpose of providing the incentive.

The appropriate percentage is also often difficult to determine. This proposal includes a 50% allowance. This ratio has been successfully used at by other Councils along the NSW coast, including Coffs Harbour, Hastings and Tweed Councils. Other Councils, such as Wyong, even permit an allowance greater than 50%.

It is important to achieve tourist development on the subject site. Whilst Lake Macquarie has over 100 accommodation outlets and over 900,000 visitors per year, it is generally recognised that there is a shortage of tourism development around the Lake. This particularly applies to facilities such as restaurants and function centres which directly adjoin the Lake's foreshore, the lake being acknowledged as a significant though under utilised asset.

Visitors to the Southlakes area which includes Morisset, Cooranbong, Wyee and the Watagans generally have to travel to Toronto to access lake foreshore facilities. The development of appropriate recreational and tourist facilities on the subject site is seen as important for the development of tourism in Southlakes and more generally, Lake Macquarie.

Thus, some level of permanent residential development, as a development incentive, seems appropriate for the site.

5.1.2 Integrity Of Tourism and Recreation Zone and Tourism Use

The original concept plan included 150 units, 75 (50%) of which were to be for residential use. The design and layout of that concept plan however included more than 70% of the site set aside for the 75 residential units/dwellings. It was designed so that the residential development was separate from the tourism development. Whilst it is understood that residential and tourist uses can at times create conflict, the overall intention of the zone for tourism and recreational purposes was being undermined by that design.

The PPR includes a design that has the residential and tourist accommodation spread throughout the entire site. Whilst a maximum of 50% of the units are still proposed for residential use, 100% of the units on site can be used for tourism. This means that if the demand exists and commercial circumstances warrant it that up to 100% of the site could be used for tourism accommodation.

The development is not likely to occur in one stage and as such any future application will need to demonstrate that there is no more than 50% residential accommodation on site at any time.

Concern has also been raised in submissions as to whether the proposal will operate as a bona fide tourist facility and not a permanent residential development or that the tourist component of the development has been designed to fail so the proponent can seek an amendment to allow the site to be used fully for residential use.

The following mechanisms could be used to maintain the integrity of the tourist use:

1. Development Consent

Imposition of a condition on any approval which provides that a minimum of 50% of the accommodation is to be used for tourism purposes and cannot be occupied by any person for more than 42 consecutive days or in an aggregate no more than 150 days in any 12 month period.

There are mechanisms in place and penalties will apply if there is a breach of the conditions imposed on the consent. Under Section 123 of the Act any person may bring proceedings in the Court for an Order whether or not that person has been infringed by or as a consequence of that breach. Under Section 124 of the Act the Court may make an Order to restrain the use if there is a breach.

2. Community Title / Strata Title

Depending on the subdivision type there will need to be the formation of a Community Association (CA) or body corporate comprising the owners of all lots. The CA could be established upon registration of the Community Plan /strata plan, which is accompanied by a Community Management Statement (CMS) or Strata Management Statement (SMS). Any such statement shall include bylaws to further enforce the restrictions and ensure it is robust to minimise the risk of permanent residential use of more than 50% of the units/dwellings.

Central to the operation of the CMS /SMS is that occupation of a tourist lot/dwelling may not be for more than 42 consecutive days and 150 days in aggregate over a 12 month period. Theoretically the period of 150 days in a 12 month period would facilitate use as a weekender (i.e 104 days) with remaining days available for holiday or recreational use. However, it is proposed to incorporate a condition requiring the non residential owners to place their unit/dwelling within a holiday letting pool for a minimum period each year to ensure it is available for tourist purposes and not residential use.

It should be noted that under Section 13(1) of the Community Land Management Act 1989 a CMS is binding on the CA; each subsidiary body within the scheme; and each person who is a proprietor, lessee, occupier or the mortgagee of a strata lot within the scheme. A CA may serve a notice on the proprietor or occupier of a lot requiring the proprietor or occupier to comply with the specified provision of the by-laws if the CA is satisfied that the proprietor or occupier has contravened the provision. There are subsequent mechanisms available to a CA to enforce the by-laws and if an order is not complied with penalties may apply.

3. By-laws

Provisions in the CMS or SMS can be imposed as by-laws stating that a strata lot may only be occupied by a person for a period of 42 consecutive days or in an aggregate no more than 150 days in any 12 month period. By-laws cannot be amended or revoked without the consent of Council. Other requirements that I am recommending be contained within the bylaws are:

- An owner must make available all documents relating to the use and occupation of a lot including lease and agency agreements;
- CA/Body Corporate must maintain a record about the use of all strata lots and make a copy available to Lake Macquarie City Council or DoP upon request;
- The proprietor or occupier of a lot must comply with terms of any restriction on use or public positive covenant burdening the lot;
- The proprietor of a lot maintains at all times an agreement with a letting agent which is bound by contract; and
- The CA/body corporate maintains an agreement with a qualified and suitable person or corporation upon terms and conditions determined by the CA or body corporate to enable proprietors of lots to offer though that person or corporation their lots for rental by members of the public as holiday accommodation.

4. Title Restrictions

A restrictive covenant could be imposed on the title under Section 88E of the Conveyancing Act 1919 restricting the use of a minimum of 50% of accommodation units/lots to tourism accommodation purposes. The restriction or covenant will not be able to be amended without the consent of Lake Macquarie City Council. The covenant will assist in notifying potential purchasers of the restrictions on use for tourism accommodation and not permanent residential occupation.

5.2 FLOODING AND CLIMATE CHANGE

The application has identified the extent of flooding over the site for both the existing situation and for a 100 year sea level rise scenario identified in the Stormwater/Flooding Management Plan report by Patterson Britton

and Partners Pty Ltd dated November 2008. This report indicates that the northern part of the site, generally to the north of the extension of Trinity Point Drive, is flood prone.

LMCC in its Sea Level Rise Preparedness Adaptation Policy, which was adopted on 8 September 2008 has accepted an increase in the level of the Lake, under still water conditions, of 0.91m by the year 2100 for planning purposes (<http://www.lakemac.com.au/page.aspx?pid=109&vid=10&fid=1454&ftype=True>) It is noted that in addition to the impacts of sea level rise, the report in support of the proposal by Patterson Britton and Partners Pty Ltd demonstrates a potential increase in flood levels on the site by 0.18m due to the likely increased rainfall associated with climate change. This level is used for the purpose of assessing the PPR.

Both sea level rise and increased rainfall associated with climate change will have the potential to increase the 1% AEP flood level experienced on the site.

LMCC's policy for new development in areas adjacent to Lake Macquarie, which may be vulnerable to the impacts of sea level rise and increased rainfall due to climate change, is to require any development to analyse and consider the impacts of climate change. This can be done by either adopting floor levels for new development that comply with the Council's Interim Guidelines, or submitting a site specific study plus risk management plan to enable consideration of the merits of the proposal.

Under the LMCC interim guidelines the flood floor levels for new development would be:

- Minimum habitable floor levels at a minimum level of 2.85m AHD;
- At grade car parking set at a minimum level of 1.56m AHD (i.e. 5% AEP Flood Level + 0.59m (50 year Climate Change Factor)); and
- Basement parking be designed to prevent the entry of flood waters up to a minimum level of 2.55m AHD (i.e. 1% AEP Flood Level + 1.17m (100 year Climate Change Factor)).

This policy was not adopted at the time the proponent lodged the application and as such submitted a specific flood study for the site. The flood study did not provide sufficient justification for the development proposed as it did not adequately consider:

- Adaptation measures for the development proposed within the flood prone area; and
- Did not discuss why, given the size of the site and extensive flood free areas, it is necessary for the level of development proposed on flood prone land.

On this basis it was considered that the original tourist development and marina village were not an appropriate form of development for the northern part of the site.

The life of the buildings, the nature of construction, and the use (needing to be located near the water) means the marina hardstand area and marina workshop may be suitable for the northern part of the site relative to flood management. The marina workshop will not accommodate many people and it is also possible to prepare an effective evacuation plan and operate this as a part of the management of the business.

In summary, it was considered that the development should be amended to :

- Remove the tourist accommodation and commercial development (other than the marina workshop and hardstand) from the area north of the extension of Trinity Point Drive;
- Habitable floor levels – minimum 2.85m AHD;
- Marina hardstand area – minimum level 1.1m AHD;
- Marina workshop floor level – minimum 1.97m AHD;
- At grade car parking level – minimum 1.56m AHD;

- Undercroft or basement car parking level – minimum 2.55m AHD, and located so as not to be encircled by the lake under large tides within a 100 year timeframe.

In the letter of response to the issues raised and in the PPR Concept Plan the proponent has stated:

"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 that no development should take place in the north of the site."

The proponent states that the only component of the concept plan impacted upon by low lying land under sea level rise scenarios are the marina buildings and access to the undercroft parking. All habitable areas including the village piazza are above the flood and sea level rise planning levels.

The proponent's consultants, 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). As such they recommend that a suitable flood evacuation plan be in place for the marina utility area and undercroft parking. It is concluded that a 1% AEP flood level with allowance for sea level rise is unlikely to cause impacts that warrant the extreme position of removing the majority of development from the northern part of the site.

Independent hydrological experts WBM were engaged to assist in the assessment of this aspect of the development.

The proponent submitted additional information including adaptive management strategies in response to Climate Change such as:

- Habitable floor levels for buildings are to be designed based on the 100 year design life above the 100 year ARI flood level plus 100 year sea level rise allowance;
- Evacuation routes to be defined above the anticipated PMF level in 100 years;
- Adoption of shorter design life for structures with adaptive capability and higher acceptable flood risk such as marina piles, breakwater, boat lift facility, marina access walkways. Piles can be extended to accommodate rising sea levels and therefore flood levels over time; and
- Marina hardstand and workshop area – practicalities of purpose dictate lower levels and wet flood proofing is possible. Retrofitting to changes in levels in the future is possible for these land uses;

Independent hydrological experts WBM consider the development as now proposed acceptable.

The accepted details include:

- Habitable floor levels of 2.85m AHD- consistent with LMCC interim guidelines the flood floor levels for new development; and
- Marina hardstand area – minimum level 1.1m AHD (with electrical wiring above 2.42m AHD)- consistent with LMCC advice.

The PPR Concept Plan Site Principle 12 - Flooding, now includes details of additional guidelines to be met by future applications. These include the need for documentation of sea level rise adaptation measures and strategies available and detailing of how they are incorporated.

5.3 ABORIGINAL AND CULTURAL HERITAGE

Sections 4.3.7, 4.3.8 and 4.3.15 of the consultation section of this report addressed a number of the Aboriginal and Cultural Heritage issues identified.

Site Principle 18 - Indigenous and European Heritage has been updated to further reflect the findings of the Archaeological and Heritage Assessments for the site as outlined in Appendix AD of the original concept plan documents. This now adequately addresses the recommendations from the memorandum from Lake Macquarie City Council's Heritage Planner.

5.4 ECOLOGICAL IMPACTS

The proposal includes a level of development on the north-western edge of the site in close proximity to a salt marsh community. Concern has been raised in regard to the proximity of this development and as such its impact on the salt marsh community. The main concern related to the impact of the development on the water regime that supports this community.

Principle 11 Water Management of the PPR Concept Plan document includes a requirement for all future applications to include stormwater management plans that consider amongst other things the groundwater implications in the design and construction methodologies. As the application is for a concept plan the level of detail to determine the exact nature and suitability of such a stormwater plan is not available. However, based on the principles and guidelines set within Principle 11 Water Management, LMCC's Chief Subdivision Engineer and a Hydrology Specialist from WBM are both of the opinion that an appropriate outcome is possible within the bounds of the development.

Other ecological impacts of the development relate to the removal of an Endangered Ecological Community and the subsequent offset being placed on land to be acquired by LMCC. This has been reviewed and further discussions held with DECC and it is considered to be a satisfactory outcome. The reinstatement of 500 m² of EEC and additional assisted rehabilitation is an adequate offset. Appropriate guidelines are proposed within Principle 8 - Vegetation of the PPR Concept Plan Document. The impact of the offset on land being acquired by LMCC should be considered in any valuation process.

The impact of the proposed Marina on the endangered turtle population is a complex one. Any boat on the lake has the potential of hitting a turtle or causing pollution that may harm them. The size of the marina has been reduced in the amended proposal and as such the number of boats proposed is reduced. DECC have assessed the proposal and its relationship to species listed under the Threatened Species Conservation Act, and raise no concern in regard to turtles. The matter was also referred to the Department of Environment, Water, Heritage and the Arts (DEWHA) who have not responded with any concern.

It is recommended that if the concept of a marina is approved, any future applications must include a responsible boating practice manual, including signage, education and other relevant measures to educate the boating public on practices to minimise the impacts of boating activities on turtles.

5.5 FORESHORE RECESSION

Concern was initially raised with the lack of detail provided to demonstrate the protection of foreshore recession. It is noted that the application is for a concept plan and detail of this kind is not required. A review of the proponent's original recommendations for foreshore stabilisation and the commitment in Principle 8 Vegetation for a Vegetation Management Plan to be prepared and submitted with future applications provide further opportunity for this matter to be resolved. At this time it is noted that there is adequate room between the development and the water's edge to implement foreshore stabilisation strategies to protect against long term foreshore recession.

The development of the marina is not considered likely to exacerbate this process in any way as whilst there may be an increase in boat wash, those areas affected will be protected from the existing wind/wave action by the proposed breakwater.

5.6 VISUAL IMPACT

5.6.1 General

The submissions raise significant concern about the visual impact of the development. This concern relates to the land based development as well as the water based marina.

The initial proposal of 308 berths in a marina extending approximately half way across the bay was considered excessive. The built form proposed in the original scheme also presented a significant visual impact.

LMCC Scenic Quality Guidelines define the site as being in a Scenic Management Zone C, which is assigned to those areas of moderate to low Scenic Quality and Visual Accessibility, and where the landscape values, while not making a significant contribution to the City image and attractiveness, do not detract significantly from that image or amenity.

5.6.2 Land Based Component

The east and southern edges of the site contain a vegetation screen that affords filtered views into and out of the site. The modified design of the accommodation area of the development includes a 20 metre setback from the edge of the proposed foreshore reserve totalling a setback of 40 metres from the lake foreshore. This combined with the reduction in heights of all of the accommodation buildings relative to the original application, with those buildings closest to the eastern foreshore edge being typically two storey (some three storey elements) reduces the visual impact of this component of the development. The buildings do not exceed the crown height of this foreshore vegetation and as such the visibility of the development to the east is considered acceptable.

The southern edge of the site also contains some vegetation, is elevated and is obvious in view from the lake. The proposal seeks to set aside the southern end of the site for open space and includes a minimum setback from the proposed reserve edge of 45 metres. Combined with the proposed foreshore reserve of at least 25 metres the setback of development to the southern foreshore is some 70 metres. The heights of the buildings located closest to this southern edge have also been reduced now proposing typically one and two storey buildings with some small three-storey elements and as such the visual impact of the development from the south is acceptable.

The site is adjoined to the west by an unbuilt residential subdivision. The residential land has limited if any views of the water. The development fronting this subdivision is residential in scale being one, two and three storeys in height. It is not considered to present an adverse visual impact.

The subject site is a modified site as it has had a range of previous uses and associated built forms. The figure on the front cover and Figures 1.4-1.14 show the site as viewed from the water. It is obvious the site is visually exposed to the north and any development will have an impact. Any development will change the site.

The level of visual impact is reduced by the PPR. The form of the residential development as it steps up the hill behind the village piazza is reduced. The inclusion of a central north south road and more generous east west connection provides a break in the built form and provides an opportunity for increased landscaping to soften the built form and lessen the visual impact. The increase in setback of the development from the west of foreshore reserve also reduces the width of the built form as viewed from the north, further reducing the visual dominance of this component of the development.

The village piazza area of the development contains a variety of building heights. The piazza itself is located within 6 to 10 metres of the proposed reserve to the north, with the buildings ranging from 8 to 68 metres setback from the proposed reserve and ranging in height from 2 to 5 storeys, plus roof form.

The focus of the design of this component of the development has been the views to the lake and proposed marina. As such it is exposed in view from the lake and land to the north.

The existing vegetation on the north west edge of the site, limits the view from this direction and as such the number of dwellings that will have a view of the site is limited to approximately 50 dwellings on the northern shore of Bardens Bay. These dwellings view the site at a distance of a between 600 and 800 metres across the bay. They also have an extensive view which includes Bardens Bay into the wider lake, and the treed foreshore to the south in the distance. The site is currently a grassed slope with a vegetated edge.

The introduction of the built form as now proposed will alter the view however, it is not considered an unreasonable impost on the overall view from these affected dwellings and as such is not considered a reason to refuse this proposal.

The proponent states 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. "

Even though the impact on view is considered reasonable additional measures can be undertaken to further reduce the visual impact of development when viewed from the lake it is suggested that the guidelines in Principle 5 Built Form be amended as follows:

Under Outside Village Piazza add the following points:

- All buildings facing the foreshore or buildings with a zero setback 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 or buildings with a zero setback 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.

It is also suggested that Principle 8 – Vegetation 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 to maintain views, the public reserve in front of the Village Piazza shall be reinstated with *Casuarina glauca* Open Forest.

Principle 9 – Vegetation should be amended as follows:

Under Village Piazza add the following points:

- Landscape design for the Village Piazza shall be contemporary and demonstrate principles of Water Sensitive Urban Design
- The Piazza shall be clearly legible as a public space
- A substantial public art work by a recognised artist shall be incorporated into the Piazza
- At least one substantial tree shall be planted in the Piazza
- A water feature or features shall be incorporated into the Piazza.

Under dwellings add the following points:

- All domestic landscapes facing the lake shall include a small native tree located as described under Principle 5 – Built Form. The tree shall be a native species with an expected mature height in the proposed location of 5-10m. The tree shall be installed as a mature specimen at least 2m in height and shall be certified to comply with a specification equivalent to that provided in the NATSPEC publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark.

Under Materials and Hard Landscape Across Site add the following point:

- While maintaining a consistent “sense of place” across the site, the materials palette will also support the distinction between public and private space.

5.6.3 Marina

The original marina design as shown in Figure 5.3 below included 308 berths. It included a protective breakwater that extended some 310 metres across Bardens Bay. Bardens Bay is approximately 620 metres wide at this point.

Significant concern was raised during the exhibition period in regard to the size of the marina.

The PPR includes an amended marina design, which is shown in Figure 5.1 below. The amended design reduces the number of berths to 188 and reduces the length of the breakwater into the bay to 240 metres.



Figure 5.1 PPR Marina

Figure 5.1 also shows the public and private properties that will have their key view altered by the marina, with public land shown green and private land shown pink.

A four step assessment of view sharing was developed in *Tenacity Consulting v Warringah (2004) NSWLEC 140* and later adopted as a planning principle by the Land and Environment Court. The four steps include:

- Assessing the view to be shared
- What part of the property the view is obtained from

- Assess the extent of the impact and
- Assess the reasonableness of the project causing the impact.

Whilst this relates to view sharing rather than visual impact, the principles are still useful.

Double Bay Marina v Woollahra Council (209) NSWLEC 1001, Addenbrooke PTY LTD v Woollahra Municipal Council (2008) NSWLEC 190 and Milne v Minister for Planning & Anor [No. 2] [2007] NSWLEC 66 have also been reviewed in regard to assessing the visual impact of the proposed marina.

The PPR marina design includes a central walkway perpendicular to the foreshore with three arms perpendicular to each side of the central walkway.

The marina is viewed by properties to the west, north and east.

The properties to the west along Lakeview Road Morisset Park are typically elevated residential dwellings. They have expansive views of Bardens Bay into the wider lake to the east. These properties have their main living areas oriented to maximise the lake views. Given the elevated nature of the majority of these dwellings the current view will not be blocked, although it will be altered by the inclusion of the marina.

A number of these water front properties have already had components acquired by LMCC and the remaining properties are subject to acquisition, meaning that the foreshore area to the west of the development will eventually be in public ownership. The intention for this foreshore land is to protect existing vegetation and provide access around the lake. Views of the proposed marina will be possible from this foreshore land however given the extent of the view, the marina is not considered to present a significant impact.

The properties to the north and north west of the marina, fronting Pillapai Road have expansive views of Bardens Bay and beyond to the wider lake. The majority of dwellings along this section of the foreshore are single dwellings and not elevated. The marina as proposed in the PPR extends 240 metres into the 620 m wide bay and as such extends just under half way across the bay. These dwellings are approximately 600 m from the northern edge of the marina. The length of the marina into the bay, as viewed from these dwellings is considered excessive as it affects nearly half their view. Due to the low nature of these dwellings they do not have the ability to view over the marina.

The properties to the north, will view the part of breakwater with the marina and broader lake beyond. These properties are generally elevated well above lake level and have expansive views into the wider lake and foreshores beyond. The power station is also prominent in this view. Whilst the marina will alter these views, it is not fatal.

The properties to the north-east and east will view the breakwater with the marina behind it, and then through to the foreshore. These dwellings are typically elevated and setback some 50 metres from the foreshore. The breakwater is proposed as a straight edge of some 245m in length along this section. The breakwater will be approximately 450m from these properties. The view will be impacted.

The foreshore area to the north and north-east is in public ownership. This foreshore land contains existing vegetation and provides access around the lake. The reserve is up to 60 metres in width in this area and is low lying and elevated. Views of the proposed marina will be possible from this foreshore land however given the expanse of the view, the marina is not considered to present a significant impact.

On the basis of the above discussion, the main impact of the marina is the length into the Bay and the impact this causes to the properties along Pillapai Road. The proximity and straight length of the break wall facing the properties to the North-East and East is also a concern.

Other impacts of the design of the proposed marina are discussed later in this report and the conclusion to that assessment is that the marina design should be altered, predominantly reducing the length of the Marina into

Bardens Bay, and elongating it to the south. This is to assist in reducing the impact of water flow in and around the marina.

The visual impact of an amended design similar to that in figures 5.3 and 5.4 is considered suitable. The reduction of length into the bay, being a total length into the bay of some 190 metres, reduces a number of concerns due to the increased distance of the break water to properties to the north east and east and also providing a broader view into the bay for properties along Pillapai Road. The amended marina would include two rows of berths running from a central access way.

5.7 URBAN DESIGN ISSUES

5.7.1 Setbacks

There are no specific setback requirements for development within the 6(2) Tourism and Recreation zone. Lake Macquarie City Council Development Control Plan Number 1 - Principles of Development (DCP1) includes a requirement of a 6-metre setback from a council foreshore reserve.

The setbacks shown in Figure 2.3 and their compliance with the relevant controls can be summarised as follows:

Outside the piazza area, south of the Trinity Point Drive extension

- A minimum 20-metre setback from the 6(1) Open Space zoned land to the east which results in a 40-metre setback from the lake edge. This complies with DCP1 requirement of a 6-metre setback from a council foreshore reserve;
- A minimum 45 metre setback from the 6(1) Open Space zoned land to the south resulting in a total setback of 65 metres from the lake edge. This setback provides a curtilage around the cultural features of Bluff Point. This complies with the DCP1 requirement of 6 metre setback from a foreshore reserve;
- A minimum 15-metre building separation between buildings fronting the extension of Trinity Point Drive and Celestial Drive (allows east west vistas through the site). This complies with the minimum building separation requirement in DCP1 and with the separation requirements of the residential Flat Design Code called up by SEPP 65 for the heights of buildings proposed. This width also allows detailed building designs adequate room for compliant front building line setbacks;
- A minimum 8-metre building separation along the alignment of the southern most road extension from the subdivision (allows east west vistas through the site). This width allows detailed building designs adequate room for compliant front building line setbacks;
- A 4-metre building setback along Trinity Point Drive with the exception of the intended accent Buildings. This 4 metre setback is compliant with DCP1 requirement of 4 metre setback for dwellings in newly developing areas. The accent buildings as shown in Figure 2.5 are to have the opportunity to build to the street edge subject to detailed design. This does not comply with the typical residential setback of 4 metres in newly developing areas. As stated the site is not zoned residential and there are no specific setback controls for the 6(2) Tourism and Recreation zone. As such a zero setback is allowable. The streetscape achieved by the accent buildings possibly having zero to 4 metre setbacks will provide variation and add to the character of the development. The detailed design will be critical in ensuring this outcome is acceptable. The Site Principle-Building Setbacks within the Concept Plan should be modified with the inclusion of an additional guideline stating that future application for buildings with a zero setback are to demonstrate a suitable level of detailing and articulation to ensure they add to, rather than detract from, the streetscape. Blank walls are to be avoided.

- A 15 metre building separation internal to the site (allows north-south views and connects Bluff Point with the Piazza area). This width allows detailed building designs adequate room for compliant front building line setbacks.

Within the piazza area, North of the Trinity Point Drive extension:

- Possible zero setback to Trinity Point Drive for the accent building facing west on Trinity Point Drive. This does not comply with the typical residential setback of 4 metres in newly developing areas. There are no specific setback controls for the 6(2) Tourism and Recreation zone. Given the location of this building in the area proposed to be more commercial in nature within the concept plan, its location at the entry of the development, its mixed use nature and the intent of this building as an accent building this setback is considered acceptable. The buildings proposed siting is also such that it is the corner of the building that would have this zero setback, not a length of wall or the like. As stated above the Site Principle-Building Setbacks within the Concept Plan should be modified; to include buildings with zero setbacks are to 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.
- A minimum 6m setback from the 6(1) Open Space zoned land to the east which results in a 26-metre setback from the lake edge. This complies with the DCP1 requirement of a 6-metre setback from a council foreshore reserve. There is only one small point that the setback is at the minimum of 6 metres with the setback to the east in the piazza area generally being 8 to 15 metres, totalling 28-35 metres from the lake edge;
- A minimum 30m building setback to the unnamed bay to the north west of the development site. This complies with the DCP1 requirement of a 6-metre setback from a council foreshore reserve.

Overall the setbacks proposed within the PPR Concept Plan are acceptable.

5.7.2 Heights

There are no specific height requirements for development within the 6(2) Tourism and Recreation zone.

The general principle for heights in the NSW Coastal Design Guidelines for NSW is that;

"New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in town centres before 3pm midwinter and 6.30pm Summer Daylight Saving Time. Elsewhere avoid overshadowing of public open spaces, the foreshore and beaches before 4pm midwinter and 7pm Summer Daylight Saving Time.

The heights shown in Figure 2.5 (within the Piazza area), and their suitability can be summarised as follows:

- 4 storey plus pitched roof form - northern accent building which consists of parking at ground, restaurant at piazza level, 2 storeys of residential plus pitched roof form (shown in dark blue in figure 2.5);
- 4 storey plus pitched roof - buildings on the western and southern edge of the piazza which consist of parking at ground, function centre and retail/commercial at piazza level, 3 storeys of residential one of which is included within the pitched roof form (shown in pink in figure 2.5);
- 3 storey plus pitched roof form - building on eastern edge of piazza which consists of parking at ground (under half the building) café at ground adjoining the pathway split level so it also adjoins the piazza level, plus 2 levels of residential one of which is contained within the pitched roof form (shown in orange in figure 2.5); and

- 5 storey plus pitched roof form - remaining 2 accent buildings which consists of parking at ground, retail/business centre at piazza level, 3 storeys of residential and a pitched roof form (shown in light blue in figure 2.5).

These heights are all acceptable. The visual impact section of this report demonstrates the development is acceptable in this regard and the heights are a component of the visual impact. The design of the main accommodation section of the development steps up the site behind these taller building elements and includes landscaped areas containing vegetation that will be of a height to provide a backdrop for this piazza area. The maximum heights proposed are in the order of 16.0 metres AHD. The foreshore vegetation along the eastern edge of the site and to the south is taller than this and provides a suitable backdrop ensuring the buildings do not protrude above the tree line.

The heights of the masts within any marina proposed will also provide a sympathetic height relationship for the piazza area buildings. This height relationship is shown in figure 5.1.



Figure 5.2 Northern elevation of the piazza area

- 2 storey marina building with a finished floor level of 1.2AHD (shown in olive green in figure 2.5) (natural ground is 1.0AHD). This is consistent with the typical height of buildings in the locality and is appropriate.

The heights shown in Figure 2.6 (outside the Piazza area) can be summarised as follows

- 1 storey plus pitched roof form with an option for a partially exposed parking structure, up to 1.2m fronting of Trinity Point Drive (southern section) (shown in pink in Figure 2.6). The site is adjoined to the west by Residential 2(1) zoned land which has a 2 storey (plus roof) height limit. The proposal is consistent with the residential scale in the area and is considered acceptable
- 2 and 3 storey plus pitched roof form with an option for partially exposed parking structure, up to 1.2m fronting Trinity Point Drive. The site is adjoined to the west by Residential 2(1) zoned land which has a 2 storey (plus roof) height limit and the width of Trinity Point Drive and the proposed landscaping treatment of this street also provide adequate scale and as such this height is considered acceptable.
- 2 storey plus pitched roof (with some building elements on a number of buildings to 3 storeys subject to detailed design and merit assessment) adjoining the setback area along the eastern side of the development and the section central to the site (shown in blue on Figure 2.6). This site is adjoined to the west by Residential 2(1) zoned land which has a 2 storey (plus roof) height limit. The proposal is consistent with the residential scale in the area and is considered acceptable

5.7.3 Density

The density of the development has been raised as a significant concern in submissions. The density of the PPR is still a concern to the objectors.

The master plan approved for the site included a density for this component of the overall Trinity Point land of an FSR of approximately 0.3:1. The master plan indicated a small scale development which is what the community are seeking for the site now. The original concept plan and the PPR both propose a density of 0.65:1.

The density of the proposal has been resolved in the context of the applicants ability to adequately resolve built outcomes, car parking provision, other services, landscaping inclusive of relevant building and open space/ecological setbacks.

Future applications will be required to meet the requirements of SEPP 65, DCP1 and any other relevant controls and as such the amenity of the units must be acceptable under these controls. The 150 units is a maximum number and detailed design may require a reduction to achieve other requirements, however based on the concept plan detail 150 units is considered acceptable.

The RTA and LMCC traffic engineers consider the traffic generation of the development acceptable. All other impacts of the proposal have been considered and there are acceptable offsite impacts, which are an indication, the density as proposed is acceptable.

5.7.4 Permeability and Legibility

Concern was raised with the permeability of the original design. The original design did not allow ease of movement through the site and the public spaces were not obviously public resulting in poor legibility of the site. The east west connections were poorly resolved appearing no more than entries into the basement car park rather than public walkways.

The amended design includes well defined access ways significantly improving the legibility of the site. Roads are now terminated with views. There is also a significant improvement in the permeability of the site with the increase in width of the foreshore setback to the east of the site and by the introduction of a north south road providing another link between Bluff Point and the village piazza area. The village piazza has been designed to be open in some sections inviting the public into the space.

The hierarchy of streets through road widths, built form, setbacks and landscaping all add to the permeability and legibility of the site. Public spaces are to include adequate widths and separation from the built form.

5.7.5 Public Domain

The public domain areas of the original design were poorly resolved. The design of the elevated village piazza area resulted in a poor relationship to the foreshore and pedestrian path. The setbacks within the original design also resulted in the pedestrian paths throughout the whole site being private in nature.

As stated previously, the setbacks within the development have been increased which allows adequate space for the pedestrian spaces to be obviously public.

The village piazza remains elevated with a proposed finished level of 3.80 AHD. The pathway around the west and south of the piazza is proposed at 2.8 AHD, which presents a difference in height of 1 metre. The pathway to the east is at 2.0 AHD presenting a difference in height of 1.8 metres. The previous design included a height difference in the order of two to three metres facing the lake, which was unacceptable.

Principle 3 Building Heights of the PPR Concept Plan states that in response to planning for flooding and potential sea level rise and to create a unique outcome, a generous dimensioned and raised Village piazza is proposed. Detailed design of the levels and external edges and entries into the piazza will be provided at detailed application stage. Guidelines set in Principle 3 require:

- the edge of the piazza facing the reserve not to be sheer unarticulated wall on the outside edge of the space.
- The edge is to form part of the architecture of the site and not present as a single vertical face. It should form part of the pedestrian boardwalk experience with recesses, cantilevered edges, shadows and landscaping.
- The design intent is to continue should adaptive sea level rise measures need to be incorporated.

- To further facilitate some more direct relationship between the built form of the piazza and the boardwalk, the design is to incorporate an active use (such as a café) which fronts and interacts with the boardwalk.

These guidelines are adequate to achieve an appropriate transition in height between the boardwalk and the piazza.

The piazza area is now framed with buildings and includes adequate building separations to create and invitation into the space. The levels of the piazza and adjoining road ways and pathways is such that a view into the piazza is provided.

The amended layout of the overall site includes improved public space, pedestrian access and adequate room for the spaces to be embellished to achieve high quality public domain for the area. The guidelines within the PPR Concept Plan, particularly Principle 4 - Public Access and Open Space, Principle 5 - Built Form and Principle 7 - Building Materials and Colours are considered adequate to facilitate an appropriate outcome.

5.7.6 SEPP 65

The original concept plan was referred to the LMCC SEPP 65 Design Review Panel. The panel raised significant concern with the original concept, which can be summarised as follows:

- The need to delineate private and public open space;
- Concern whether the land based component could support the size of the marina;
- No justification for the helipad;
- Inadequate setbacks that do not create a streetscape;
- 5 storey residential development as proposed is excessive;
- Heights impact on view sharing;
- Village square is poorly resolved;
- Inadequate public roads and circulation space;
- The access ways are privatised and do not function as public spaces;
- Marina is oversized and over scaled for the area; and
- Perceived privatisation of the proposed foreshore reserve.

The PPR is considered to predominantly resolve the issues raised by the LMCC SEPP 65 Design Review Panel, as outlined generally within the body of this report. Specifically the above issues are addressed as follows:

- The private and public open space are more well defined with increased setbacks and amended access ways;
- The size of the marina has been reduced and as such the scale of the land based component of the development is more appropriate;
- The helipad has been removed;
- The setbacks have been amended. A defined streetscape will be the result;
- The entire site has been redesigned and there is now no specific residential area. The area south of Trinity Point Drive now includes lower built form.
- The redesign of the development has improved the view sharing opportunities by increasing the setback from the future reserve, and providing an additional north south connection. The east west connections are now also wider. The heights of the buildings also improve view sharing opportunities;
- The village square has been redesigned. It has a better form, being framed by built form and opening to the foreshore;
- The design has been improved with an amended road network that improves site connections.
- The setbacks and redesign of built form adjoining the proposed future reserve have resolved the perceived privatisation of this area. The development is now well set back from the future reserve and has built form tapering in height down to the foreshore.

5.8 PUBLIC ACCESS

5.8.1 General

The impact from the development to public access has been a concern raised in a number of submissions. Concern has been raised with the impact to both the access to and over the adjoining land and also the lake.

5.8.2 Land based access

The original proposal was considered unacceptable as the public access and open space links to the foreshore were inadequate. The proposed public areas were essentially privatised, appearing private rather than inviting and useable by the public. The limited widths of these spaces and the building setbacks were a concern.

It was also considered that the pedestrian access and boardwalks created a blockage to public access along the foreshore, as there was a lack of differentiation between public space and private domain. The elevated design of the northern piazza also impinged on the public use of and to the foreshore area.

The development impinged on the proposed foreshore reserve in a number of other areas where the development itself seemed to seek considerable benefit from this proposed reserve and as such it was suggested that this public open space land be dedicated to LMCC rather than the Council acquiring/purchasing it.

The PPR includes a revised design that significantly improves access to and through the site and adjoining proposed foreshore reserve. The accommodation component of the development is now setback a minimum of 20 metres from the proposed reserve, rather than the previous minimum setback of 5 metres. This 20 metre area will be landscaped, and include a pedestrian/cycle path that will assist in delineating the private area from the public space. The height of the buildings fronting this setback and proposed reserve is also reduced from the original plan. The accommodation no longer towers over the proposed reserve. The 20 metre setback and the layout of the site also provides amenity within the site without the need to significantly borrow the amenity from the proposed reserve as the previous scheme did.

Access through the development site has also improved in the PPR. The accommodation component of the development has been divided into more residential scale blocks, with roadways in between. This ensures these spaces look and feel public and will operate as intended. The PPR also includes a laneway to the rear for access for the accommodation fronting both Trinity Point Drive and the internal street. This reduces the pedestrian/ vehicle conflict over the footpath areas in these two streets again ensuring the public pedestrian is well catered for. A central north south link has also now been included in the design providing additional access from bluff point to the village piazza.

Improvements to access have also been achieved through the redesign of the elevated piazza and the buildings and space around it. The elevated piazza is softened with the inclusion of a split-level café that sits approximately 900mm above the access way between the development and the proposed reserve. The glass eastern wall of the café, and potential outdoor eating area assist in providing an appropriate transition in height from the pathway, through the café to the piazza level.

Landscaping around the edge of the piazza and the inclusion of large stairs inviting people into the piazza space, breaks the access barrier seen in the previous design.

Community concern has also focused on the use of the proposed foreshore reserve for access to the marina and for the boat lift facility. The concern in this regard is the use of future public land for a private purpose. Whilst this land is zoned 6(1) Open Space and likely to be acquired by LMCC it is still in the ownership of the developer and as such it is not public land. On acquisition, the impacts of the development on the future public land will need to be considered in any valuation. It is also noted that Site Principle 4 – Public Access and Open Space of the PPR Concept Plan document states that public access across the proposed marina travel lift area within the 6(1) zoned land is to be managed to ensure public safety when the travel lift is in operation. Details of proposed management measures are to be provided with future Project Applications. This design is not to

not preclude or compromise pedestrian access at all other times. The land based public access of the development is now considered to be acceptable.

5.8.3 Water

Concern has been raised with the loss of public access to the lake due to the marina development. The marina initially proposed 308 berths covering 9.3ha of the lake extending approximately 310 metres across Bardens Bay. Bardens Bay is a well used area of the Lake for water skiing, wakeboarding and recreational fishing due to its protected nature.

The impact of 308 additional large boats was also raised as a concern in terms of the area of lake that would be taken up as a result of this private development. In terms of public access the marina itself can be considered to have an impact on the area of the lake that is available for public use. The actual use of the boats could occur with people launching at any public facility and as such this is not considered to impact the public accessibility of the lake.

The PPR includes a modified marina. The modified design removes the helipad and now includes 188 berths and covers an area of 5.9 ha, and extends 240 metres into the bay. Whilst it is acknowledged that the amended design reduces the footprint of the marina, the impact on public access is still a concern.

It is considered that the design should be amended to further reduce the length of the marina into the bay. This could be achieved by reducing the number of berths and/or by removing the outer row of berths and elongating the arms to the south. This design would also better relate to the shape of the foreshore. Any such design must maintain adequate separation from the nearby sea grass meadow.

The original design, the amended design and a suggested preferred design are shown in Figure 5.3.

It is understood that any such amended design is likely to extend outside the bounds of the area given owners consent by the Department of Lands and an amended licence/lease area would need to be sought. Whilst this may be an inconvenience, achieving a more acceptable marina layout is paramount particularly given the likely longevity of the marina structure.

The area of lake that such an amended design would cover may well be greater than the PPR design; however, the areas closer to the shore are not used as much and as such this design is considered an improvement in regard to public access of the waterway.



Figure 5.3 Original 308 Berth Marina , PPR Proposed 188 Berth Marina and possible amended design

5.9 MARINA DEVELOPMENT AND POTENTIAL IMPACTS

5.9.1 Size, Flushing and Water Quality

A number of submissions state that this area of the lake is not capable of supporting a marina of any more than 60-80 berths. This concern relates to the ecological impacts to the lake from the construction and operation of a marina of this size. Concern is also raised as to whether the supply of this number of berths should be concentrated in this one area or whether the suggested demand would be better supplied over a number of locations.

A hydrology specialist from WBM engaged to assist in the independent assessment of the proposal states that minimising distance encroached into Bardens Bay by the marina development would be better from a tidal flushing perspective, and minimising impact on advection of seagrass wrack into Bardens Bay.

The PPR includes a reduced scale of marina. The marina is now proposed to be 188 berths, extends 240 metres into the bay and is to be constructed in two stages of 94 berths.

As discussed above and shown in figure 5.2 an alternative design further reducing the length of the marina into the bay is suggested. This amended design will not only reduce the public access impact it will also assist in reducing the hydrological impacts of the marina.

As this application is for a concept plan the level of detail provided at development or project application stage is not required at this stage. If a concept plan is approved, a project or development application will still be required for assessment of the detail for each stage of the marina.

As such if the marina is approved in concept any future application for stage one will need to demonstrate there is no appreciable difference in water quality due to the introduction of the marina. This will include:

- Providing 3D numerical modelling of the final design, demonstrating insignificant impacts on tidal flushing and pollutant advection from 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.
- Provide particle tracking modelling for the final design demonstrating minimal environmental impacts for discharges within the proposed marina under a range of wind conditions.
- Undertake wrack tracking for the final design demonstrating appropriate movement of sea grass wrack,
- Ensuring that slatted submerged baffle walls (of the breakwater) are not compromised by marine growth (expect they would need to be cleaned regularly, otherwise they will act as solid walls.)

Given the concern raised with the size of the marina the proponent proposes to construct it in two stages of 94 berths, with the second stage being subject to terms and requirements before construction of stage 2 can proceed. These requirements are to include:

- 100% take up of stage 1 berths;
- Demonstration of compliance with stage 1 construction and operational management and monitoring plans, and environmental licence performance (including acoustic issues);
- Water quality monitoring of Bardens Bay, the small inlet/unnamed bay at the southern end of Bardens Bay and Petite Lake;
- Monitoring of sea grass wrack management and movement;
- Monitoring of the maintenance of slatted submerged baffle walls; and
- Monitoring of erosion along the entire foreshore of Trinity Point – that is the whole site boundary, from around the southern corner to inside the unnamed inlet. Erosion should also be monitored around the whole of Bardens Bay.

It is considered that these measures will ensure the expansion of the marina to include stage 2 will only occur if the demand meets expectations, it can also be demonstrated that the environment is performing as expected by

the modelling for stage 1, and the environment is considered able to satisfactorily co-exist with the introduction of stage 2.

5.9.2 Aquatic Ecology

The original marina was considered to affect the movement of seagrass wrack into Bardens Bay from nearby seagrass beds. When floating on the water surface, detached seagrass fronds are subject to transport by wind, waves and wind-driven currents. The original marina design was considered to significantly inhibit transport processes into Bardens Bay, particularly as the reach of the southern breakwater extended beyond the extent of seagrass coverage along the eastern foreshore of Trinity Point.

The seagrass wrack would accumulate on the Trinity Point foreshore adjacent to and inside the marina complex, as the foreshore wave action is terminated at this location. For deeper water locations along the southern break wall, the wrack would accumulate against the southern breakwater. It would then likely sink to the bottom, where it may accumulate as organic debris (and undergo slow anaerobic decay), adversely impacting water quality (by causing increased anaerobic decay of wrack that sinks adjacent to the break walls) and as such adversely impacting the marine ecology of the locality (including foreshore habitat and seagrass). An amenity issue due to potential odour is also a concern.

The potential for impact on the larger seagrass meadow to the south, due to wave bounce back from the breakwater structure was also a concern.

The amended design reduces a number of these impacts due to the reduction in length of the southern break wall however is not considered to reduce the impact by an acceptable level. It is noted that any marina development will have an impact, the aim is to limit that impact to an acceptable level.

It is considered that the amended design shown in figure 5.2 will assist in addressing the seagrass movement and accumulation however it would be more appropriate if the southern break wall could be more tapered to the north east (to help funnel flows and wrack into the middle of the bay).

A design similar to that shown in figure 5.4 that alters the angle of the break wall arm to allow seagrass wrack movement toward the middle of the bay should be considered. This design will also alter the angle of wave bounce back (due to the open nature of the first section of the breakwater) limiting the impact the seagrass meadow to the south.

The concept plan to this date still fails to adequately demonstrate whether the syngnathid populations within the development site are similar to the reference locations within the lake. No quantitative sampling has been undertaken within the seagrass meadows to determine this and requires a more thorough assessment given the syngnathid is a protected family in NSW estuaries. This issue is able to be adequately dealt with and resolved at detailed application stage rather than needing full resolution at this concept plan stage.

Any approval of the concept plan for the marina must include conditions requiring additional modelling and studies before any future application can be approved.



Figure 5.4 Suggested Marina design

5.9.3 Need For The Boatlift And Workshop Facility

Concern has been raised in regard to the boat lift and workshop facility due to the potential noise impact and industrial nature of these components of the facility.

The boat lift is proposed to be for vessels up to 75 tonnes, 25 metres in length and an 8m beam. This size lift is considered excessive given the marina states it caters for a maximum boat length of 20m. The d'Albora Marina in Nelson Bay has a 45 tonne lift and includes berths for boats up to 30 metres and the Marmong Point Marina has a 40 tonne lift and includes berths for boats up to 20 metres.

When asked about the size of the lift facility and the proposed nature of the use of the hardstand and workshop area the proponent advised that only minor work would be carried out on vessels from within the marina. The proponent also advised that vessels not associated with the marina would not be serviced at this facility and any major work required on the vessels from this facility would not be undertaken at this site. They advised that there were other such facilities available for that type of work. In this regard the need for such a large boat lift facility is again questioned.

The proposal also states that the activities to be undertaken on the hardstand would include washing down, scraping down, abrasive blasting, sanding, painting, mechanical/electrical repairs and fit outs as well as fibreglass, timber and metal work. The workshop is also to suit boat maintenance operations such as shipwright, rigger, trimmer, inboard and outboard mechanical services, engineering, painter and electrician, and a plant room and amenities.

The majority of these uses appear to be beyond small scale repairs and maintenance. A shipwright can include constructing, fit out, commission and repair of all types of vessels.

It is understood that this is a concept plan and full and proper detail will be required and provided at future application stage. Even so the proposed works are a concern particularly given the site includes both tourism and residential accommodation and the surrounding area is dominated by residential development with the closest residential property not related to the site being 180m away.

The acoustic issues associated with these areas of the development are addressed further in this report however; the size of the boat lift facility remains a concern, and it is recommended that the lift be limited to 45 tonne. Any concept approval should include conditions requiring future applications to fully demonstrate the need for a lift facility of that size and also fully demonstrate the types of activities and hours of operation of the workshop/lift facility and hardstand area in order to ensure minimal impact to the surrounding residential development and the lake environs.

5.10 OTHER ACOUSTIC ISSUES

The acoustic study indicates the subject area is relatively quiet and therefore any noise emitted from the development will be audible and create an impact on the existing acoustic amenity.

As part of the review of the acoustic report a consideration of EPA recommended noise limits and approval conditions from the Land & Environment Court of NSW for similar developments has been undertaken, in addition to consultation with an external acoustical engineer experienced in such developments.

The EPA have published noise criteria that provide a measureable limit of noise disturbance above which action can be taken.

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 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. Failure to comply with the noise limits will result in severe restrictions on the method of construction and feasibility of the development.

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 and a requirement for all persons acquiring use of a berth to sign a legally binding agreement to comply with the Noise Management Plan.

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.

The development is a large development that has the potential to create a significant acoustic impact on existing residents but with appropriate planning and design can reduce such impacts to achieve acceptable noise and vibration limits.

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.

Any future application will require a full and proper acoustic assessment addressing the concept plan conditions and modifications. Then, prior to the release of the first Construction Certificate a report shall be prepared by a suitably qualified acoustic consultant/engineer detailing the noise and vibration controls that are to be incorporated into the development so as to achieve full compliance with the conditions of any consent. This report will have to be submitted to the relevant authority and obtain sign off before a Construction Certificate is issued by a PCA.

Similarly all other Construction Certificates for the development will require certification as to compliance with the noise and vibration requirements of the development consent.

Prior to the issue of an occupation certificate for each and every stage of the development a certificate of acoustic compliance will be required. Furthermore within 60 days of any occupation certificate being issued for residential developments adjacent to the access roads, the marina, the marina workshop and hardstand area an acoustic compliance test shall be carried out by an independent acoustic engineer/consultant (not being from a firm involved in the Concept Plan stage, development stage or construction stage of the project) providing certification of acoustic compliance. The acoustic compliance test is to be submitted to Council. Any matters of non-compliance are to be rectified within 60 days of the compliance report and then retested and the final report submitted to the consent authority.

5.11 WATER CYCLE MANAGEMENT

Principle 11 Water Management of the PPR Concept Plan document includes a requirement for all future applications to include stormwater management plans that consider amongst other things the groundwater implications in the design and construction methodologies. As the application is for a concept plan the level of detail to determine the exact nature and suitability of such a stormwater plan is not available. However, based on the principles and guidelines set within Principle 11 Water Management, LMCC's Chief Subdivision Engineer

and a Hydrology Specialist from WBM are both of the opinion that an appropriate outcome is possible within the bounds of the development.

5.12 TRAFFIC AND ACCESS

A number of submissions raised concern with the inadequate nature of the existing road network to support the proposal stating there will be a significant increase in the volume of traffic both during the construction and operation of the development. This will result in further congestion of the road network at the Morisset Peninsula, inconvenience to local residents, and an increased likelihood of accidents.

Advice was sought from the RTA and from LMCC's Infrastructure Management Section. The RTA has advised they will provide further comment at individual development application stage and as such have no significant objection to the Concept Application. LMCC's Infrastructure Management section has also advised that the existing road system is adequate to cater for the increased demand from the development subject to some intersection upgrades.

The external intersections that have been identified as requiring upgrading as a result of cumulative traffic associated with other traffic growth or anticipated growth in the locality (and other approvals), in some cases including a component of traffic from the Trinity Point Marina and Mixed Use Development are:

Macquarie Street and Fishery Point Road (to signal control)

The RTA has been collecting contributions for this upgrade under a Transport Infrastructure Contributions Deed with each new development that contributes to this intersection. RTA collects monies on a per lot created basis. It is anticipated that RTA will require a proportioned contribution from the Trinity Point Marina and Mixed Use Development, based on a percentage of impact.

Fishery Point Road and Station Street (to signal control)

This intersection upgrade has already been triggered and approved by Council as a requirement for a separate development proposal ('Scarborough Gardens') (DA 687/2007). The works are being undertaken by that developer, with co-funding by Council of 36% of works or \$97,200 (whichever is lesser).

Fishery Point Road and Morisset Park Road

This is not currently part of any approved intersection upgrade. Initial traffic analysis outlines that this intersection will need to be upgraded in the future. It is anticipated that Council will require a proportioned contribution from the Trinity Point Marina and Mixed Use Development, based on a percentage of impact.

Morisset Park Road and Charles Avenue (to local street roundabout)

This intersection upgrade has already been triggered and approved by Council as a requirement of Stage 7 of the adjoining residential subdivision (DA 2293/2006). The works are to be undertaken wholly by that developer. In addition, the same approval requires the provision of kerb and gutter on the southern side of Morisset Park Road from the new roundabout to the existing kerb.

Site Principle 10 Roads, Vehicular Access and Parking of the Preferred Project Report Concept Plan notes that agreement will need to be reached with the relevant road authorities regarding external road upgrades relative to the Concept Plan and future applications.

5.13 WASTE MANAGEMENT

5.14.1 General

The development seeks to provide adequate on site storage opportunity for waste and recycling streams

commensurate with the land use types and provide adequate arrangements for regular collection (including marina).

The PPR includes guidelines for future applications to meet, being:

- All chemical and fuel storages, including storage of wastes (such as oily waste) be designed and operated in accordance with Information Sheets 5 and 6 DECC's Environmental Action for Marinas, Boatsheds and Slipways (June 2007).
- A waste management plan to be prepared to address the building construction and operational phases of development.

5.14.2 Construction Phase

Waste generated during the construction phase is likely to be limited to building materials such as concrete, timber, masonry material, pipes and excavated spoil. Careful planning of construction activities will need to ensure that the volume of surplus materials is minimised.

5.14.3 Operational Phase

A summary of the wastes expected to be produced by the marina and mixed use development, their classification according to the Waste Classification Guidelines, Part 1: Classifying Waste and proposed waste management are as follows:

Waste expected to be produced by the development	Waste Classification	Proposed Waste Management
Domestic sewage	Liquid Waste	Domestic sewage will be discharged into the Hunter Water sewer system
Sewage pump-out and chemical toilet wastes from vessels	Liquid Waste	Small private pumping station and rising main will service the pump out facility and transport wastewater into the Hunter Water sewer system.
Household/ commercial waste that contains putrescibles organics	General Solid Waste – Putrescibles	Bins for the solid waste - non-recycled collected by local council
Household/ commercial waste that does not contain food	General Solid Waste - Non-Putrescibles	Bins for the solid waste - recycled and non-recycled collected by LMCC
Drained oil	Liquid Waste	A first flush tank would be provided to capture the initial 15mm of runoff from the hardstand\ workshop area (<i>as well as any water used for vessel wash down</i>). Captured stormwater would be treated using a proprietary treatment package and reused for vessel repair/wash down purposes. Excess water would be discharged to the sewer under a trade waste agreement. Oily Waste will be discharged manually via a covered slop hopper into oily waste storage tank for recycling by a commercial contractor.
Oily bilge waste	Liquid Waste	Oily bilge will be pumped via a pump-out berth from vessels and discharged into oily waste storage tank for recycling by a commercial

		contractor.
Grease trap waste resulting from preparation of food	General Solid Waste – Non-Putrescibles	Dry basket arrestors in sinks and on floor wastes with wastes draining to grease trap. The grease trap is to be located adjacent to the car park to allow tanker access for regular cleanout by a commercial waste contractor.

5.14 GROUNDWATER PROTECTION

Volume 2 Section 3.1.1 of the original concept plan documents address groundwater protection. It is also addressed in Section 5.4.4 (and Appendix S). Section 5.3.2 also addresses dewatering anticipated and comments on groundwater, drawing on strategies to manage the effects on groundwater quality from Appendix H.

The geotechnical report in Appendix F of the original concept plan document, also details that the development is likely to intercept the groundwater. The Department of Water and Energy have reviewed the development in this regard and is satisfied that adequate measures can ensure minimal environmental impact. A permit will be required for any such works from the Department of Water and Energy.

5.15 NATURAL HAZARDS

5.16.1 Contamination

The site has previously been contaminated. It has been remediated to the appropriate standard for the purpose of the proposed development. This is detailed in full in Appendix I - Validation Report by David Lane Associates and Appendix J Site Audit Report by JBS Environmental Pty Ltd contained within Volume three of the original concept plan documentation.

5.16.2 Acid Sulfate Soils

Acid Sulfate soils' testing has been undertaken and acid sulfate soils and potential acid sulfate soils were identified. The Acid Sulfate Soils Assessment report contained within Appendix H of the original Concept plan documentation provides the details of the levels. An acid sulfate soils management plan will need to be prepared prior to any works commencing. The need for development to be in line with an acid sulfate soils management plan is also noted in Site Principle 11 Water Management of the Preferred Project report concept Plan document.

5.16.3 Geotechnical Assessment

The geotechnical report in Appendix F of the original concept plan document indicates that the soils on the site are of low strength and are saturated. It is therefore likely that piled foundations to bedrock will be required for the proposed buildings. The weak soils will pose some issues for the development, but suitable engineering outcomes will be available and as such the site is suitable for development in regard to geotechnical issues.

5.16 SECTION 94 AND OTHER CONTRIBUTIONS

The residential development component of the proposed development will be levied in accordance with the Lake Macquarie Section 94 Contributions Plan - Citywide, 2004 (as amended) in relation to open space, recreation, community facilities and management.

Section 3.4 Dedication of Land details that where land identified for acquisition in the Plan falls within land the subject of a development application, dedication of this land free of cost in accordance within Section 94(1)(a)

of the Act shall be required. Given this, it would be preferable for the proponent to dedicate land in lieu of a cash contribution for open space acquisition only. It is critical that the area identified for dedication is to the satisfaction of Council. Cash contributions should be levied for recreation facilities, community facilities capital and land, and management.

The Citywide plan does not contain:

- A traffic management scheme.
- A drainage, stormwater or water quality control scheme. Such facilities to meet the requirements of DCP No.1 will need to be provided on-site.

Advice from Lake Macquarie City Council's Traffic Engineer and also the RTA highlights the traffic demands to be generated by the development. In the absence of a traffic management scheme in this locality within the Citywide plan, traffic facility requirements generated by the development may be appropriate for inclusion in a Voluntary Planning Agreement (VPA). The Site Principle 10 - Roads, Vehicular Access and Parking within the Preferred Project Report Concept Plan document outlines the intersection upgrades required and the need for agreement to be reached with the relevant road authorities regarding external road upgrades relative to future applications to deliver the concept plan.

Drainage, stormwater and water quality control schemes will be provided on site in accordance with the requirements of DCP No 1.

In relation to the tourism development component of the proposed development, whilst the Citywide plan does not specifically identify a levy for tourism development Section 2.4 of the Citywide Plan titled 'Expected Types of Development' states:

"The expected types of development to which the Plan applies will be primarily residential in the form of land subdivision and medium density development (including redevelopment, infill development and development under State Environmental Planning Policy (Seniors Living) 2004).

There may be other forms of development not specified above which may generate a demand for the public services and amenities identified in the Plan (such as traffic management and drainage, stormwater and water quality control facilities). In these instances, Council may use its discretion to determine a contribution based on an equivalent demand generated by the development".

It is reasonable to conclude that a demand for recreation facilities is generated by tourism development. If facilities are proposed on-site but they do not meet the entire demands likely to be generated by the development, then it is reasonable to conclude that the development will require public recreation facilities. The extent of the demand for public recreation facilities will be the gap between the total recreation demands of the tourism development and that which is provided for on-site. A VPA or consent condition on future applications would be the appropriate mechanism for delivery.

5.17 SUSTAINABILITY

The PPR Concept Plan includes a site principle on Sustainable Development that states an objective that the proposed development is to minimise its impact on the environment by adopting sustainable design that includes the built form as well as energy efficiency and greenhouse gas minimisation during the design construction and operational phase of the development.

Adequate guidelines are included within the PPR concept plan to ensure this objective is met.

6 CONCLUSION

The vision, the concept and the ideals of the Trinity Point development are all supported. The commitment of the proponent to develop a tourist facility is recognised. The proposal is of public interest as it seeks to meet the objectives of the LMLEP2004 in providing a tourist facility. It is acknowledged that tourist facilities are difficult to finance and are often not financially sustainable and as such the use of part of the site for residential development is considered appropriate to support the tourism development.

The key foundations of an assessment of the development is consideration of the current strategic and planning controls including LMLEP2004 and the relevant SEPPs. Part 3A allows for flexible assessment outside of the requirements of planning controls but variations to key controls need to be justified. The proposal is generally consistent with the key legislation.

The EA has been assessed, and the submissions in response to the proposal have been considered. Whilst the proposal contains areas of merit, and despite the amendments provided in the PPR there remains a number of outstanding issues where a desirable outcome to mitigate the adverse impacts was unable to be achieved.

These impacts relate to the issues of the marina design, the size of the travel lift and the use of the hardstand and workshop area. As such the Concept Plan in its current form is unable to be supported.

Amendments to the Concept Plan

Amendments will be required to address the issues raised in the assessment. These amendments are required to reduce the impact of the marina on the sea grass wrack movement, visual impact, water movement and as such water quality.

Consideration should be given to reducing the length of the marina and associated breakwater into the bay by reducing the number of berths and/or by removing the outer row of berths and elongating the arms to the south.

The industrial nature of the boat lift facility, hardstand area and workshop is a concern. Further clarification is required in regard to the types of activities proposed on the hard stand area and within the workshop. A 75 tonne capacity boatlift is not supported.

Future Applications

Concept plan approval allows the Minister to specify the environmental assessment requirements for future applications for the development. Requirements for these future applications are also outlined in the instrument of approval.

It is recommended that future applications be lodged under Part 4 of the Environmental Planning and Assessment Act 1979. The future applications will be able to be approved, if consistent with the concept plan as modified and if in accordance with the conditions (as well as any other merit assessment required under section 79C of the Act). It is appropriate for the future applications be considered under Part 4 given the broad parameters for the site will have been approved in the concept plan as modified.

7 RECOMMENDATION

Subject to

- the gazettal of the LEP Amendment; and
- satisfactory amendments to the marina, boat lift facility and clarification of the extent of work proposed to be undertaken within the workshop hardstand area; as outlined in this report

It is recommended that the Minister:

- (A) **consider** the findings and recommendations of this report;
- (B) **approve** the concept plan for the project, under Section 75O of the *Environmental Planning & Assessment Act 1979*, subject to modifications of the concept plan;
- (C) **determine** that future applications be considered under Part 4 of the Act;
- (D) **by order**, declare that the marina stages of the project are not designated development for the purposes of the *Environmental Planning and Assessment Act 1979*.
- (E) **sign** the Determination of the concept plan.

Prepared by:



Kirrily Vincer
Director Generals Delegate
Principal Development Planner
Lake Macquarie City Council

APPENDIX A. INSTRUMENT OF APPROVAL

APPENDIX B. DIRECTOR-GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

The Environmental Assessment must address the following Key Issues:

1.Strategic Planning and Rezoning

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

2.Owner's consent

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

3.Design and Visual Impact

3.1 Provide a comprehensive Site Analysis identifying constraints and including landform features, levels, vegetation, heritage and other relevant environmental features.

3.2 Demonstrate the achievement of design excellence having regard to the significance of the site in relation to Lake Macquarie and its environs. Address impacts of the proposal on the amenity of the foreshore, overshadowing of open space and loss of views from public places and from existing approved development.

3.3 Identify urban design guidelines that take into account the existing low density character of the locality and identify appropriate development parameters in relation to building heights (number of storeys and metres), foreshore setbacks, building separations, site coverage and floor space ratios based on careful analysis of the site's constraints and opportunities and the potential visual and environmental impacts.

3.4 Address visual impact in the context of adjoining and surrounding development in relation to setting, density, built form, building mass, and height as viewed from the public domain including Lake Macquarie and all publicly accessible foreshore locations. The visual impact of the marina including the pylons and helipad and all other associated structures must be addressed in the visual impact analysis. In that regard a Visual Impact Analysis should include all significant vantage points from where the site can be viewed, both water and land based and provide relevant mitigation measures.

3.5 Use visual aids such as a scale model and photomontages to demonstrate visual impacts. Amelioration of visual impacts through design, use of appropriate colours and building materials, landscaping and buffer areas must be addressed.

3.6 Demonstrate the suitability of the proposal with the surrounding area in relation to potential character, height, bulk, scale, built form, amenity (including noise) and visual amenity having regard to *SEPP 71, NSW Coastal Policy 1997, Coastal Design Guidelines of NSW (2003)*, objectives of the 6(2) Tourism and Recreation zone and all relevant development control plans including *Lifestyle 2020 Strategy, DCP No. 1 – Principles of Development*.

3.7 Address the landscape setting and retention of existing significant vegetation on the site. Demonstrate that any removal of vegetation on the site will have minimal visual impacts.

3.8 Provide details of residential unit types and future management of tourist accommodation and measures to ensure conflict between user groups does not occur.

4.Public Access

4.1 Address existing and future opportunities for public access to and along the foreshore and future ownership

and management of the foreshore reserve including any arrangements required by or of Lake Macquarie City Council.

4.2 Address the views of the *Lake Macquarie Estuary and Coastal Management Committee* and the *Office of the Lake Macquarie and Catchment Co-ordinator* and the related *Lake Macquarie Project Management Committee*;

4.3 Assess the impacts on recreational amenity arising from the loss of public access to areas of the lake that are proposed for marina and helipad operations.

4.4 Assess the impact on the Council foreshore reserved land and the impacts arising from reduced public access to the foreshore and the waterway.

5. Water Cycle Management

5.1 Address potential impacts on the water quality including stormwater management systems, surface water controls, management of slipways, hardstands and vessels, management of sewerage waste from vessels, fuel and chemical storage and management and spill management having regard to *State Groundwater, Rivers, Wetlands and Estuary Policies, Lake Macquarie Estuary Management Plan, Lake Macquarie Mooring Management Plan and Lake Macquarie Foreshore Stabilisation and Rehabilitation Guidelines*.

5.2 Address pollutant runoff loads from the site, treatment of waste, effluent disposal and sediment and erosion control. Demonstrate an acceptable level of water quality protection with respect to downstream receiving waters during and after construction.

5.3 Address changes in the hydrological regime of the catchment as a result of the project.

5.4 Provide a Water Management Plan and Site Water Balance incorporating on-site re-use of water; prevention of wet weather overflows of contaminated stormwater; segregation of contaminated water from non-contaminated water; spillage controls and bunding.

6. Waste Management

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

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

7. Groundwater Protection

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

8. Infrastructure Provision

8.1 Address existing capacity and requirements of the development for sewerage, water, electricity, waste disposal, telecommunications and gas in consultation with relevant agencies. Identify and describe staging, if any, of infrastructure works.

8.2 Address developer contributions, and provide the likely scope of any planning agreement with Council/ Government agencies. In particular the dedication of land zoned open space adjoining the foreshore to Council in accordance with *Lake Macquarie s94 Contributions Plan*.

8.3 Address the provision of infrastructure for social and community needs due to residential development.

8.4 If applicable, provide details of the deed of agreement with the Roads and Traffic Authority for State Road infrastructure.

9. Noise Impact

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

10. Traffic and Access

10.1 Prepare a Traffic Impact Study in accordance with the RTA's *Guide to Traffic Generating Developments*. Identify the suitability of the existing road network to accommodate the development and the adequacy of on-site parking and servicing arrangements. The traffic analysis shall use SIDRA or similar traffic model and take into account relevant intersections including current and traffic growth projects for the life of the project, 95th percentile back of queue lengths and delays and level of service on all legs. Provide an electronic copy of the traffic analysis/modelling in CD format

10.2 Address *Draft SEPP 66 – Integration of Land Use and Transport* and DoPs *EIS Guidelines on Roads and Related Facilities*.

10.3 Identify needs (if any) to upgrade roads/junctions and improvement works to ameliorate any traffic inefficiency and safety impacts associated with the development where relevant. This should include identification of pedestrian movements and appropriate treatments.

11. Aboriginal and Cultural Heritage

11.1 Address the draft *Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation* (DEC, July 2005).

11.2 Identify whether the site has significance in relation to Aboriginal cultural heritage and identify appropriate measures to preserve any significance. This is to be undertaken by an appropriately qualified person in consultation with the local Aboriginal community.

11.3 Identify any items of European heritage significance and provide measures for conservation of such items.

11.4 Address impacts on World Heritage areas, places listed on the National Heritage List and protected under the EPBC Act.

12. Flora and Fauna

12.1 Assess potential impacts on threatened species, populations and endangered ecological communities in accordance with the draft *Guidelines for Threatened Species Assessment* DEC & DPI July 2005

12.2 Address measures for the conservation of flora and fauna and their habitats within the meaning of the *Threatened Species Conservation Act 1995* and the *Fisheries Management Act*, having regard to the *Draft Guidelines for Threatened Species Assessment* (DEC & DPI July 2005). Address impacts on migratory species, RAMSAR wetlands and species listed under Section 18 and 18A of the EPBC Act.

12.3 Assess the impacts on flora and fauna in accordance with the *Lake Macquarie Flora and Fauna Survey Guidelines*.

13. Natural Hazards

Coastal Processes

13.1 Address coastal hazards and the provisions of the Coastline Management Manual. In particular consider impacts associated with wave and wind action, coastal erosion, sea level rise and more frequent and intense storms (also refer to discussion below under flooding).

13.2 Address consistency with *Rivers and Foreshores Improvements Act 1948*, *NSW Coastal Policy*, *NSW Wetlands Management Policy*, *NSW State Rivers and Estuaries Policy* and *NSW Estuary Management Policy*.

Contamination

13.3 Identify any contamination on site and appropriate mitigation measures in accordance with the provisions of SEPP 55 – Remediation of Land.

Acid Sulfate Soils

13.4 Identify the presence and extent of acid sulfate soils on the site and, where relevant, appropriate mitigation measures in accordance with the Acid Sulfate Soil Manual (NSW Acid Sulfate Soil Management Advisory Committee 1998).

Geotechnical

13.5 Prepare a geotechnical assessment of the property to address potential impact of subsidence and future mining of coal resources in the area.

Flooding

13.6 Demonstrate the development is compatible with Council's relevant Flood Policy and in accordance with the guidelines contained in the *NSW Floodplain Development Manual* (2005). Provide a Floodplain Risk Management Study addressing the potential impacts of flooding, taking into consideration the potential risks associated sea level rise and changes to hydrological processes, potential shoreline recession and greater frequency and intensity of storms. These risks should be assessed on the impact from development on the flooding regime and impacts from flood on proposed development.

14. Marina Development and Potential Impacts

14.1 Address the potential marina impacts:

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

-
- marine vegetation and details of compensatory habitat development to replace lost vegetation;
 - on fish species and their habitat; and
 - on commercial, recreational or indigenous fishing activities.
- 14.2 Justify the suitability of the site for a marina development including the extensive infrastructure (eg. breakwalls) to accommodate the proposal in this location.
- 14.3 Address the cumulative impact on increased boating activities in the locality including the provision of appropriate boating infrastructure.
- 14.4 Provide hydrographic survey and modelling details and the need for dredging both on-site and for access from other parts of the lake and ocean (via Swansea Channel) and the impacts and on-going maintenance issues.
- 14.5 Undertake an assessment of potential impacts of the marina development on hydrodynamic processes within Lake Macquarie and Bardens Bay including detailed hydrodynamic modelling undertaken to quantify potential impacts.
- 14.6 Undertake an analysis of the need for marina facilities and consider other existing and proposed marina developments on Lake Macquarie and the suitability of the site for marina facilities.
- 14.7 Address the principles of Crown lands management under Section 11 Crown Lands Act 1989 and Part 3 – the land assessment provisions.
- 14.8 Provide an economic feasibility report, prepared by an appropriately qualified consultant, addressing the proposed marina size and the tourism component.

15. Establishment of Helipad and Helicopter Noise Impacts

- 15.1 Address CASA's *Guideline for Establishment and Use of Helicopter Landing Sites (HLS)*, in particular the "Recommended Criteria for a Basic and Standard HLS".
- 15.2 A Noise Assessment Report, prepared by a qualified acoustic consultant is required to investigate potential noise impacts associated with the taking off, approaching and enroute of helicopters to the helipad. The report shall address potential impacts on residential areas and other noise sensitive locations/uses; fauna and their habitats in particular threatened species, populations, or ecological communities of fish or marine vegetation and their critical habitat.
- 15.3 Identify all types of helicopters that are proposed to be used and include flight path, hours and frequency of operation, noise contours/levels, route, noise mitigation measures and/or acoustic treatments and need for such a facility. Best practice in the measurement and prevention/mitigation of noise impacts shall be adopted.

Energy Efficiency

- 16.1 Demonstrate intended compliance with the *Lake Macquarie Development Control Plan No. 1 – Volume 1 - Energy Efficiency for Residential and Commercial Buildings* and the *Lake Macquarie Greenhouse Action Plan*.
- 16.2 Identify how the proposal will reduce water usage and greenhouse gas emissions to satisfy BASIX targets.

Deemed Refusal Period-60 days

APPENDIX C. INSTRUMENTS OF DELEGATION

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

INSTRUMENT OF DELEGATION

I, the Director-General of the Department of Planning (the Department), under Section 23(1)(d) of the *Environmental Planning and Assessment Act, 1979* agree to delegate to Lake Macquarie City Council the functions conferred on me by Part 3A of the *Environmental Planning and Assessment Act, 1979* in relation to a proposed tourist/residential/marina proposal at Trinity Point, Lake Macquarie, subject to the following conditions:

1. The delegation may only be exercised in relation to a project application for concept approval lodged by Johnson Property Group for a tourist/residential/marina proposal at Trinity Point off Monisett Road in the Lake Macquarie local government area, as described in documentation from the proponent, dated December 2007;
2. Council shall consult with the Department in the preparation of any amendment that may be required to the Director-General's Requirements for this Environmental Assessment before they are issued to the proponent;
3. Council shall convene a project control team in conjunction with the Department to oversee the progress of the application;
4. Council shall undertake public consultation and notification of the concept project application in accordance with the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000* and provide the Department with copies of the Environmental Assessment for the proposal;
5. Council shall forward copies of all submissions received during the exhibition period to the Department at the conclusion of the exhibition period;
6. Council shall undertake environmental assessment of all aspects of the concept project application in accordance with the *Environmental Planning and Assessment Act 1979* and relevant environmental planning instruments;
7. Council shall consult with the Department and submit a draft Director-General's Environmental Assessment report (pursuant to section 75i) to the Department for comment on behalf of the Minister prior to finalising the report for submission to the Minister;
8. Council shall forward a copy of the draft instrument of approval and proponent's Statement of Commitments to be agreed to by the Department on behalf of the Minister prior to approval;
9. Council shall forward to the Department 20% of the concept project application fee as remuneration for procedural costs;
10. Council shall forward an electronic copy of the Director-General's Environmental Assessment report, advice and recommendations (pursuant to section 75j) of the concept project application, including any Statement of Commitments, to the Department to enable publication on the Department's website;
11. In the event that the Minister establishes an Independent Hearing and Assessment Panel to assess the project, Council shall forward an electronic copy of the Panel's report to the Director-General within the time required by the Minister; and
12. Council shall be responsible for all aspects of compliance of any approval issued (should the project be approved), unless otherwise agreed to by the Minister.

Dated at Sydney this 19th day of June 2008


Sam Haddad
Director-General
Department of Planning

INTERNAL

MEMO



To: Principal Development Planner - Kirrily Vincer
From: General Manager – Brian Bell Ext: 1220
File: F2006/02591 **Date:** 27 June 2008
Subject: **Delegation of the Assessment of the Major Project MP 06_0309, Trinity Point, Lake Macquarie.**

Council at its meeting of 23 June, after considering the subject matter, resolved as follows;

Council;

- A. Accepts the delegation of the Director General of the Department of Planning to undertake the assessment of major project MP 06_0309, Tourist/Residential/Marina Proposal, Trinity Point, Lake Macquarie, generally in accordance with the Instrument of Delegation set out in Appendix A.*
- B. Delegates responsibility for the assessment described in Part A of the recommendation to the General Manager.*
- C. Requests a report on a potential submission to the public exhibition of MP 06_0309, to be submitted to Council for its consideration within the time frame applicable to the exhibition.*

I have decided to sub-delegate the Director General's authority, delegated to me by Council, to you. I appreciate this is a complex and potentially controversial application, however I have every confidence in your capacity and skill to undertake the assessment.

Brian Bell
General Manager

APPENDIX D. COMPLIANCE WITH EPIs INCLUDING STATE ENVIRONMENTAL PLANNING POLICIES THAT SUBSTANTIALLY GOVERN THE CARRYING OUT OF A PROJECT and COMPLIANCE WITH DCPS AND OTHER PLANS AND POLICIES

State Environmental Planning Policy (SEPP) No 65 – Design Quality of Residential Flat Developments

Matters	Consideration
Clause 3 – Definitions	
<p><i>Residential flat building</i> means a building that comprises or includes:</p> <ul style="list-style-type: none"> (a) 3 or more storeys (not including levels below ground level provided for car parking or storage, or both, that protrude less than 1.2 metres above ground level), and (b) 4 or more self-contained dwellings (whether or not the building includes uses for other purposes, such as shops), <p>but does not include a Class 1a building or a Class 1b building under the <i>Building Code of Australia</i>.</p>	<p>A component of the amended design is likely to fall under the requirements of SEPP65. The concept plan does not include the detail of a development application however the broad principles of the SEPP 65 have been considered in the assessment of the concept plan.</p>
<p>Principle 1: Context</p> <p>Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.</p> <p>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>	<p>The site is a lakeside setting, surrounded by one and two storey dwellings. The majority of the development is consistent with this. The village piazza area is not consistent with this low scale residential character however the site is zoned 6(2) Tourism and Recreation and uses beyond the residential scale are expected.</p> <p>The development within the village piazza area does however relate to the height of the surrounding vegetation. The development is considered to contribute to the quality and identity of the area.</p>
<p>Principle 2: Scale</p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</p> <p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.</p>	<p>The majority of the development is consistent with the heights of the surrounding area. The village piazza area exceeds these heights however are considered acceptable as discussed in section 5 of this report.</p> <p>The scale of development is also consistent with the surrounding residential scale, again with the exception of the village piazza area. The village piazza area has an appropriate scale for the type of development proposed, including appropriate setbacks and transitions in height.</p> <p>The bulk of the development is considered appropriate. The original plan was considered to present significant bulk. The amended building form allows for adequate separation and landscaping and the built form is not dominant.</p>
<p>Principle 3: Built form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks,</p>	<p>The built form of the amended proposal as proposed in PPR is more consistent with the locality. The form is more residential in scale.</p> <p>The village piazza area whilst including heights beyond the residential scale includes building form appropriate for the piazza/central component of a tourist development. The built form frames the piazza area and contributes the character of this space. The public domain is well defined in this area.</p>

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including their views and vistas, and provides internal amenity and outlook.	The built form of terrace housing or RFBs along Trinity Point Drive is also considered appropriate and will assist in framing this key access of the development. The built form is also well resolved in terms of framing views through the development to the lake.
<p>Principle 4: Density</p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p>	<p>Density is the result of developing within the area that is provided by setback and height requirements together with ensuring the provision of adequate open space and other requirements.</p> <p>The setbacks and heights are acceptable and the statement of commitments says the detailed design of the project is to comply with relevant legislation and planning controls. As such there will be adequate provision for open space and the like for the development, and therefore this density is acceptable.</p>
<p>Principle 5: Resource, energy and water efficiency</p> <p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p> <p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>The concept plan is considered adequate in terms of Resource, energy and water efficiency. The detail of these measures are not included at this concept plan however the principle and guidelines proposed within the concept plan will ensure that future applications can comply with the relevant controls.</p>
<p>Principle 6: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p> <p>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</p> <p>Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>The concept plan includes adequate principles and guidelines for landscaping of the site. Additional guidelines are also be proposed as modifications of concept plan to enhance the landscaping intent within the development.</p>
<p>Principle 7: Amenity</p> <p>Good design provides amenity through the physical, spatial and environmental quality of a development.</p>	<p>The amenity of the development is considered appropriate for the uses proposed. There is adequate separation provided., The amended development includes increased areas for landscaping from the original development. The detailed design of the development will be required to comply with the</p>

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<p>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	
<p>Principle 8: Safety and security</p> <p>Good design optimises safety and security, both internal to the development and for the public domain.</p> <p>This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.</p>	<p>A crime prevention assessment was provided with the proposed development. As the development is at concept plan stage specific details are not provided however, adequate principles have been included to ensure an adequate design response for future applications. Future applications will be required to be supported by a detailed crime risk assessment.</p> <p>One concern raised within the submissions relates to the conflict in uses between the residential and tourist uses. The proponent has advised that the mix of uses and the proposed development will be fully detailed to prospective purchasers. An on site manager will also be available to address issues/complaints that may arise.</p> <p>The mix of the uses throughout the site provides for security and activity. This is particularly important in the tourism low season where if the site was segregated some components of the site will not be used at all.</p>
<p>Principle 9: Social dimensions and housing affordability</p> <p>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities.</p> <p>New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.</p> <p>New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.</p>	<p>NA</p>
<p>Principle 10: Aesthetics</p> <p>Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.</p>	<p>The full building details and finishes are not known yet as this application is for a concept plan. Principle 5-Built Form, Principle 7 -Building Materials and Colours and Principle 9 – Landscape contain adequate guidelines to ensure future applications will include appropriate aesthetics.</p>

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Compliance Table – Part 3A Major Project at Trinity Point Road, Morisset Park

State Environmental Planning Policy (SEPP) No 71 – Coastal Protection

Matters	Consideration
<p>The Policy aims:</p> <ul style="list-style-type: none"> (a) to protect and manage the natural, cultural, recreational and economic attributes of the New South Wales coast, and (b) to protect and improve existing public access to and along coastal foreshores to the extent that this is compatible with the natural attributes of the coastal foreshore, and (c) to ensure that new opportunities for public access to and along coastal foreshores are identified and realised to the extent that this is compatible with the natural attributes of the coastal foreshore, and (d) to protect and preserve Aboriginal cultural heritage, and Aboriginal places, values, customs, beliefs and traditional knowledge, and (e) to ensure that the visual amenity of the coast is protected, and (f) to protect and preserve beach environments and beach amenity, and (g) to protect and preserve native coastal vegetation, and (h) to protect and preserve the marine environment of New South Wales, and (i) to protect and preserve rock platforms, and (j) to manage the coastal zone in accordance with the principles of ecologically sustainable development (within the meaning of section 6 (2) of the <i>Protection of the Environment Administration Act 1991</i>), and (k) to ensure that the type, bulk, scale and size of development is appropriate for the location and protects and improves the natural scenic quality of the surrounding area, and <p>to encourage a strategic approach to coastal management.</p>	<ul style="list-style-type: none"> (a) The development achieves this. (b) The development will improve public access to the coast. (c) Additional space is proposed to be publicly accessible through this development to the proposed coastal foreshore reserve. Additional open space in the form of a park around Bluff Point is also included within the development. (d) The development includes significant preservation of aboriginal cultural heritage and places. Principle 18 Indigenous and European Heritage of the PPR details this. (e) The visual impact of the development has been considered in detail within part five of this report. The site is not considered highly visible in the context of the coast and as defined by LMCC scenic quality guidelines. (f) NA (g) The development includes the protection of coastal vegetation, and the removal of some vegetation. The compensation for the removal is considered to be appropriate by the DECC. (h) The marine environment has been considered in detail in the assessment of the application. (i) NA (j) The principles of ecologically sustainable development have been addressed in section 3 of this report. (k) The type, bulk, scale and size of the development is considered appropriate for the location as detailed in section 5 of this report. (l) The adjoining land is to be acquired by LMCC and as such will be in public ownership allowing a strategic approach to the management of the coast.
Clause 8 – Matters for Consideration	
<p>The matters for consideration are the following:</p> <ul style="list-style-type: none"> (a) the aims of this Policy set out in clause 2, (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved, (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians 	<ul style="list-style-type: none"> (a) the aims of this policy have been considered (b) the development will improve public access along the coast as it includes a public pathway within the development. The development where it crosses the proposed foreshore reserve maintains access. (c) The development includes a pedestrian path which will provide new access along the coast. (d) As detailed in the assessment of key issues in part 5 of this report the development is considered appropriate

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<p>or persons with a disability,</p> <p>(d) the suitability of development given its type, location and design and its relationship with the surrounding area,</p> <p>(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,</p> <p>(f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,</p> <p>(g) measures to conserve animals (within the meaning of the <u>Threatened Species Conservation Act 1995</u>) and plants (within the meaning of that Act), and their habitats,</p> <p>(h) measures to conserve fish (within the meaning of Part 7A of the <u>Fisheries Management Act 1994</u>) and marine vegetation (within the meaning of that Part), and their habitats</p> <p>(i) existing wildlife corridors and the impact of development on these corridors,</p> <p>(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,</p> <p>(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,</p> <p>(l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,</p> <p>(m) likely impacts of development on the water quality of coastal waterbodies,</p> <p>(n) the conservation and preservation of items of heritage, archaeological or historic significance,</p> <p>(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,</p> <p>(p) only in cases in which a development application in relation to proposed development is determined:</p> <ul style="list-style-type: none"> the cumulative impacts of the proposed development on the environment, and measures to ensure that water and energy usage by the proposed development is efficient. <p>Note. Clause 92 of the <u>Environmental Planning and Assessment Regulation 2000</u> requires the <i>Government Coastal Policy</i> (as defined in that clause) to be taken into consideration by a consent authority when determining development applications in the local government areas identified in that clause or on land to which the <i>Government Coastal Policy</i> applies.</p>	<p>(e) The development does not present overshadowing concerns due to the scale and location of buildings. The setbacks of the development have been increased and as such the impact to the coast is minimal in this regard. There is no significant view loss from public places to the foreshore.</p> <p>(f) The scenic quality of the site and the impact of the development has been considered in detail in section 5 of this report.</p> <p>(g) The flora and fauna impacts have been assessed and the development is considered acceptable in this regard, as detailed by DECC's response.</p> <p>(h) NSW Fisheries have raised no concern with the proposal.</p> <p>(i) NA</p> <p>(j) The coastal process and hazards have been considered in section 5 of this report and are considered acceptable as detailed in the EA as amended by the PPR.</p> <p>(k) The development adequately responds to the potential conflicts between land and water uses through easements and management practices as detailed in the PPR.</p> <p>(l) Adequate Guidelines are proposed within Principle 18 European and Indigenous Heritage of the PPR to protect cultural places, values, customs, beliefs and water based coastal activities.</p> <p>(m) The impact to water quality of the lake from the development has been consider in section 5 of this report.</p> <p>(n) Adequate Guidelines are proposed within Principle 18 European and Indigenous Heritage of the PPR to conserve and protect items of heritage, archaeological and heritage significance.</p> <p>(o) NA</p> <p>(p) The cumulative impacts and the measures for water and energy usage have been considered.</p>
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Part 3 - Significant Coastal Development	
Clause 9 – Application of Part	
<p>(1) This Part applies to:</p> <ul style="list-style-type: none"> (a) (Repealed) (b) (Repealed) (c) development within 100m below mean high water mark of the sea, a bay or an estuary, and (d) development on land described in Schedule 3, subject to subclause (2). <p>(2) This Part does not apply to:</p> <ul style="list-style-type: none"> (a) development in relation to which, under another environmental planning instrument, development consent cannot be granted without the concurrence of the Minister or the Director-General, or (b) development in relation to which, under another environmental planning instrument, the Minister or the Director-General is the consent authority. <p>(3) Despite subclause (2), this Part does apply to development in relation to which, under:</p> <ul style="list-style-type: none"> (a) <u>State Environmental Planning Policy No 1—Development Standards</u>, or (b) <u>State Environmental Planning Policy No 14—Coastal Wetlands</u>, or (c) <u>State Environmental Planning Policy No 26—Littoral Rainforests</u>, <p>development consent cannot be granted without the concurrence of the Director-General, whether or not the concurrence may be lawfully assumed.</p>	<p>The marina is development is within 100 m below high water mark</p>
Clause 11 – Determination by councils of applications for significant coastal development	
<p>(1) This clause applies to development that is included in clause 9 (1) (c) or (d).</p> <p>(2) A council must send a copy of a development application for consent to carry out development to which this clause applies to the Director-General within 2 days after the application is received by the council.</p> <p>(3) A council must not determine a development application for consent to carry out development to which this clause applies:</p> <ul style="list-style-type: none"> (a) within 28 days after a copy of the application is received by the Director-General pursuant to subclause (2), or 	<p>The minister is the consent authority for this concept plan, not council.</p>

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<p>(b) if the Minister gives the council a direction under section 88A of the Act in respect of the development application.</p> <p>(4) During the 28-day period referred to in subclause (3) (a), the Director-General may specify matters, in addition to the matters set out in clause 8, that the council must take into consideration in determining the development application.</p> <p>(5) In addition to the matters set out in clause 8, a council must take into consideration any matters specified under subclause (4) in respect of a development application when it determines the application.</p>	
Part 4 – Development control	
Clause 12 – Application of Part	
This Part applies to all development on land to which this Policy applies.	
Clause 13 – Flexible zone Provisions	
A provision of an environmental planning instrument that allows development within a zone to be consented to as if it were in a neighbouring zone, or a similar provision, has no effect.	NA
Clause 14 – Public access	
A consent authority must not consent to an application to carry out development on land to which this Policy applies if, in the opinion of the consent authority, the development will, or is likely to, result in the impeding or diminishing, to any extent, of the physical, land-based right of access of the public to or along the coastal foreshore.	The development is not considered to detrimentally affect the land based access along the foreshore. The development does include works over the foreshore however the design of these and principles in place in the PPR provide adequate measures to ameliorate any concerns.
Clause 15 – Effluent disposal	
The consent authority must not consent to a development application to carry out development on land to which this Policy applies in which effluent is proposed to be disposed of by means of a non-reticulated system if the consent authority is satisfied the proposal will, or is likely to, have a negative effect on the water quality of the sea or any nearby beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or a rock platform.	The site will be connected to the sewer.
Clause 16 – Stormwater	
The consent authority must not grant consent to a development application to carry out development on land to which this Policy applies if the consent authority is of the opinion that the development will, or is likely to, discharge untreated stormwater into the sea, a beach, or an estuary, a coastal lake, a coastal creek or other similar body of water, or onto a rock platform.	The concept plan has provided adequate detail to ensure future applications and the development itself will not discharge untreated stormwater into the lake.

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Compliance Table – Part 3A Major Project at Trinity Point Road, Morisset Park

Lake Macquarie Local Environmental Plan (LMLEP) 2004

Relevant Clause	Consideration
Clause 3 – Objective of Plan	
<p>The objective of this plan is to achieve development of land to which this plan applies that is in accordance with the principles of ecologically sustainable development by:</p> <ul style="list-style-type: none"> (a) promoting balanced development of that land, and (b) implementing the <i>Lifestyle 2020 Strategy</i> adopted by the Council on 27 March 2000. 	<p>The development is considered to be a balanced development of the land.</p>
Part 2 – Lifestyle 2020 Strategy	
Clause 12 – Vision	
<ul style="list-style-type: none"> (a) A place where the environment is protected and enhanced. (b) A place where the scenic, ecological, recreational and commercial values and opportunities of the Lake and coastline are promoted and protected. (c) A place with a prosperous economy and a supportive attitude to balanced economic growth, managed in a way to enhance quality of life and satisfy the employment and environmental aims of the community. (d) A place that recognises, encourages and develops its diverse cultural life and talents and protects and promotes its heritage. (e) A place that encourages community spirit, promotes a fulfilling lifestyle, enhances health and social well being, encourages lifestyle choices and has opportunities to encourage participation in sport and recreation. (f) A place that promotes equal access to all services and facilities and enables all citizens to contribute to and participate in the City's economic and social development. 	<ul style="list-style-type: none"> (a) This development is not considered to adversely impact the environment. (b) The scenic, ecological, recreational and commercial values and opportunities of the Lake and coastline are key components to the success of this development. (c) The development is considered to provide economic benefits to the community, and provide additional facilities which can improve the lifestyle of the residential of the area. (d) The heritage of the site will be recognised through an interpretation stagey. (e) The village piazza and the uses proposed have the opportunity to assist in producing a positive community atmosphere and spirit. (f) Equal access will be available to a range of services resulting from this development.
Clause 13 – Values	
<p>The 4 core values of that strategy are sustainability, equity, efficiency and liveability.</p>	<p>The development considers sustainability, equity, efficiency and liveability.</p>
Clause 14 – Aims	

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<p>The aims of the <i>Lifestyle 2020 Strategy</i> are to:</p> <ul style="list-style-type: none"> (a) provide the community with realistic expectations about the future development patterns for land in Lake Macquarie City, while retaining flexibility for land use decision making in the longer term, and (b) reinforce and strengthen centres so that a wide range of commercial and community services may be provided in a timely and accessible manner, and (c) provide local employment opportunities for residents and promote economic development consistent with the City's natural, locational and community resources, and (d) guide the development of urban communities that are compact, distinct and diverse and include a range of housing types and activities, and (e) achieve a strong sense of positive community identity, through the development of local communities that are safe and liveable and offer a diversity of uses, economic opportunities and ready access to services, and (f) develop an attractive urban setting for the City which reflects its physical and natural environment, and visual character, and (g) manage the City's natural environment so that its ecological functions and biological diversity are conserved and enhanced, and contribute to the City's overall well being, and (h) manage the City's heritage and economic resources in a way that protects the value of these resources and enhances the City's character, and (i) integrate land use with the efficient provision of public and private movement systems. 	<ul style="list-style-type: none"> (a) the development is consistent with this (b) the development will provide additional accommodation and support services that will strengthen Morisset town centre. (c) The development will create employment opportunities during construction and operation. (d) This development will add diversity to the area (e) The development will provide the opportunity for the creation of a strong community identity through the provision of the village piazza (f) The development is considered to create an attractive setting (g) The natural environment has been considered in the assessment of this development. (h) The heritage values of the site have been considered and are addressed within the submitted EA and PPR along with section 4 and 5 of this report. (i) The development enhances the pedestrian network on and around the site.
<p>Part 3 – General Controls for land within Zones</p>	
<p>Clause 15 – General Controls for land within Zones</p>	
<p>Zone 6 (1) Open Space Zone</p> <p>The objectives of the zone are to:</p> <ul style="list-style-type: none"> (a) provide community owned land or land intended to be owned by the 	<p>The development includes land zoned 6(1) open space which is under acquisition by LMCC. The development addresses the objectives as follows:</p> <ul style="list-style-type: none"> (a) the land adjoining the development will be owned by LMCC for open space purposes. (b) The development does not prevent the provision of activities proposed for this zone. (c) The development enhances the environmental qualities due to the rehabilitation of EEC

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<p>community (shown with crosshatching on the map) that is suitable for the passive and active recreation needs of the community, and</p> <p>(b) provide for a variety of facilities necessary to support use of this land including barbeque facilities, toilet facilities, sports administration and changing rooms, clubhouses, cycle ways, seating, lighting and the like, and</p> <p>(c) facilitate preservation of the environmental qualities of land identified in this plan for public ownership, and</p> <p>(d) provide for the use of public land leased from the Council where community benefit can be established and the use of the land is appropriate for its location, and</p> <p>(e) provide for sustainable water cycle management.</p> <p>Zone 6 (2) Tourism and Recreation Zone</p> <p>The objectives of this zone are to:</p> <p>(a) provide land primarily for commercial recreation and tourist uses, and</p> <p>(b) encourage good quality design within the zone, and</p> <p>(c) provide land for good quality tourist development, and</p> <p>(d) provide land for function and entertainment centres, and</p> <p>(e) encourage tourism development that is sensitively designed to complement its location and minimise any adverse impacts on the environment, and</p> <p>(f) provide for sustainable water cycle management.</p> <p>Zone 11 Lakes and Waterways Zone</p> <p>The objectives of this zone are to:</p> <p>(a) recognise the importance of Lake Macquarie and its waterways as an environmental asset, not only to Lake Macquarie City, but to the Hunter and Central Coast Regions, and</p> <p>(b) ensure that development of the Lake and its waterways occurs in a manner</p>	<p>(d) NA</p> <p>(e) The development will include sustainable water cycle management</p> <p>Marinas are permissible within the 6(1) zone.</p> <p>The development is predominantly on 6(2) Tourism and Recreation zoned land. The development meets the objectives of the zone as follows:</p> <p>(a) The site is proposed to be developed for tourism uses, along with residential and commercial activities.</p> <p>(b) The principles and guidelines contained within the PPR are considered adequate to ensure future applications present good quality design;</p> <p>(c) The land will be used for tourist development</p> <p>(d) The development includes function and entertainment facilities</p> <p>(e) The development is considered to be sensitively designed as outlined in section 5 of this report.</p> <p>(f) Sustainable water management strategies are proposed.</p> <p>The development is not fully permissible within the 6(2) zone and an LEP amendment is being assessed concurrently with this application.</p> <p>The marina is proposed in Zone 11 Land and Waterways. The development address the objectives as follows:</p> <p>(a) The amended development considers the importance of the lake as an environmental asset and aims to minimise its impacts.</p> <p>(b) Ecological sustainable development principles have been considered in section 3 of this report.</p> <p>(c) As outlined in section 5 of this report the development does not adversely affect the ecology, scenic values or navigability of the lake.</p> <p>(d) Aquatic and terrestrial habitats have been assessed and the development is considered adequate in this regard as detailed in sections 3, 4 and 5 of this report.</p> <p>(e) The development as proposed, in stages is considered to be a sustainable and viable use of the waterway</p> <p>(f) The entire development includes Sustainable Water Cycle Management.</p>
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<p>that is consistent with the principles of ecologically sustainable development, and</p> <p>(c) ensure development does not adversely affect the ecology, scenic values or navigability of the Lake or its waterways, and</p> <p>(d) ensure that aquatic and terrestrial habitats and their interface are protected and enhanced and are not adversely affected by the recreational use of the Lake or its waterways, and</p> <p>(e) provide for sustainable and viable economic use of the Lake and its waterways, and</p> <p>(f) provide for sustainable water cycle management.</p>	
Part 4 – Special Provisions applying to all land	
Clause 16 – Development consent – matters for consideration	
<p>Consent must not be granted for development unless the consent authority:</p> <p>(a) has had regard to the vision, values and aims of the <i>Lifestyle 2020 Strategy</i> expressed in Part 2, and</p> <p>(b) is satisfied that such of the development as is proposed to be carried out within a zone is consistent with the relevant objectives for the zone, as set out in the Table to clause 15.</p>	These matters have been considered above.
Clause 17 – Provision of essential infrastructure	
	Essential infrastructure is available to the site as detailed in the Public authority responses in section 4 of this report.
Clause 22 – Foreshore Building Lines	
	There is no FBL for the subject site.
Clause 29 – Building heights	
<p>(1) (Repealed)</p> <p>(2) In considering an application for consent to the erection of a building the whole or part of which exceeds 8 metres, the consent authority must take into consideration whether that height is compatible with the heights of other buildings in the immediate vicinity or locality and is compatible with:</p>	The heights of the development are considered in detail in section 5 of this report and consider the issues listed in this clause.

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<p>(a) the site attributes, and existing or proposed uses of the land to which the application relates, and</p> <p>(b) the other requirements of this plan and the provisions of any relevant development control plan.</p> <p>(3) In the instance of development in proximity to an airport, the heights of buildings must comply with the applicable Obstacle Limitation Surface.</p>	
Clause 30 – Control of pollution	
	Adequate information has been provided at this concept plan stage in regard to pollution and each future application will need to comply with the relevant requirements. The development is capable of meeting these requirements.
Clause 31 – Erosion and sediment control	
	Erosion and sedimentation details have been provide with the concept plan and each future application will need to comply with the relevant requirements. The development is capable of meeting these requirements.
Clause 32 – Flood Prone Land	
	The site is flood prone. The impact of flooding and sea level rise and climate change have been considered in detail in section 5 of this report. The development as now proposed is considered acceptable.
Clause 33 – Bush fire considerations	
	The application was referred to the NSW rural fire Service who have provided conditions for any application.
Clause 34 – Trees and native vegetation	
	The removal of trees will be considered at detailed application stage. At this concept plan stage it is noted that there is limited vegetation on site to be removed.
Clause 35 – Acid sulphate soils	
	The site is subject to acid sulfate soils. A preliminary assessment has been carried out Acid Sulfate soil management plans will be required with each future application.
Clause 38 – Advertising structures and signs	
	No signs are proposed as part of this concept plan application.
Clause 42 – Consent to development subject to special requirements	
<p>(4) Consent must not be granted to development on any land described in Column 1 of Schedule 8 unless the consent authority has had regard to the development control plan or master plan required for the land by Column 2 of that Schedule.</p> <p>(5) Consent must not be granted to development on any land described in Column 1 of Schedule 9 unless the consent authority is satisfied, whether by the imposition of a condition on the consent or otherwise) that any requirement specified for the land in Column 2 of that Schedule has been or will be met</p>	The requirements of this clause have been addressed in section 1 of this report.

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Part 6 – Heritage Provisions	
	The heritage provisions of the LEP have been generally addressed in the overall European and indigenous considerations outlined in sections 3,4 and 5 of this report.

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Compliance Table – Part 3A Major Project at Trinity Point Road, Morisset Park

Coastal Design Guidelines for NSW

Matters	Consideration
Part 1 – Determining a Local Hierarchy of Settlements	
<p>Section 1.2 Coastal Towns Coastal towns are small centres that vary in size and have a population ranging from 3,000 to 20,000 people. Coastal towns offer a range of services and facilities which may include:</p> <ul style="list-style-type: none"> • a commercial, retail town centre and suburbs • parks, playing fields and caravan parks • a main street • churches and education institutions • medical facilities. 	<p>The proponent states that the development location falls within the definition of a coastal town as Morisset Park can be considered a suburb of Morisset.</p> <p>On reading the Guidelines, it would appear that the site is more likely defined as a coastal village. Both sets of criteria will be reviewed..</p>
<p>1. Relationship to the environment</p> <p>(a) The relationship of the town to the coast is protected and enhanced to provide:</p> <ul style="list-style-type: none"> - visual links and views of the coast - a clear relationship to the original landform, the foreshore and other unique natural features - protection of significant natural areas for environmental, educational and recreational purposes - ecological links between the coast and the hinterland as well as the surrounding coastal floodplain and wetlands - significant areas of native vegetation - access to foreshores whilst protecting dunes, lakes and Beaches - water quality in wetlands, estuaries, coastal lakes and Beaches - protection for Aboriginal and European relics and items - for the maintenance of significant areas of native vegetation and trees whilst managing for bush fire Protection - for the utilisation of sustainable water and waste water systems, where appropriate. 	<p>The proposal:</p> <ul style="list-style-type: none"> -provides visual links and views to the lake -relates to the landform with heights reducing as the development steps up the site -does not adversely impact of the adjoining open space land which contains EEC. - does not hinder the ecological link along the foreshore between the coast and hinterland -has limited impact of the native vegetation -improves access to the foreshore -considers and will be required to monitor water quality -considers and will protects Aboriginal and European relics and items -will have minimal impact on vegetation in regard to bushfire mitigation -includes sustainable water and waste water management.

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<p>2. Visual sensitivity</p> <p>(a) Areas of visual sensitivity include:</p> <ul style="list-style-type: none"> - views to and from the coast, rivers, lakes and other water bodies - views to and from the hinterland - views of headlands - night and daytime views - the urban settlement as it sits within the landscape - public views which are retained and reinstated, including views from the streets and public areas to the water - providing clear boundaries between each town and adjacent rural and natural land uses - providing clear separation between adjacent settlements by maintaining rural and natural land - enhancing and upgrading the open-space network for conservation, recreation, views and public access. 	<p>The site is visually sensitive as it is highly visible from the lake.</p> <p>The development will alter the view of the site.</p> <p>The views will vary from day and night, particularly with the addition of boats on the water and the additional lights on the site.</p> <p>The development including s view corridors. The public views will be maintained as the area around the foreshore will be in public ownership for public use.</p>
<p>3. Edges to the water and natural areas</p> <p>(a) A variety of edge conditions exist between the town and the coastline. Access to the coastal foreshore and waterways is optimised and adds cultural and social opportunities.</p>	<p>The area along the foreshore is to be acquired by LMCC, the development provides additional access points to tis foreshore.</p>
<p>4. Streets</p> <p>(a) The street hierarchy of a coastal town includes:</p> <ul style="list-style-type: none"> - key cultural and urban streets that connect to landmarks, vistas, public buildings and focal points, monuments and places of Aboriginal importance within the settlement - key streets that reveal important vistas of and through the settlement, the coast and the surrounding environment - streets that focus on natural and topographic features such as valleys, escarpments, vegetation, headlands and beaches, the sky or mountains 	<p>(a) The street layout of the development is such than many streets are terminated by a view of he lake.</p> <p>The streets within the development are proposed to be pedestrian and cycle friendly and link to the existing network.</p> <p>(b) The development includes a 20 metres setback between the development and the proposed foreshore reserve area. This setback area contains a pedestrian pathway/boardwalk which provides separation between the two uses.</p> <p>(c) The street pattern is an extension of the adjoining residential subdivision.</p> <p>(d) The quality of the pedestrian environment has been a main concern, in trying to make the spaces feel public an inviting for pedestrian rather than just saying they are public. The redesign of the proposal achieves this.</p>

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<ul style="list-style-type: none"> - streets of the original and historic subdivision and topographic pattern of the settlement - streets with development on only one side that define public open spaces, such as parks, squares, the edges of conservation areas or the flood line - streets or pathways separating conservation areas from urban development - main social, retail and commercial streets - a major access road passing through the centre of the town with a secondary arterial road bypassing the town - residential streets or laneways - pedestrian and cycle pathways and routes. <p>(b) Public streets or public pathways provide the boundary between development and open spaces and the foreshore reserves.</p> <p>(c) The street pattern of new development builds upon the historical and original urban structure of the settlement.</p> <p>(d) Streets and public places provide quality pedestrian environments.</p>	
<p>5. Buildings</p> <p>(a) Predominant building types in town centres are small apartment buildings, mixed-use, shop-top housing, town houses, terraces, detached houses/commercial/retail, education and civic buildings.</p> <p>(b) Predominant building types in suburban areas include small apartment buildings, town houses, semi-detached and detached dwellings.</p> <p>(c) Development is predominantly low scale.</p> <p>(d) Heritage buildings are retained and revitalised to tell the story of the town's growth through cycles of re-use, adaptation.</p> <p>(e) Housing, employment and transport are integrated into the town centre as well as in surrounding suburban centres.</p> <p>(f) Industrial areas are located within the urban, environmental and visual constraints of the</p>	<p>(a) The development contains mixed use buildings in the Piazza area and transitions to apartment/terrace type housing though to detached to single dwellings</p> <p>(b) see above</p> <p>(c) the development is predominantly low scale with the exception of the piazza area</p> <p>(d) there are no heritage buildings</p> <p>(e) housing and employment activities are combined in the pizza area</p> <p>(f) NA</p>

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settlement.	
<p>6. Height</p> <p>(a) Generally heights of up to four storeys in town centres.</p> <p>(b) Generally heights of up to two storeys in suburban areas</p> <p>(c) Heights are subject to place-specific urban design studies. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in town centres before 3pm midwinter and 6.30pm Summer Daylight Saving Time. Elsewhere avoid overshadowing of public open spaces, the foreshore and beaches before 4pm midwinter and 7pm Summer Daylight Saving Time.</p>	<p>(a) The site is not considered a town centre</p> <p>(b) The site can be considered as a suburban area, however includes heights higher than 2 stories.</p> <p>(c) The development design has been developed having regard for the characteristics of the site in its context. The majority of the development is consistent in form and scale to the surrounding development being of a residential scale. The piazza area is not considered consistent with this surrounding development, however given the site is zoned tourism and recreation and not residential a different form may be considered appropriate. The development does not present unacceptable overshadowing to the public domain areas due to the orientation, setbacks and heights.</p>
<p>Section 1.3 – Coastal Villages</p> <p>Coastal villages are small centres with a population of up to 3,000 people. Villages are located remote from other settlements or may be the outlying suburbs of larger settlements where they have a similar population and comparable present issues and future opportunities.</p>	
<p>(1) Relationship to the environment</p> <p>(a) The relationship between the village and the coast reinforces:</p> <ul style="list-style-type: none"> -the way in which the settlement sits within the landscape -the visual and environmental dominance of the landscape and surrounding ecological systems -the ecological corridors that surround the settlement. <p>(b) Separation between settlements is maintained by excluding urban development from surrounding rural and natural lands.</p> <p>(c) Clear boundaries around the settlement are established.</p> <p>(d) New buildings and other urban development are located within the boundaries of the village.</p> <p>(e) Land with high ecological, agricultural and visual integrity surrounding the village is protected.</p> <p>(f) Aboriginal and European places and relics are protected.</p>	<p>(a) The development maintains the foreshore landscape and allows the majority of the development to sit within the landscape. The northern piazza area of the development does not. Additional landscaping will be required along the foreshore in the northern area to assist in this regard.</p> <p>Given the exposed nature of the site when viewed from the north it is difficult to ensure the landscape remains dominant. The proposal includes the retention of and regeneration of a number of EEC communities which will also assist.</p> <p>(b) NA</p> <p>(c) NA</p> <p>(d) The site is zoned for development and is considered to be part of Morisset park. It is not a Greenfield site that breaches the boundaries of the urban settlement.</p> <p>(e) The site is classed as having moderate visual significance in the LMCC Scenic Quality guidelines. The visual integrity of the site will be maintained with the exception of the northern view due to its exposed nature. The northern side of the site is viewed by a limited number of persons, being restricted to views from private residences, and by users of the water of Bardens Bay.</p>

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<p>(g) Total water cycle management and water sensitive, urban design initiatives are implemented.</p> <p>(h) The settlement's micro-climatic conditions are improved through landscaping and mature trees.</p> <p>(i) Development is set well back from areas affected by coastal processes, flooding, erosion and sea level rise.</p> <p>(j) Waste and water services match seasonal tourism influxes.</p> <p>(k) Invasive plant species are removed from ecological areas.</p> <p>(l) Bush fire protection and vegetation clearance are balanced to maintain ecological integrity and visual quality.</p>	<p>(f) Considers and will protect Aboriginal and European relics and items</p> <p>(g) Includes suitable water sensitive urban design measures.</p> <p>(h) Additional landscaping will be included within the development</p> <p>(i) The site adjoins a proposed foreshore reserve. The proposed foreshore reserve is typically 20 metres wide and as such provides this setback from the foreshore. The development also provides a setback of typically 20 metres from the proposed reserve edge totalling a setback of typically 40 metres. On the northern section of the site where the marina and its associated facilities are proposed has a minimum setback of six metres from the reserve totalling a minimum 26 metre setback. The minimum typically required is 20 metres to ensure coastal processes are not impacted.</p> <p>(j) Waste and water services are adequate to meet the seasonal requirements.</p> <p>(k) Regeneration of the EECs is proposed and this will include the removal of invasive species</p> <p>(l) There is no clearing required for bushfire purposes.</p>
<p>(2) Visual Sensitivity</p> <p>(a) Visual character is critical in coastal villages. New development responds sensitively in form and character to the village and to the existing proportions and materials of existing buildings.</p>	<p>(a) The character of the area is typically of detached one and storey dwellings. The area is dominated by 2(1) residential zoned land. There is limited 6(2) Tourism and recreation ozone land within the vicinity to provide a comparison. The majority of the site respects the form and character of the locality. The northern piazza area goes beyond the existing character of the residential area however is not considered necessarily out of character given the sites zone, location and purpose.</p>
<p>(3) Edges to the Water and Natural Area</p> <p>(a) Foreshore access in proximity to primary streets and public places within the village are reinforced.</p> <p>(b) Connection between the village park, other public open spaces, the main street and the foreshore edge is strengthened.</p> <p>(c) Pathways to the foreshore are aligned with existing streets.</p> <p>(d) Along the foreshore reserve and other public open spaces the boundary between public and private land is defined with public streets or pedestrian pathways.</p> <p>(e) Walking tracks and vehicular access points (where appropriate) to the beach and through the dunes are defined.</p>	<p>(a) Foreshore access is provide and reinforced by the design of the development and its setbacks.</p> <p>(b) The development includes a village piazza. The development includes connection to this area from the proposed foreshore reserve and to Bluff Point in the south.</p> <p>(c) The existing street layout is extended to the proposed foreshore reserve, allowing continuation of pedestrian access.</p> <p>(d) The development includes a 20 metres setback between the development and the proposed foreshore reserve area. This setback area contains a pedestrian pathway/boardwalk which provides separation between the two uses.</p> <p>(e)NA</p>

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<p>(4) Streets</p> <p>(a) Coastal villages have a range of street types including:</p> <ul style="list-style-type: none"> - an access road leading from the freeway or highway and - passing through the village - a mixed-use main street which is the key economic and - social street linking important places in the settlement - streets revealing important views and vistas of and through - the settlement to natural features - streets defining public open spaces; parks, squares, - conservation areas and the 1:100 year flood line - streets separating natural areas from urban development - streets following the original subdivision pattern - residential streets and laneways - pedestrian and cycle pathways and routes. <p>(b) The original street pattern of the village is reinforced.</p> <p>(c) The layout of new streets responds to geographic features.</p> <p>(d) The settlement has an interconnected and permeable system of streets; the central main street is linked to residential blocks and connects places of importance within the settlement.</p> <p>(e) All streets within the settlement are walkable and safe.</p> <p>(f) Pedestrian and cycle access ways follow the streets.</p>	<p>(a) The development includes a range of street types adding to the existing hierarchy within the suburb.</p> <p>(b) The street pattern is an extension of the adjoining residential subdivision.</p> <p>(c) The street layout respond to the lakeside location having most streets terminating with a view of the lake.</p> <p>(d) The streets are interconnected and permeable.</p> <p>(e)/ (f) The quality of the pedestrian environment has been a main concern, in trying to make the spaces feel public an inviting for pedestrian rather than just saying they are public. The redesign of the proposal achieves this.</p>
<p>(5) Buildings</p> <p>(a) Development within the village comprises:</p> <ul style="list-style-type: none"> - small-scale development within the natural setting - buildings defining public open spaces within the centre - public buildings within the village centre - small-scale tourism and eco-tourism facilities, residential and tourist/residential 	<p>(a) The development introduces a village piazza area. The development surrounding this piazza defines the open space and helps identify this as the activity hub of the development. The buildings within this piazza area are the buildings to be access by the public including restaurants, cafes, and associated commercial activities.</p> <p>It can not be said that the northern part of the site is small scale development within a natural setting. This part of the site is quite exposed with limited landscaping to the north.</p> <p>The remainder of the site fits within the natural setting with the development falling below the tree heights and having a back drop of the state rec area.</p>

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<p>development.</p> <p>(b) Within the village main street and centre an appropriate mix may contain community, education, retail, commercial buildings, shop-top housing, town houses, detached housing for either residential or tourist uses. These buildings:</p> <ul style="list-style-type: none"> - are oriented towards and address the street - have on-grade, active street level uses on the main street. <p>(c) Areas surrounding the village centre may have coastal cottages and outhouses, detached houses and project homes. These buildings:</p> <ul style="list-style-type: none"> - address the street and respond to the streetscape in terms of building setbacks, landscaping and parking - have materials, forms and colours that produce cohesion throughout the village as a whole - have adequate and amenable private open space. 	<p>(d) NA</p> <p>(e) The residential development adjoining the site consists of detached house and project homes. The majority of the development site is proposed to be detached dwelling for residential and tourism proposed. The village piazza re of the development includes taller mixed use buildings.</p>
<p>(6) Height</p> <p>(a) The village centre and the main street have a maximum of up to three storeys.</p> <p>(b) Some elements of important public buildings within the centre may be marginally higher than surrounding buildings.</p> <p>(c) Residential buildings surrounding the centre have a maximum of two storeys.</p> <p>(d) Heights are subject to place-specific urban design studies. New development is appropriate to the predominant form and scale of surrounding development (either present or future), surrounding landforms and the visual setting of the settlement. Buildings avoid overshadowing of public open spaces, the foreshore and beaches in centres before 3pm midwinter and 6.30pm Summer Daylight Saving Time. Elsewhere avoid overshadowing of public open spaces, the foreshore and beaches before 4pm midwinter and 7pm Summer Daylight Saving Time.</p>	<p>(a) the development includes buildings taller than three storeys</p> <p>(b) The village piazza includes buildings higher than the surrounding buildings.</p> <p>(c) Residential/tourism buildings are typically two storey with some three storey in height</p> <p>(d) The development design has been developed having regard for the characteristics of the site in its context. The majority of the development is consistent in form and scale to the surrounding development being of a residential scale. The piazza area is not considered consistent with this surrounding development, however given the site is zoned tourism and recreation and not residential a different form may be considered appropriate. The development does not present unacceptable overshadowing to the public domain areas due to the orientation, setbacks and heights.</p>
<p>Part 2 – Design Principles for Coastal Settlement</p>	
<p>2.1 Defining the footprint and boundary</p> <p>No or limited development</p> <p>(1) Because this scenario is based on limited development of existing sites only, any new development needs to be designed to respond to the existing local context linked to place-specific urban design plans and development controls.</p>	<p>1) The site is an existing site.</p> <p>2) (a) the street pattern and character is extended into the development.</p> <p>(b) the existing bulk scale and height of building is reinforced in the southern part of the development. The northern area, the village piazza introduces new building form and as such increased heights and scale.</p> <p>(c) The extent of private open space in the southern part of the development is</p>

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<p>(2) As a minimum this would result in reinforcing the existing settlement character and the location of sites within the settlement in terms of:</p> <ul style="list-style-type: none"> a. the street pattern and character b. bulk, scale and height of buildings c. extent and location of private open spaces d. car parking configuration e. setbacks from the street and from side and rear boundaries f. landscaping g. materials and detailing of buildings. 	<p>similar to that of the adjoining residential subdivision with small areas of back yard. The apartment/mixed use buildings, as they are new building type do not reflect the existing private open space arrangements.</p> <p>(d) The car parking configuration for the southern part of the site will be consistent with the existing area with garages accessing from streets and laneways. The parking for the village piazza area will be at grade with a piazza over it.</p> <p>(e) setbacks are proposed to be consistent with the existing area, with the exception of some buildings in the village piazza area.</p> <p>(f) The landscaping within the development will be an improvement of the existing as detailed in Principle 9 of the Preferred project report concept plan.</p> <p>(g) Principle 7 of the Preferred project report concept plan details materials and colours and the intentions are considered acceptable.</p>
<p>2.2 Connecting open spaces</p> <p>Locating and designing open spaces within a structure plan creates the character and identity for the settlement and its surrounding context. A number of principles need to be considered.</p> <p>Locate and connect new and existing open spaces which protect and maintain:</p> <ul style="list-style-type: none"> (a) nature reserves, conservation areas, park lands and environmental protection areas (b) the natural and rural setting of the settlement including the scenic values of the visual catchment (c) remnant native vegetation. <p>Establish continuous ecological corridors to incorporate existing remnant vegetation by connecting reserves and conservation areas from the hinterland or surrounding mountains to the coastal edge.</p> <p>Provide setbacks to protect property from the effects of coastal erosion, flooding and bushfire.</p> <p>Locate open-spaces to build on the special attributes of an area for long-term public amenity and identity of the place. An open-space network may include hill tops, river frontage, mature trees, places with panoramic views, rocky outcrops and remnant vegetation.</p> <p>Where feasible preserve settings for places of cultural heritage within the open-space network.</p> <p>Provide areas within the open-space network sufficient to detain and cleanse stormwater runoff and</p>	<p>There is a strip of foreshore land proposed to be a future reserve. The area is under acquisition for its value in terms of protecting the foreshore, providing a continuous link along the foreshore and connecting to other conservation areas. It contains remnant vegetation which will be protected.</p> <p>This proposed foreshore reserve provides for a 20 metre setback from the lakes edge to any private land. The development then has a minimum setback of 6 metres in one point with typically a 20 metres setback. This is adequate room to protect from the effects of coastal erosion, flooding and bushfire.</p> <p>The development also includes increased setbacks from bluff point in the south to provide curtilage to the cultural sites in this area and protect the bluff/hill top from development. This includes a minimum 45 metres setback.</p> <p>An edge area of open space is provided within the development site. This area includes a pedestrian path which assist in delineation the two space. The provision of this within the development site also allows the open space to be used as just that.</p> <p>The pathway and street connections cater for pedestrians and cyclists.</p> <p>Advice from LMCC section 94 co-ordinator and community land planners is such that this development does not create a need for any different active and passive recreational spaces such as playing fields or playgrounds.</p> <p>It does include a small pocket park to the south, pathways throughout and a public piazza area to the north.</p>

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<p>avoid impacting sensitive ecologies.</p> <p>Establish edge open-spaces with streets and pedestrian pathways. These are best located within the development footprint of the settlement, rather than in an open-space zone.</p> <p>Provide pedestrian and cycle access that:</p> <ul style="list-style-type: none"> (a) does not compromise the ecological values of high conservation areas (b) connects important places throughout the settlement (c) connects residential areas to commercial and retail locations without compromising the visual, aesthetic or ecological values of the foreshore. <p>Provide a variety of large and smaller open spaces to serve a range of different active and passive recreational roles, for example:</p> <ul style="list-style-type: none"> (a) playing fields (b) playgrounds and small pocket parks (c) walking and cycling connections (d) places and activities for people with physical disabilities. <p>Co-locate recreational facilities with shops, schools and other community facilities to reduce parking and minimise walking distances.</p> <p>Landscape design of open spaces should reflect the different qualities of the location and their functions.</p>	
<p>2.3 Protecting the natural edges</p> <p>In order to achieve the objectives for the settlement edges it is important to:</p> <ul style="list-style-type: none"> 1) Define the key characteristics and functions of public spaces along the foreshore with particular regard for sites of significant social and cultural importance. 2) Maintain foreshore areas and setbacks in public ownership. 3) Ensure that existing and remnant native vegetation is protected through generous setbacks and defined points of access. 4) Provide pedestrian access to and along the foreshore with provision for those with less mobility. 5) Avoid the remodelling of foreshore areas to ameliorate coastal processes by buildings or other structures. 	<ul style="list-style-type: none"> 1. The public space along the foreshore will be used for access and to protect the cultural heritage of the area. 2. The foreshore area is zoned 6(1) Open Space and will be in public ownership due to acquisition requirements. 3. The EEC's along the foreshore will be protected as they will be within public land. The development has increased its setback the eastern edge to 20 metres which will further assist in protecting this vegetation. 4. Pedestrian access is proposed within the development along the proposed reserve edge. The access is to provide universal access. 5. The foreshore is to be retained in its current state. 6. The development includes a pedestrian path between it and the proposed foreshore reserve provide adequate separation. The access roads provide direct access to the proposed foreshore reserve. These roads create a vista to the reserve and to the lake beyond. 7. The access points to the foreshore reserve will be well defined as part of any future applications for the site. The detail of the pedestrian path will consider

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<p>6) In new areas provide edge roads (or unformed pedestrian pathways) between all urban areas, foreshore reserves and orient streets to provide:</p> <p>a) direct pedestrian access to the foreshore</p> <p>b) views to the foreshore as well as distant views and vistas.</p> <p>7) Define clear pedestrian and vehicular entry points and access routes through the foreshore reserve to reduce the impact of traffic through dunes, coastal vegetation and other fragile areas.</p> <p>8) Design and locate foreshore facilities, such as car parks, toilet blocks and picnic areas, to reduce their visual intrusion on the foreshore, view corridors and vistas.</p> <p>9) Encourage public rather than private jetties and boat facilities.</p> <p>10) Ensure the ecological integrity of vegetation on the foreshores and headlands is not compromised by creating views and outlook from private properties and by encouraging filtered views.</p>	<p>maintenance and the like of the future reserve and as sch consider access.</p> <p>8. The subject concept plan does not include any works within the proposed foreshore reserve</p> <p>9. The development includes a marina which includes an area of public day berths.</p> <p>10. DECC have raised concern with the need for protection of the foreshore vegetation perhaps in the form of fencing. Given the vegetation is between the accommodation and the lake it may be under pressure to improve views. Conditions will be considered in this regard.</p> <p>11. The site includes a proposed foreshore reserve to the south, east, north and north west. The north west section of this proposed reserve includes salt marsh vegetation. The development is clear of the majority of this vegetation. The development also includes revegetation and rehabilitation of the salt marsh community. The reserve is between 10 to 20 metres wide in this area ensuring there is adequate separation between the development and the salt marsh community.</p> <p>12. As discussed in section 5 of this report there is adequate room between the development and the foreshore to cater for the effects of coastal processes including sea level rise. Adaptation measures are also proposed and design life of the buildings has also been considered in this regard.</p> <p>13. As above. There are no SEPP 14, 26 or 44 issues on site.</p> <p>14. This development is new development. The development includes a typical setback of 40 metres from the lake edge. The northern section of the site is the most sensitive component of the site however due to the proposed use for a marina a setback of 50 metres in this area is difficult to achieve. The development needs to be located in proximity of the water as proposed.</p> <p>15. A review of the development by a specialist from WBM has shown that the setbacks as proposed are adequate to cater for coastal processes. The EEC is also considered to be adequately protected as detailed in the response from DECC.</p> <p>16. The development has considered sea level rise as detailed in section 5 of this report. The proposal has demonstrated that some components of the development will have a 50 year design life and some have 100 year. This is considered suitable.</p> <p>17. The development does not impact an estuary.</p> <p>18. NA</p> <p>19. The visual amenity of the foreshore and the visual impact of the development is considered acceptable. Public access is available along the foreshore.</p> <p>20. The buildings are setback between 8 and 60 metres from the foreshore. They are subject to guidelines that require future application to demonstrate high quality and responsive finishes. The uses relate well to the foreshore, and complement it.</p>
<p>Setbacks</p> <p>11) Areas adjoining freshwater estuarine, coastal habitats and the coastal edge are managed to reduce land use impacts through setbacks that also supports the protection of properties from erosion, protection of sensitive ecologies, provision of public access along the foreshores and to natural areas, provision of visual amenity along the foreshore, protection of properties from the effects of sea-level rise, improvement of water quality.</p> <p>12) Setbacks should also address coastal erosion hazards such as storm surge events and river flooding, long-term shoreline recession and sea-level rise, cliff retreat and catastrophic collapse, sand drift hazard, entrance stability, estuarine erosion and changes in tidal current position.</p> <p>13) Setbacks are designed to protect ecosystems and reserves covered under SEPP 14 wetlands, SEPP 26 littoral rainforest, SEPP 53 koala habitat as well as salt-marsh and mangrove communities, riparian vegetation, frontal dunes and headlands, national parks, protected areas and reserves.</p> <p>14) For new developments the foreshore setbacks should be at least 50m wide as a precautionary measure where possible.</p> <p>15) Setbacks may need to be marked and their vegetation preserved. Setbacks should where possible be increased to 100m or more where they are adjacent to ecologically sensitive areas or in situations where the coastal erosion hazard requires greater distance.</p> <p>16) Setbacks for redevelopment should consider a 100 year planning timeframe to address shore line retreat and sea-level rise.</p>	

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<p>17) Coastal estuary planning for local areas must detail the issues place-specifically and follow guidelines in the Coastal Zone Management Manual.</p> <p>18) Development on frontal dunes is avoided.</p> <p>19) Set new development back from the foreshore edges of the ocean, lakes and other waterways to protect visual amenity and create opportunities for public access.</p> <p>20) The design of buildings and other structures on properties adjoining the foreshore complements the function and character of the foreshore.</p> <p>21) Setbacks in public ownership where ever possible, allow opportunities for public access and have limited development including no roads, private allotments,</p>	<p>21. The foreshore will be in public ownership. No raids or private lots are proposed.</p>
<p>2.4 Reinforcing the street pattern</p> <p>A street pattern is unique to each settlement and as a broad framework should include:</p> <ul style="list-style-type: none"> (a) a main access road linking the settlement to the highway or freeway, providing entry to the settlement. Smaller settlements generally have a single one-way-in, one-way-out main road. This may be an unsealed or rustic road. Other larger settlements may have the highway passing through the main street bringing opportunities for increased economic and social benefits. Settlements with higher volumes of through traffic may have by-passes that completely circumvent the settlement (b) a centrally located main street defining the commercial and social centre and acting as the main public transport route (c) edge streets fronting reserves and open spaces, defining the boundary of the settlement and providing asset protection zones for bushfire management (d) residential streets with limited traffic flows (e) laneways serving residential and commercial lots (f) pedestrian pathways on all streets except freeways, highways and cycleways. <p>Reinforce the street pattern can be achieved by:</p> <ul style="list-style-type: none"> 1) Building on the original and established street and block patterns in terms of the pattern of circulation, access to lots and uses. 2) Ensure the settlement is easily navigable and logical in terms of access and location of uses. 3) Optimise the number of connections within the street hierarchy. The traditional grid provides 	<ul style="list-style-type: none"> a. The site has a main entry road being Trinity Point Drive. b. NA c. The development does not include an edge road between the development and the eastern proposed reserve however does include a pathway that provides a similar function. Bushfire protection is not a significant issue. d. The residential streets within the development are designed to limit traffic flows. e. Laneways are included within the development to improve the amenity of the main residential streets. f. All streets are of adequate width to cater fro pedestrians and cyclists. <p>Reinforcing the street:</p> <ul style="list-style-type: none"> 1. The development has been redesigned to better reflect the street pattern of the adjoining residential subdivision. 2. The permeability and legibility of the development has been significantly improved through the redesign and is appropriate fro the development. 3. The site is well connected to the adjoining development through est west connections. The amended deign has improved north south connections. 4. The streets within the development relate well to the topography. 5. A number of streets are terminated by views of the lake. 6. The street hierarchy within the development is acceptable. 7. The development achieves this. 8. Best Practice stormwater management is proposed within the

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<p>high accessibility and permeability for pedestrians and vehicles.</p> <ol style="list-style-type: none"> 4) Recognise or design streets in response to the topography and other natural features by ensuring a predominance of streets that relate to the original landform. 5) Protect streets that provide access and views to the coast, foreshores and headlands, other significant natural features and places of public importance. 6) Allow for changes on private land whilst valuing the qualities of individual streets including: <ol style="list-style-type: none"> (a) their order within the hierarchy (b) access and street address (c) carriageway, footpath and reserve alignments, building setbacks (d) street trees which will offer filtered views of the coast (e) vistas and view corridors. 7) Minimise road crossings over waterways and water bodies. 8) Encourage grass swales and pervious surfaces to increase stormwater infiltration. <p>The street hierarchy can be strengthened by:</p> <ol style="list-style-type: none"> 9) Protecting the rural and natural character of the main access roads by restricting development fronting onto them. 10) Reinforcing main streets as the commercial and social heart of the settlement. 11) Developing public edge roads around the settlement to provide separation between urban areas and sensitive ecologies and open-space areas. This provides asset protection zones for bushfire management and access to open spaces, foreshores and headlands. 12) Limiting fast moving through traffic in residential streets. 13) Protecting laneways in residential and commercial areas from being built into or over. 14) Establishing a system of pedestrian pathways throughout the settlement and between settlements. 15) Reinforcing streets with appropriate street vegetation planting. 	<p>development.</p> <ol style="list-style-type: none"> 9. NA 10. NA 11. The setbacks and built form provide an appropriate edge for the streets. 12. The streets are designed to prevent fast moving vehicles 13. Adequate setbacks are proposed to protect the laneway 14. Pedestrians and cyclist are catered for 15. There is appropriate landscaping proposed.
<p>2.5 Appropriate buildings in a coastal context</p> <p>Built form guidelines for all sites</p> <p>There are a number of built form guidelines underpinning new</p>	<ol style="list-style-type: none"> 1) Coastal processes have been considered in section 5 of this report 2) The location, use, scale, height and site configuration is appropriate as detailed in section 5 of this report.

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<p>development independent of its location.</p> <ol style="list-style-type: none"> 1) Develop risk assessment and responses to address the effects of coastal processes. Locate and design buildings to respond appropriately within the local hazard context. 2) Reinforce the clarity of the settlement structure with new buildings that are appropriate in terms of location, uses, scale, height and site configuration. 3) Reinforce the desired future character of the settlement. 4) Consider the appropriateness of new buildings within the whole streetscape, rather than each building as a stand-alone object. 5) Maintain consistent street setbacks and street-edge configurations. 6) Ensure buildings address the street by providing direct and on-grade entries to the street for residential, commercial and retail purposes. 7) Rationalise car-related uses on site, such as driveways widths and lengths. 8) Protect local views from public places and streets by maintaining consistent setbacks along streets and not placing buildings in view corridors. 9) Protect local views and vistas throughout and surrounding the settlement from public places by relating new buildings to the topography, reducing heights to maintain views of the surrounding landscape and maintaining consistent, height, bulk, scale with the street and local context. 10) Ensure that controls are coordinated to produce the desired building form and site configuration for developments. These controls include uses, building height, building depth, building separation, street setbacks, side and rear setbacks, and floor space ratio. 11) Ensure developments and neighbouring properties have: <ol style="list-style-type: none"> (a) access to daylight (b) access to natural ventilation (c) visual privacy and acoustic privacy (d) private open space (e) a pleasant microclimate. 12) Achieving amenity relates to the design of individual buildings and, in particular, to: <ol style="list-style-type: none"> (a) building orientation and depth 	<ol style="list-style-type: none"> 3) The development is mostly consistent with the residential nature of the surrounding land. The site is zoned 6(2) Tourism and Recreation and the development meets the expected character for that zone. 4) The development itself creates a new streetscape which is considered suitable for the location. 5) The setbacks are consistent with the current DCP controls and are considered appropriate as outlined in section 5 of the report. 6) The relationship of the building to the street is acceptable. The detailed design of the buildings will be required to consider this also. 7) Car uses on site are dealt with by the use of access lanes to limit the impact on the main streetscape. 8) The development will maintain views to the lake through the extension of the existing road system. 9) The land based development is not considered to adversely impact local views. The view of the site will change however no views will be blocked by the land based comment of the development. Amendments to the marina design as recommended will ensure the marina is adequate in terms of visual impact. 10) The principles and guidelines set within the PPR are considered adequate to ensure the desired built form is achieved. 11) Daylight is maintained to adjoining dwellings and will be adequate within the development, natural ventilation of adjoining dwellings will not be impacted and the site is adequately designed in this regard. Visual privacy of adjoining dwellings will be maintained and the detailed design of the development will be required to ensure adequate internal privacy. The development will change the acoustics of the area however adequate measures are able to be implemented to ensure there is not an adverse impact. Adequate room is provided within the development to meet the private open space requirement. Any further application will need to demonstrate compliance with the relevant controls. The microclimate is not likely to be adversely altered by the development.
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<ul style="list-style-type: none"> (b) the size of the lot (c) open-space location, size and connection with the inside of the building (d) carparking, location and access (e) pedestrian access from the street (f) street edge configuration and building separation mature trees, vegetation and soil areas. 	<p>12) The detailed design of the individual buildings will need to ensure there is adequate amenity. The Principles and guidelines proposed in the PPR are considered appropriate to allow adequate amenity to be provided.</p>
<p>Built form design guidelines for specific locations within a settlement</p> <p>Development along the coast can be classified in relation to the settlement type, the location within the settlement and the geographic location of the site. It is appropriate to define a number of key sites common to many locations along the coast. Design guidelines for these locations/sites respond to both the locational importance of these sites and common issues recently experienced at a number of coastal settlements.</p> <p>In settlement centres adjacent to the coastal edge or the foreshore reserve</p> <ol style="list-style-type: none"> 1) Complement and coordinate the centre's hierarchy of built form with lower buildings adjacent to the foreshore and higher buildings away from the foreshore. 2) Mitigate overshadowing of public open spaces and the foreshore by apply the standard, no overshadowing before 3pm midwinter and 6.30pm summer daylight saving time. 3) Reinforce the visual amenity of public places and streets throughout the settlement by ensuring development does not build into important vistas or view corridors. 4) Create a public interface to the street and ensure development creates an edge to adjacent public open spaces by: <ul style="list-style-type: none"> - reinforcing public and active uses especially on the ground floor of buildings adjacent to streets and public open spaces, either public or private on the ground floor - ensuring the ground floor of the building is level with the street. 5) Where there is no existing street between the site and the coastal edge, define this boundary with a publicly accessible edge, such as pedestrian pathways, public laneways or public streets, connecting to the street hierarchy. 6) Ensure buildings have well articulated and scaled elevations. 7) Support building types that locate car parking at the rear of sites accessible from laneways or secondary streets or locate car parking under and in-line with the building's footprint so that the ground floor has active street-level uses. 	<ol style="list-style-type: none"> 1. The development is not a centre as such however the buildings do taper in height away from the foreshore edge. Adequate setbacks are also provided. 2. The setbacks and heights are such that the development will have limited overshadowing impact on the future reserve. 3. Vistas are maintained and enhance by the development. 4. The development includes adequate interface with the street system and the future public reserve creating an appropriate edge. 5. A pedestrian pathway is proposed to define the edge of the future public reserve. This interface detail will be fully resolved at detailed application stage however appropriate principles and guidelines are proposed in the PPR. 6. The detailed design of the development will resolve the articulation and scale of the elevations. Additional guidelines are proposed to ensure the articulation is appropriate and adequate. 7. The buildings fronting the main streets within or adjoining the development have been designed to have car park areas access from elsewhere such as laneways. The village square component of the development also includes car parking under the building, within the building being an elevated podium type construction.

APPENDIX E. SUMMARY OF SUBMISSIONS

Summary of Public Submissions received prior to the exhibition period

Prior to exhibition, there were a total of 199 submissions received by Council. 174 of the submissions supported the proposal; 23 of the submissions opposed the proposal; and 2 requested further information to be submitted.

Summary of Public Submissions received during the exhibition period

During exhibition, there were a total of 535 submissions received by Council. 174 submissions supported the proposal; 358 of the submissions opposed the proposal; and 3 requested an extension of the exhibition period.

Oppose

Topic	Number of references in submissions	Details / Comment
Amenity	41	<ul style="list-style-type: none"> The proposal will destroy this peaceful part of the lake. The area (both land and water) would be overused by visitors/occupants of the development, which would reduce the amenity and the use of this area for existing residents. The development is for the rich who do not live in the area and who do not know and will not respect the local area and its environment. The developer is thinking only about maximising their profits at the expense of the local amenity.
Built Environment	158	<ul style="list-style-type: none"> The built structures, including the residential, tourist, commercial and associated marina buildings are not sympathetic to the site; they do not fit into this part of Lake Macquarie. <p>The 6-7 storey accommodation buildings in particular, are too tall and large, and would be visually prominent when viewed from land or water. Further, the bulk and scale of the buildings are not consistent with the existing or future character of the area. No form of landscaping would be able to reduce the visual impact of these buildings.</p> <ul style="list-style-type: none"> The development does not provide sufficient, accessible or well designed carparking facilities. There is

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Topic	Number of references in submissions	Details / Comment
	38	<p>no car parking associated with the marina and public open space for use by members of the public. It appears that all car parking will be secured within the development, which will not be able to be used by general members of the public. This will result in car parking spilling into the surrounding residential streets, which places an undue burden on the local residents.</p> <p>This situation will be further exacerbated due to the construction of the development. The marina will be constructed prior to the accommodation buildings which house the car parking, thus leaving no car parking for a period of time.</p> <p>There is also a lack of coach/bus parking and manoeuvring area. This would restrict the ability of visitors and residents to organise bus trips to other tourist attractions in the area, such as the Hunter Valley.</p>
Community consultation	11	<ul style="list-style-type: none"> I do not believe there has been adequate consultation with the local community. The consultation that was undertaken was not independent and therefore not accountable, nor was the consultation substantial (only 49 respondents). Furthermore, community views have been misrepresented in the documentation.
Completion of development	31	<ul style="list-style-type: none"> Given the size and cost of the development and the current economic climate, there is the potential that the developer will complete only portions of the development, walk away and leave it uncompleted; a white elephant. In relation to the marina, this could result in the break water being constructed, with only a small number of berths being constructed. The costs of maintaining or removing these structures would fall upon the local community, which is not acceptable. <p>There is also the potential that the developer may look to convert the tourism component to residential, should it not prove to be an economically viable. This will result in further variation to Council's zoning of</p>

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Topic	Number of references in submissions	Details / Comment
		the land for tourism purposes, effectively eroding the zoning of the land.
Departure from original proposal	22	<ul style="list-style-type: none"> The original concept/masterplan was much smaller and more acceptable. The plan was developed with the appropriate community and stakeholder consultation, and was perceived to be the best outcome for the site and community. However, the current proposal varies far from this. The masterplan incorporated a larger proportion of tourist development which was to have a low height, small footprint and reduced massing. The proposal now proposes for a much higher residential component, with high, visually prominent buildings; so much for the low scale tourist outcome.
Designated Development	1	<ul style="list-style-type: none"> 'Aircraft facilities' and 'Marinas' fall under the provisions of Designated Development. Thus, the applicant must address and substantiate that both of these functions of the development comply with the outlined tests and analysis
Documentation	8	<ul style="list-style-type: none"> Further documentation is required to understand the full impacts of the development. In particular this includes (but is not limited to) the following: <ul style="list-style-type: none"> A detailed boating analysis, which analyses the navigatable area of the lake, not just the total surface area of the lake; A waste and effluent management plan, which analyses boats moored at the marina, slipway activities, and boat movements; Further acoustic studies An environmental impact study of the breakwater around the marina; and A photo montage of the development.
	37	<ul style="list-style-type: none"> Some of the documentation submitted with the application is lacking in content and/ or the content is flawed. This includes (but is not limited to) the following: <ul style="list-style-type: none"> The environmental assessment, which has failed to adequately address issues such as endangered marine life; The boating report which has not analysed the cumulative impacts of an increase in boat numbers; The acoustic report, which appears not to contain accurate and valid data; The helipad report which fails to address a large number of important issues (e.g. safety impacts, emergency access, etc);

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Topic	Number of references in submissions	Details / Comment
		<ul style="list-style-type: none"> o The berth demand study, which is flawed in its analysis; o The financial model which is flawed in its analysis; o The plans submitted with the application, which do not show the north and eastern sides of Bardens Bay and thus fail to show how much of the bay and channel the development takes up; and o The helicopter accident statistic rates, which are inaccurate. <p>It should also be noted that several of the reports submitted for the proposal have been prepared by individuals/companies with the name Johnson or affiliation (i.e. Britton).</p>
	3	<ul style="list-style-type: none"> • The development has failed to address some of the matters contained in the Department's DGRs.
	15	<ul style="list-style-type: none"> • The development will not bring the predicted growth in employment. The size of the development is so large that it is unlikely that the services of local workers such as electricians, plumbers, etc would be used. This will result in specialised construction workers being sourced from companies located outside of the LGA. Thus, there will be no immediate benefit to the local economy through job creation, or investment in local companies. <p>Additionally, there will be minimal job creation opportunities after the completion of the project. It is actually quite likely that due to the increase in the local labour force, local unemployment will rise.</p>
Economic impact	15	<ul style="list-style-type: none"> • It is unlikely that the marina will be economically viable. Statistics provided by the developer show that the proposal is likely to operate below industry benchmarks. This, when combined with local census data and the location of the site away from more populated areas of the LGA, means the use of this facility would be limited.
	14	<ul style="list-style-type: none"> • The public use facilities, such as the café and restaurant, are unlikely to be utilised and therefore

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Topic	Number of references in submissions	Details / Comment
		unviable. Most residents within the local area are young families or retirees, who are unlikely to use such facilities. Such underutilisation also relates to the marina; due to the costs of berthing, it is unlikely that local residents will berth their vessels at the marina.
	1	<ul style="list-style-type: none"> The entire development will result in a reduction in the use of the lake by residents and visitors, which will in turn, have a negative economic impact on the entire Lake community.
Equitable Access	2	<ul style="list-style-type: none"> It appears that the development has not given due consideration to equitable access for all members of the community (i.e. those with disabilities).
Flooding	18	<ul style="list-style-type: none"> It is known and documented that flooding occurs across parts of the site. Currently the tourism portion of the development is located in an area identified by Council as being subject to flooding. Due consideration to the impact of flooding upon the development has not been given, including predicted sea level rise.
Flora and Fauna	74	<ul style="list-style-type: none"> The development will destroy large areas of habitat and environmentally important areas (both water and land) by way of its location upon and within proximity to identified areas of habitat. This includes the location of the boat hoist within proximity to environmentally sensitive areas, the impact of helicopter noise and vibration to local wildlife, depletion of fish stocks due to the destruction of fish breeding grounds and habitats, and an increase in toxicity of fish as a result of increased levels of lead associated with the marina.
General opposition	39	<ul style="list-style-type: none"> Pro forma
Helicopter use/helipad	56	<ul style="list-style-type: none"> There are a number of concerning safety issues associated with the helipad and associated helicopter use. This includes (but is not limited to) issues such as the following: <ul style="list-style-type: none"> The helicopter approach does not comply with the minimum heights of which an aircraft is allowed to fly over a built up/urban area; Due to the location of the helipad in the middle of the bay, it will become unstable in rough weather; There is insufficient separation between boats and the helipad;

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Topic	Number of references in submissions	Details / Comment
		<ul style="list-style-type: none"> ○ Rotor downwash is likely to have safety impacts on boats beneath, particularly sailing boats; ○ Accidents are highly probable given that a variety of users will be using the helipad (private, emergency services, etc); and ○ Due to the location and design of the marina, the helipad will not be accessible to emergency services.
	19	<ul style="list-style-type: none"> ● The developer has argued that the flight path of the helicopter will occur only over the lake. This flight path cannot be enforced, as the number of flights proposed falls below DECC's license requirements, and the developer is not required to obtain a license which regulate the number and path of flights. As such, flights may and likely will occur over urban areas, which is not acceptable.
Heritage	8	<ul style="list-style-type: none"> ● The development will result in the destruction of Aboriginal artefacts and middens. Consultation with appropriate indigenous groups is necessary to ensure that this does not occur.
Housing Affordability	3	<ul style="list-style-type: none"> ● Given the proximity of the development to the foreshore of the lake, and its apparent exclusiveness, the residential units will not be affordable for the majority of people. This will not assist in improving housing affordability in the area.
	15	<ul style="list-style-type: none"> ● If the development is approved, Council will have to pay for some infrastructure costs and the maintenance of this infrastructure. This includes dredging of Swansea channel due to the larger boats that will utilise the marina, maintenance of the public jetty/break water at the site and the upgrading and maintenance of roadways leading to the site.
Impact to Council	56	<ul style="list-style-type: none"> ● The proposed development, in particular the high rise accommodation buildings will create an undesirable precedent. This will open the flood gates for other similar developments to occur within close proximity to the lake, having further adverse impacts. ● There is a currently an undersupply of land zoned for tourism purposes on the western side of the lake. To permit the development with a high proportion of residential development on land zoned for tourism

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Topic	Number of references in submissions	Details / Comment
Inappropriate use of the land	3	purposes would further exacerbate this lack of supply of land zoned for tourism purposes.
	7	<ul style="list-style-type: none"> The site was originally used by the St John of God church, and contains a graveyard (which was last used in the 1970s and 1980s). The historical use of the site should be considered and a marina development should not occur on this site; rather it should be used as a park/picnic/camping ground more in line with the tourism zoning of the land.
	19	<ul style="list-style-type: none"> The proposed dry dock and marina workshops are essentially industrial development. This is not a form of development that is suited for this site, or its waterfront location.
	17	<ul style="list-style-type: none"> The site is located too far away from a town centre as well as the access point to the coast. In particular, this relates to the development of high density residential development a substantial distance away from the Morisset Town Centre; normal planning practice is for this type of development to be located within town centres close to transport nodes. <p>Additionally, the site is located a substantial distance away from Swansea Channel (the Lake's access point to the coast). The likelihood that the marina will be used given its distance location is low.</p>
	20	<ul style="list-style-type: none"> There is a clear physical separation between the mixed use components of the development that will result in an inappropriate development of the site. The mixed use development is based on a 50/50 ratio of apartments (residential and tourist). The proponent has minimised the footprint of the tourist buildings, resulting in inappropriately high buildings. On the other hand, residential development is very spread out and spacious (in order of 75% of the land area), which is not consistent with the zoning and intended development of the land.
	21	<ul style="list-style-type: none"> Swansea Channel is already known to have siltation problems, resulting in restricted access for a number of boats. The developer is trying to attract large ocean going boats that measure up to 12

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Topic		Number of references in submissions	Details / Comment
			metres. Due to their size, these types of boats are unlikely to be able to navigate Swansea Channel; thus meaning that the development is inappropriate for its location.
		32	<ul style="list-style-type: none"> The marina is proposed to be located in a bay, which is subject to severe weather conditions. The marina is not appropriate for its location, as marinas are normally located in safe harbours. To mitigate some of the impact of these weather conditions, the developer proposes to construct a break water. Given that the break water is necessary to mitigate the impact of severe weather conditions, it illustrates that the location of the marina is not appropriate.
Incomplete works		1	<ul style="list-style-type: none"> There is an amount of road works associated with the Trinity Point Residential Estate which have not been completed. The proposed development, if approved should not be allowed to proceed until those earlier works are completed.
Inconsistency with legislation		34	<ul style="list-style-type: none"> The development is not consistent with a number of pieces of legislation. This includes (but is not limited to) the following: <ul style="list-style-type: none"> State and local government legislation relating to development within the lake, such as jetties and mooring poles; State government legislation and policies relating to coastal development and development within public open space zones, including SEPP 71, SEPP 19 and the NSW Coastal Policy; Council's Lifestyle 2020 Strategy, LEP and foreshore/lake development policies such as the Council's Mooring Plan; The EP&A Act, as it relates to the principles of ecologically sustainable development and the precautionary principle; and SEPP 65
Increase in traffic volume		72	<ul style="list-style-type: none"> There will be a significant increase in the volume of traffic both during the construction and operation of the development. This will result in further congestion of the roads at the Morisset Peninsula, inconvenience to the local residents, increased likelihood of accidents, and increased traffic pollution.
Lack of Infrastructure		74	<ul style="list-style-type: none"> The Morisset Peninsula does not have adequate infrastructure to cater for the development; nor does

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Topic	Number of references in submissions	Details / Comment
Marina		the development propose to provide such adequate infrastructure. This includes public transport services such as bus and rail, police and health care professionals, inadequate roadways to the development site, lack of other tourist facilities for potential occupants/visitors, lack of appropriate waste water management facilities, and lack of playground and open space areas.
	9	<ul style="list-style-type: none"> The marina will likely require lighting to be used to illuminate the piers at night. This lighting would have a significant impact on the residents of the lake, to whom these lights are visible.
	15	<ul style="list-style-type: none"> The marina is marketed towards larger, ocean going boats. The use of these larger boats will require more openings of Swansea Bridge to enable access to/from the Lake. This increase in bridge openings will cause localised traffic congestion within Swansea.
	93	<ul style="list-style-type: none"> The increased number and in particular the increased size of boats in the area will cause local environmental problems and impact to other smaller boat users in the Lake. This includes disturbance of the lake bottom and subsequent environmental impacts, increased foreshore erosion from the wash created by the larger boats, increased siltation, increased water traffic problems, overcrowding and safety issues.
	1	<ul style="list-style-type: none"> The marina will displace the existing swing moorings located in the bay.
Mines	1	<ul style="list-style-type: none"> The driving of poles into the floor of the lake has the potential to cause cracking of the lake floor. This cracking can then result in water entering into the mines that are located below the lake. The impacts of this could be disastrous.
Need	27	<ul style="list-style-type: none"> There is no apparent need for this type of development (the buildings, the marina, or the helipad) to be built in this area of the Lake. There is substantial land available for low density residential development, and there is no need for high density living in this area of the Lake. There are also a number of existing marinas in the Lake which could be expanded. Lastly, there are other air travel facilities such as Warnervale airport where clients could fly to.

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Topic	Number of references in submissions	Details / Comment
Noise	207	<ul style="list-style-type: none"> Residences of the area would be subjected to unacceptable noise impacts. These impacts would primarily arise from the use of the helipad and helicopters (at any time of the day), however, would also be generated by the increased use of larger boats in the area, the daily operations of the site (boat repair, general traffic, functions, etc), and noise generated by construction of the development.
Political donations	1	<ul style="list-style-type: none"> It is not clear whether or not the developer has made contributions to the Labour Party over a number of years. Such information is relevant and should be made available to the general public.
Pollution	143	<ul style="list-style-type: none"> The development will generate a significant amount of pollution. For instance, pollution to the lake will occur from boats both when in use, and when moored at the marina through oil seepage, and anti-fouling and anti-corrosive measures. Furthermore, this situation would be further exacerbated as the bay has no natural tidal flush, so all pollution will remain in the area.
	12	<ul style="list-style-type: none"> The development will result in the devaluation of property in the area, due to the impacts of the development on existing properties within the area.
Property Values	4	<ul style="list-style-type: none"> The development will result in higher land values within the locality which is not desirable. The higher land values will produce higher rates, making the rural activities in the area uneconomical. This will in turn eliminate a source of food in a location close to the City. Additionally, the higher land values will unfairly squeeze a lot of ordinary people out of this area.
Section 94 Contributions	1	<ul style="list-style-type: none"> The provisions of Section 94 of the EP&A Act are applicable to the development. The imposition of community facilities requires careful assessment. The need for these facilities based on the increased residential density requires forthwith implementation. The scale of the development should ensure that community facilities are provided by the developer as the development proceeds on a staging basis. A monetary contribution is not considered to be the most efficient and timely manner of providing such facilities.
Size of the development	129	<ul style="list-style-type: none"> The development is a massive overdevelopment of the site. The size, scale, and density of the accommodation components are completely inappropriate for this part of the lake. Additionally, the marina is too large, extending approximately half way across the bay entrance, which is not acceptable.
Staging	12	<ul style="list-style-type: none"> The marina should be constructed in stages, with each stage subject to a separate application, based

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Topic	Number of references in submissions	Details / Comment
		upon best practice at the time. No justification for the 308 berth marina has been made, and staging the development would enable a better outcome to be achieved.
Sustainability	7	<ul style="list-style-type: none"> The development has not considered environmental sustainability. It does not consider the impacts of increased resource use associated with the development. We are in a period of global warming, with diminishing supplies of fossil fuels, yet the application proposes to build an environment which cannot exist without the use of these fuels.
Timing	6	<ul style="list-style-type: none"> The developer has indicated that the development will take up to fifteen to twenty years to be fully completed. Extending the construction period over this timeframe, is not satisfactory, as it will destroy the peace and quiet enjoyed by the residents in the area.
Use of and restricting the use of public land	115	<ul style="list-style-type: none"> The development will result in the use of public land and facilities being restricted for public use; it would be restricted to private use by the developer. For the land based component, this has been done via the design of the built environment, which whilst reserving a small area of public reserve still conveys a 'keep out' message to the public. Furthermore, the boat travel lift has been located such that when in use, the public reserve will not be able to be used. <p>In relation to the water based component, a significant proportion of the Lake will be brought into private ownership with the marina; the marina is essentially a private boat parking lot located upon public land. Furthermore, the marina will reduce the size of this area of the Lake which can be safely used for water activities.</p>
Views	23	<ul style="list-style-type: none"> The development, particularly the high rise development will result in views within the area being obstructed and destroyed.
Waste disposal	3	<ul style="list-style-type: none"> The development must consider the treatment and disposal of sewerage and waste carefully given the site's proximity to the Lake and the density of the development.
Water quality	51	<ul style="list-style-type: none"> The development will have an adverse impact on the water quality and ecology of the bay. This includes the construction of the break water which will restrict wave activity and natural currents within the Bay; inevitable changes to the ecology of the area will occur. When combining this change in

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Topic	Number of references in submissions	Details / Comment
		ecology with the limited tidal exchange in the bay, it will result in the stagnation of the water, reducing the ability of the Lake to rid dead seagrass.

Support

Topic	Number of references in submissions	Details / Comment
Additional facilities and services	8	<ul style="list-style-type: none"> The proposal will provide additional facilities and services within the LGA, which is something the Lake currently lacks. This includes the convention centre, which would have beneficial impacts by bringing more tourism to the area and providing an area for conferences and meetings.
Built Environment	3	<ul style="list-style-type: none"> When comparing the bulk and scale of the proposed buildings to other existing developments along the lake foreshore, such as the electricity power stations, there is little competition. Given the existence of these developments, the accommodation buildings would not be incompatible with the present nature of the Lake's scenic quality. <p>Furthermore, development of the multi level accommodation buildings will reduce urban sprawl within the City. This will enable the development to provide quality open space and recreational facilities. The density and scale of the proposal is appropriate for the site and the market it will cater for.</p>
Economic impacts	6	<ul style="list-style-type: none"> Development will have positive economic impacts for the local economy. This includes the creation of jobs both during the construction phase and during the developments ongoing use, and an increase in tourism through the promotion of Lake Macquarie.
General Support	170	<ul style="list-style-type: none"> Pro forma
Helipad	1	<ul style="list-style-type: none"> The impacts of the helipad and its use will not have a significant impact on the amenity of the locality. We are subject to nearby helicopter landings, and have first hand knowledge that they are not intrusive at all. The location of the helipad away from the shore would not be a problem.

Other

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Topic	Number of references in submissions	Details / Comment
Request for extension of exhibition	3	<ul style="list-style-type: none"> Request for extension of exhibition period.

Summary of Public Submissions received after the exhibition period

After the exhibition of the original proposal, and before the submission of amended plans there were a total of 9 submissions received by Council. 8 of these submissions opposed the proposal and 1 of the submissions supported the proposal.

Oppose

Topic	Number of references in submissions	Details / Comment
Amenity	1	<ul style="list-style-type: none"> The proposal will destroy this peaceful part of the lake.
Built Environment	3	<ul style="list-style-type: none"> The built structures, including the residential, tourist, commercial and associated marina buildings are not sympathetic to the site; they do not fit into this part of Lake Macquarie. <p>The 6-7 storey accommodation buildings in particular, are too tall and large, and would be visually prominent when viewed from land or water. Further, the bulk and scale of the buildings are not consistent with the existing or future character of the area. No form of landscaping would be able to reduce the visual impact of these buildings.</p>
Documentation	2	<ul style="list-style-type: none"> Some of the documentation submitted with the application is lacking in content and/or the content is flawed.
Flooding	1	<ul style="list-style-type: none"> It is known and documented that flooding occurs across parts of the site. Currently the tourism portion of the development is located in an area identified by Council as being subject to flooding. Due consideration to the impact of flooding upon the development has not been given, including predicted sea level rise.

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Topic	Number of references in submissions	Details / Comment
Flora and Fauna	2	<ul style="list-style-type: none"> The development will destroy large areas of habitat and environmentally important areas by way of its location upon and within proximity to identified areas of habitat. This includes the location of the boat hoist within proximity to environmentally sensitive areas.
Helicopter use/helipad	2	<ul style="list-style-type: none"> There are a number of concerning safety issues associated with the helipad and associated helicopter use. This includes (but is not limited to) issues such as the following: <ul style="list-style-type: none"> The helicopter approach does not comply with the minimum heights of which an aircraft is allowed to fly over a built up/urban area; Due to the location of the helipad in the middle of the bay, it will become unstable in rough weather; There is insufficient separation between boats and the helipad; Rotor downwash is likely to have safety impacts on boats beneath, particularly sailing boats; Accidents are highly probable given that a variety of users will be using the helipad (private, emergency services, etc); and Due to the location and design of the marina, the helipad will not be accessible to emergency services.
Inappropriate use of site	2	<ul style="list-style-type: none"> The site is located too far away from an access point to the coast. The proposed dry dock and marina workshops are essentially industrial development. This is not a form of development that is suited for this site, or its waterfront location.
Marina	4	<ul style="list-style-type: none"> The increased number and in particular the increased size of boats in the area will cause local environmental problems and impact to other smaller boat users in the Lake. This includes disturbance of the lake bottom and subsequent environmental impacts, increased foreshore erosion from the wash created by the larger boats, increased siltation, increased water traffic problems, overcrowding and safety issues.
Noise	4	<ul style="list-style-type: none"> Residences of the area would be subjected to unacceptable noise impacts. These impacts would primarily arise from the use of the helipad and helicopters (at any time of the day), however, would also be generated by the increased use of larger boats in the area, the daily operations of the site (boat repair, general traffic, functions, etc), and noise generated by construction of the development.
Pollution	4	<ul style="list-style-type: none"> The development will generate a significant amount of pollution. For instance, pollution to the lake will occur from boats both when in use, and when moored at the marina through oil seepage, and anti-

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Topic	Number of references in submissions	Details / Comment
		fouling and anti-corrosive measures. Furthermore, this situation would be further exacerbated as the bay has no natural tidal flush, so all pollution will remain in the area.
Size of the development	4	<ul style="list-style-type: none"> The development is a massive overdevelopment of the site. The size, scale, and density of the accommodation components are completely inappropriate for this part of the lake. Additionally, the marina is too large, extending approximately half way across the bay entrance, which is not acceptable.
Use of public land	4	<ul style="list-style-type: none"> The development will result in a significant proportion of the Lake being brought into private ownership with the marina; the marina is essentially a private boat parking lot located upon public land.

Support

Topic	Number of references in submissions	Details / Comment
General Support	1	<ul style="list-style-type: none"> Pro forma

Summary of Public Submissions received after submission of Preferred Project Report

As of 9 July 2009 there have been a total of 34 submissions received. All 34 of these submissions opposed the proposal and none of the submissions supported the proposal.

Oppose

Topic	Number of references in submissions	Details / Comment
Amenity	13	<ul style="list-style-type: none"> The proposal will destroy the amenity of this part of the lake and effect the amenity of those who reside in the area.
Built Environment	21	<ul style="list-style-type: none"> The built structures and their layout, do not fit the site. The buildings, are too tall and large, and would be visually prominent when viewed from land or water. Further, the bulk and scale of the buildings are not consistent with the existing or future character of the area. No form of landscaping could mitigate this impact. It is acknowledged that a greater setback has been achieved to the east of the site, however reduced setbacks have occurred in other areas of the site. These reduced setbacks impinge upon areas which provide for fish breeding and bird population.
	1	<ul style="list-style-type: none"> The development has not demonstrated that car parking numbers and allocation of these spaces has been resolved. Allocation for marina berth holders, visitors and tourists needs to be considered. Furthermore, the matter relating to bus parking has not been resolved.
	4	
Departure from original proposal	5	<ul style="list-style-type: none"> The original concept/master plan was much smaller and more acceptable. The plan was developed with the appropriate community and stakeholder consultation. However, the PPR varies vastly from this. The master plan incorporated a larger proportion of tourist development, however the proposal now proposes for a much higher residential component.
Documentation	11	<ul style="list-style-type: none"> Some of the documentation submitted with the PPR is still lacking in content and/or the content is flawed. Furthermore, the proponent has not adequately addressed a number of issues identified by

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Topic	Number of references in submissions	Details / Comment
		Council in their Statement of Issues.
	1	<ul style="list-style-type: none"> Some of the matters identified by Council have not been addressed. Specifically, this relates to Aboriginal heritage.
Economic impacts	2	<ul style="list-style-type: none"> The development will not bring the predicted growth in employment, with only a limited number of full time positions created.
	1	<ul style="list-style-type: none"> It is unlikely that the marina will be economically viable. The previously supplied statistics showed that the 308 berth marina is likely to operate below industry benchmarks. Given that the number of berths have been reduced in the PPR, the economic viability must be an issue.
Flooding	5	<ul style="list-style-type: none"> It is known and documented that flooding occurs across parts of the site. Currently the tourism portion of the development is located in an area identified by Council as being subject to flooding. Due consideration to the impact of flooding upon the development has not been given, including predicted sea level rise.
Flora and Fauna	4	<ul style="list-style-type: none"> The development will destroy large areas of habitat and environmentally important areas (both water and land) by way of its location upon and within proximity to identified areas of habitat.
Impact to Council	1	<ul style="list-style-type: none"> If the development is approved, Council will have to pay for some infrastructure costs and the maintenance of this infrastructure. This includes dredging of Swansea channel due to the larger boats that will utilise the marina.
	1	<ul style="list-style-type: none"> The PPR will create an undesirable precedent. This will open the flood gates for other similar developments to occur within close proximity to the lake, having further adverse impacts.

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Topic	Number of references in submissions	Details / Comment
Inappropriate use of the site	7	<ul style="list-style-type: none"> The proposed dry dock and marina workshops are essentially industrial development. This is not a form of development that is suited for this site, or its waterfront location.
	12	<ul style="list-style-type: none"> It is acknowledged that the separation between the residential and tourist components have been reduced in the PPR. However, by mixing these areas, new concerns arise as to how the tourist components will be managed. The tourist component should be managed just as that; a tourist facility. Such components should not slowly be converted to residential, as this would be against the intent of the zoning and masterplan for the site. The site is located too far from access points to the Coast. Further, the location of the site at the southern end of the lake is inappropriate for a large scale marina. The site is exposed to strong winds.
	1	
Inconsistency with legislation	1	<ul style="list-style-type: none"> The PPR is not consistent with a number of pieces of legislation. This includes (but is not limited to) the following: <ul style="list-style-type: none"> State government legislation and policies relating to coastal development and development within public open space zones, including SEPP 71 SEPP 65
Inflation of original proposal	4	<ul style="list-style-type: none"> It is acknowledged that the PPR has reduced the size of the development as proposed in the Concept Plan. However, it would seem that the proponent artificially inflated the Concept Plan so they can show how they have compromised.
Lack of Infrastructure	4	<ul style="list-style-type: none"> The Morisset Peninsula does not have adequate infrastructure to cater for the development; nor does the development propose to provide such adequate infrastructure. This includes public transport services such as bus and rail, schools, emergency services, inadequate roadways to the development

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Topic	Number of references in submissions	Details / Comment
		site and shopping facilities.
Lack of public facilities	13	<ul style="list-style-type: none"> The development fails to provide adequate public facilities and access to the foreshore. Specifically, the development does not provide a public boat launching facility or active recreational areas.
Marina	14	<ul style="list-style-type: none"> The increased number and size of boats using and travelling to the marina will cause local environmental problems and problems to other boat/marine vessel users in the Lake. This includes larger wakes which will disturb and conflict with other users of the lake, disturbance of the lake bottom and subsequent environmental impacts, increased foreshore erosion from the wash created by the larger boats, and increased siltation.
Noise	7	<ul style="list-style-type: none"> Residences of the area would be subjected to unacceptable noise impacts. These impacts would primarily arise from the increased number and use of boats in the area, the daily operations of the site (boat repair, general traffic, functions, etc), and noise generated by construction of the development.
Pollution	12	<ul style="list-style-type: none"> The development will generate a significant amount of pollution. For instance, the operation of the industrial boatyard where the detritus of anti-fouling and hull blasting can be swept into the lake. Furthermore, this situation would be further exacerbated as the bay has no natural tidal flush, so all pollution will remain in the area.
Size of the development	20	<ul style="list-style-type: none"> The PPR is still too large and an overdevelopment of the site. In particular, this relates to the size of the marina which still extends significantly into the entrance of Bardens Bay. This also relates to the number of berths proposed for the marina; the reduced number of which has not been justified.
Use of public land	10	<ul style="list-style-type: none"> The development will result in a significant proportion of the Lake being brought into private ownership with the marina. This also relates to the boat haul crossing onto public land. Furthermore, the size of the marina will restrict the use of this part of the lake for other marine recreational uses.
Views	5	<ul style="list-style-type: none"> The development, particularly the high rise development and boats at the marina will result in views within the area being obstructed and destroyed.
Water quality	5	<ul style="list-style-type: none"> The development will have an adverse impact on the water quality and ecology of the bay.

APPENDIX F. APPLICANT RESPONSE TO SUBMISSIONS

JPG RESPONSE TO SUMMARY OF PUBLIC SUBMISSIONS PROVIDED BY ASSESSING OFFICER MP06_0309

Oppose

Topic	Number of references in submissions	Details / Comment	JPG Response
Amenity	41	<ul style="list-style-type: none"> The proposal will destroy this peaceful part of the lake. The area (both land and water) would be overused by visitors/occupants of the development, which would reduce the amenity and the use of this area for existing residents. The development is for the rich who do not live in the area and who do not know and will not respect the local area and its environment. The developer is thinking only about maximising their profits at the expense of the local amenity. 	<ul style="list-style-type: none"> The proposed amendments to the Concept Plan respond to the concerns raised. The proposed lower scale of development, removal of helipad and reduced Marina size ensures that the development will have no significant adverse impact of the amenity of the area whilst at the same time achieving the planning objective for a tourist outcome.
Built Environment	158	<ul style="list-style-type: none"> The built structures, including the residential, tourist, commercial and associated marina buildings are not sympathetic to the site; they do not fit into this part of Lake Macquarie. <p>The 6-7 storey accommodation buildings in particular, are too tall and large, and would be visually prominent when viewed from land or water. Further, the bulk and scale of the buildings are not consistent with the existing or future character of the area. No form of</p>	<ul style="list-style-type: none"> The Concept Plan has been amended to respond to concerns raised and significant reductions in building height have been made. The majority of the site now comprises buildings that are of a domestic scale compatible with the surrounding locality. The buildings surrounding the piazza area have also been reduced in height, however, have been maintained at maximum 4 storeys to ensure the piazza area is of a scale that will attract interest and ensure the success of the project. Adequate on site parking will be provided to cater for

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Topic	Number of references in submissions	Details / Comment	JPG Response
	38	<p>landscaping would be able to reduce the visual impact of these buildings.</p> <ul style="list-style-type: none"> The development does not provide sufficient, accessible or well designed car parking facilities. There is no car parking associated with the marina and public open space for use by members of the public. It appears that all car parking will be secured within the development, which will not be able to be used by general members of the public. This will result in car parking spilling into the surrounding residential streets, which places an undue burden on the local residents. <p>This situation will be further exacerbated due to the construction of the development. The marina will be constructed prior to the accommodation buildings which house the car parking, thus leaving no car parking for a period of time.</p> <p>There is also a lack of coach/bus parking and manoeuvring area. This would restrict the ability of visitors and residents to organise bus trips to other tourist attractions in the area, such as the Hunter Valley.</p>	<p>the proposed development and parking will be provided in each stage commensurate with the demand.</p> <ul style="list-style-type: none"> A bus bay is provided directly adjacent the site.
Community consultation	11	<ul style="list-style-type: none"> I do not believe there has been adequate consultation with the local community. The consultation that was undertaken was not 	<ul style="list-style-type: none"> The proposal has been the subject of a substantial range of consultation with the public both prior to lodgement of the concept plan and during the

Topic	Number of references in submissions	Details / Comment	JPG Response
		independent and therefore not accountable, nor was the consultation substantial (only 49 respondents). Furthermore, community views have been misrepresented in the documentation.	assessment phase. The pre-lodgement consultation undertaken by JPG is outlined in the submitted EAR. <ul style="list-style-type: none"> In addition the application has been placed on public exhibition to meet the statutory requirements of the Act.
Completion of development	31	<ul style="list-style-type: none"> Given the size and cost of the development and the current economic climate, there is the potential that the developer will complete only portions of the development, walk away and leave it uncompleted; a white elephant. In relation to the marina, this could result in the break water being constructed, with only a small number of berths being constructed. The costs of maintaining or removing these structures would fall upon the local community, which is not acceptable. <p>There is also the potential that the developer may look to convert the tourism component to residential, should it not prove to be an economically viable. This will result in further variation to Council's zoning of the land for tourism purposes, effectively eroding the zoning of the land.</p>	<ul style="list-style-type: none"> JPG have based the proposed development on sound market advice. Commitments have been given and statutory restrictions will ensure that the extent of tourism as stated in the submitted documentation will be delivered.
Departure from original proposal	22	<ul style="list-style-type: none"> The original concept/masterplan was much smaller and more acceptable. The plan was developed with the appropriate community and stakeholder consultation, and was perceived to 	<ul style="list-style-type: none"> The proposed concept plan as modified is now more consistent with the original masterplan and provides the appropriate balance between delivering a viable outcome and respecting the overall context of the

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Topic	Number of references in submissions	Details / Comment	JPG Response
		be the best outcome for the site and community. However, the current proposal varies far from this. The masterplan incorporated a larger proportion of tourist development which was to have a low height, small footprint and reduced massing. The proposal now proposes for a much higher residential component, with high, visually prominent buildings; so much for the low scale tourist outcome.	area.
Designated Development	1	<ul style="list-style-type: none"> 'Aircraft facilities' and 'Marinas' fall under the provisions of Designated Development. Thus, the applicant must address and substantiate that both of these functions of the development comply with the outlined tests and analysis 	<ul style="list-style-type: none"> The proposed development is not a designated development. Notwithstanding this the concept plan has undergone a very detailed level of assessment. Further assessment processes will occur as part of the development / project application phase.
Documentation	8	<ul style="list-style-type: none"> Further documentation is required to understand the full impacts of the development. In particular this includes (but is not limited to) the following: <ul style="list-style-type: none"> A detailed boating analysis, which analyses the navigatable area of the lake, not just the total surface area of the lake; A waste and effluent management plan, which analyses boats moored at the marina, slipway activities, and boat movements; Further acoustic studies An environmental impact study of the breakwater around the marina; and A photo montage of the development. 	<ul style="list-style-type: none"> More than adequate information has been submitted for the purpose of receiving concept plan approval.

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Topic	Number of references in submissions	Details / Comment	JPG Response
	37	<ul style="list-style-type: none"> Some of the documentation submitted with the application is lacking in content and/ or the content is flawed. This includes (but is not limited to) the following: <ul style="list-style-type: none"> The environmental assessment, which has failed to adequately address issues such as endangered marine life; The boating report which has not analysed the cumulative impacts of an increase in boat numbers; The acoustic report, which appears not to contain accurate and valid data; The helipad report which fails to address a large number of important issues (e.g. safety impacts, emergency access, etc); The berth demand study, which is flawed in its analysis; The financial model which is flawed in its analysis; The plans submitted with the application, which do not show the north and eastern sides of Bardens Bay and thus fail to show how much of the bay and channel the development takes up; and The helicopter accident statistic rates, which are inaccurate. <p>It should also be noted that several of the reports</p>	<ul style="list-style-type: none"> More than adequate information has been submitted for the purpose of receiving concept plan approval. <p>All documentation has been professionally prepared by independent consultants that have no relationship with JPG</p>
	3		

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Topic	Number of references in submissions	Details / Comment	JPG Response
		<p>submitted for the proposal have been prepared by individuals/companies with the name Johnson or affiliation (i.e. Britton).</p> <ul style="list-style-type: none"> The development has failed to address some of the matters contained in the Department's DGRs. 	<p>other than engaged to prepare and assist with the project.</p> <p>All Director General Requirements have been considered.</p>
Economic impact	<p>15</p> <p>15</p>	<ul style="list-style-type: none"> The development will not bring the predicted growth in employment. The size of the development is so large that it is unlikely that the services of local workers such as electricians, plumbers, etc would be used. This will result in specialised construction workers being sourced from companies located outside of the LGA. Thus, there will be no immediate benefit to the local economy through job creation, or investment in local companies. <p>Additionally, there will be minimal job creation opportunities after the completion of the project. It is actually quite likely that due to the increase in the local labour force, local unemployment will rise.</p> <ul style="list-style-type: none"> It is unlikely that the marina will be economically viable. Statistics provided by the developer show 	<ul style="list-style-type: none"> The proposed development will provide substantial local employment opportunities as reported in the submitted documentation, during both construction and operational phases. The issue of viability is a matter for the proponent to establish for themselves. However the viability of the marina cannot be considered in isolation of the whole development. It is the combined components and resultant synergies that make the project viable.

Topic	Number of references in submissions	Details / Comment	JPG Response
	14 1	<p>that the proposal is likely to operate below industry benchmarks. This, when combined with local census data and the location of the site away from more populated areas of the LGA, means the use of this facility would be limited.</p> <ul style="list-style-type: none"> The public use facilities, such as the café and restaurant, are unlikely to be utilised and therefore unviable. Most residents within the local area are young families or retirees, who are unlikely to use such facilities. Such underutilisation also relates to the marina; due to the costs of berthing, it is unlikely that local residents will berth their vessels at the marina. The entire development will result in a reduction in the use of the lake by residents and visitors, which will inturn, have a negative economic impact on the entire Lake community. 	<ul style="list-style-type: none"> The proposed public facilities are likely to be very successful, they are well located to take advantage of the amenity offered by views of the lake from the site. It is considered that the proposed development has a minimal impact on lake usage and this has been demonstrated in the submitted documentation. The amended concept plan however responds to concerns in the immediate vicinity of the site by reducing the number of berths and substantially shrinking the proposed marina footprint.
Equitable Access	2	<ul style="list-style-type: none"> It appears that the development has not given due consideration to equitable access for all members of the community (i.e. those with disabilities). 	<ul style="list-style-type: none"> The proposed development will provide equitable access as required. Full details will be included in future project / development applications.
Flooding	18	<ul style="list-style-type: none"> It is known and documented that flooding occurs across parts of the site. Currently the tourism portion of the development is located in an area identified by Council as being subject to flooding. Due consideration to the impact of flooding upon 	<ul style="list-style-type: none"> The proponent is aware of the flooding conditions across the site including allowances for sea level rise. Detailed technical reports have been prepared addressing the issue. The proposed development complies with the requirements.

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Topic	Number of references in submissions	Details / Comment	JPG Response
		the development has not been given, including predicted sea level rise.	
Flora and Fauna	74	<ul style="list-style-type: none"> The development will destroy large areas of habitat and environmentally important areas (both water and land) by way of its location upon and within proximity to identified areas of habitat. This includes the location of the boat hoist within proximity to environmentally sensitive areas, the impact of helicopter noise and vibration to local wildlife, depletion of fish stocks due to the destruction of fish breeding grounds and habitats, and an increase in toxicity of fish as a result of increased levels of lead associated with the marina. 	<ul style="list-style-type: none"> The proposed development does not destroy large areas of habitat. In fact very little threatened species is impacted by the proposed development and impacts have been dealt with through appropriate offsets that meet the requirements of DECC.
General opposition	39	<ul style="list-style-type: none"> Pro forma 	<ul style="list-style-type: none"> In principle objection to the proposed development is noted. Without the benefit of understanding the issues of concern it is not possible to provide a comment.
Helicopter use/helipad	56	<ul style="list-style-type: none"> There are a number of concerning safety issues associated with the helipad and associated helicopter use. This includes (but is not limited to) issues such as the following: <ul style="list-style-type: none"> The helicopter approach does not comply with the minimum heights of which an aircraft is allowed to fly over a built up/urban area; Due to the location of the helipad in the middle of the bay, it will become unstable in rough weather; 	<ul style="list-style-type: none"> Whilst the proposed helipad can be established for safe operation, it has been removed from the project in acknowledgement of community concerns.

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Topic	Number of references in submissions	Details / Comment	JPG Response
	19	<ul style="list-style-type: none"> ○ There is insufficient separation between boats and the helipad; ○ Rotor downwash is likely to have safety impacts on boats beneath, particularly sailing boats; ○ Accidents are highly probable given that a variety of users will be using the helipad (private, emergency services, etc); and ○ Due to the location and design of the marina, the helipad will not be accessible to emergency services. ● The developer has argued that the flight path of the helicopter will occur only over the lake. This flight path cannot be enforced, as the number of flights proposed falls below DECC's license requirements, and the developer is not required to obtain a license which regulate the number and path of flights. As such, flights may and likely will occur over urban areas, which is not acceptable. 	
Heritage	8	<ul style="list-style-type: none"> ● The development will result in the destruction of Aboriginal artefacts and middens. Consultation with appropriate indigenous groups is necessary to ensure that this does not occur. 	<ul style="list-style-type: none"> ● Consultation has and will continue to occur as required. The Concept Plan includes a significant number of principles relating to consultation, management and interpretation of aboriginal heritage. DECC have endorsed the Concept Plan subject to conditions relating to aboriginal heritage.
Housing Affordability	3	<ul style="list-style-type: none"> ● Given the proximity of the development to the 	<ul style="list-style-type: none"> ● Housing affordability is addressed on a city wide

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Topic	Number of references in submissions	Details / Comment	JPG Response
		foreshore of the lake, and its apparent exclusiveness, the residential units will not be affordable for the majority of people. This will not assist in improving housing affordability in the area.	basis and there is no specific requirement for this site to address the issue. However the amended concept plan has provided a range of homes that are likely to be more affordable for such a location than comparable developments. The site is not intended to be exclusive – substantial components of public access are proposed and essential to the design intent.
Impact to Council	15 56 3	<ul style="list-style-type: none"> If the development is approved, Council will have to pay for some infrastructure costs and the maintenance of this infrastructure. This includes dredging of Swansea channel due to the larger boats that will utilise the marina, maintenance of the public jetty/break water at the site and the upgrading and maintenance of roadways leading to the site. The proposed development, in particular the high rise accommodation buildings will create an undesirable precedent. This will open the flood gates for other similar developments to occur within close proximity to the lake, having further adverse impacts. There is a currently an undersupply of land zoned for tourism purposes on the western side of the lake. To permit the development with a high proportion of residential development on 	<ul style="list-style-type: none"> The proposed development will pay Section 94 contributions to offset impacts on the public purse. Maintenance of the breakwater is expected to be the responsibility of the marina operator, not Council. Appropriate agreements will need to be put in place. The site is unique – linking a marina and reasonable sized land based tourist zoned site. Clear distinctions can be made in any approval to limit precedence. The perceived undersupply of land zoned for tourism is not supported in evidence. We are not aware that people are regularly approaching Council to have land rezoned for tourism.

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Topic	Number of references in submissions	Details / Comment	JPG Response
		land zoned for tourism purposes would further exacerbate this lack of supply of land zoned for tourism purposes.	<ul style="list-style-type: none"> As is evident in the submitted documentation the support of permanent residential development is desirable. This is because banks will not fund purely tourism based outcomes. In addition JPG remain firmly of the view that a project incorporating residents and tourists will create vitality and viability. The project as a whole will still provide tourism outcomes and generate all the benefits that such outcomes bring – including the tourism resource, employment benefits and expenditure in the locality.
Inappropriate use of the land	7 19 17	<ul style="list-style-type: none"> The site was originally used by the St John of God church, and contains a graveyard (which was last used in the 1970s and 1980s). The historical use of the site should be considered and a marina development should not occur on this site; rather it should be used as a park/picnic/camping ground more in line with the tourism zoning of the land. The proposed dry dock and marina workshops are essentially industrial development. This is not a form of development that is suited for this site, or its waterfront location. The site is located too far away from a town centre as well as the access point to the coast. In particular, this relates to the development of high density residential development a substantial 	<ul style="list-style-type: none"> The proposed development adequately considers the historic aspects of the site. Detailed reports have been included in the application documentation. The proposed marina workshop operations are of low scale and do not cater for major boat repairs. The facility is of a scale compatible to the locality and ancillary to the marina operations. The site is uniquely positioned on the edge of lake Macquarie and so the development of a marina is appropriate. The co-location of a tourist facility mixed with residential homes is considered desirable. Whilst locating every development near a town centre might be a desirable principle it is not always practical or possible.

Topic	Number of references in submissions	Details / Comment	JPG Response
	20	distance away from the Morisset Town Centre; normal planning practice is for this type of development to be located within town centres close to transport nodes.	<ul style="list-style-type: none"> The evidence supports that the marina will be well utilised. The amended concept plan allows tourism to occupy 100% of the site if the demand exists. Residential will however be restricted to a maximum of 50% of the residential apartments. The proposed development does not specifically target the larger boat market it simply provides the opportunity for larger boats to access a number of the proposed berths. Smaller boats can be berthed in larger berths.
	21	Additionally, the site is located a substantial distance away from Swansea Channel (the Lake's access point to the coast). The likelihood that the marina will be used given its distance location is low.	
	32	<ul style="list-style-type: none"> There is a clear physical separation between the mixed use components of the development that will result in an inappropriate development of the site. The mixed use development is based on a 50/50 ratio of apartments (residential and tourist). The proponent has minimised the footprint of the tourist buildings, resulting in inappropriately high buildings. On the other hand, residential development is very spread out and spacious (in order of 75% of the land area), which is not consistent with the zoning and intended development of the land. Swansea Channel is already known to have siltation problems, resulting in restricted access for a number of boats. The developer is trying to 	

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		<p>attract large ocean going boats that measure up to 12 metres. Due to their size, these types of boats are unlikely to be able to navigate Swansea Channel; thus meaning that the development is inappropriate for its location.</p> <ul style="list-style-type: none"> The marina is proposed to be located in a bay, which is subject to severe weather conditions. The marina is not appropriate for its location, as marinas are normally located in safe harbours. To mitigate some of the impact of these weather conditions, the developer proposes to construct a break water. Given that the break water is necessary to mitigate the impact of severe weather conditions, it illustrates that the location of the marina is not appropriate. 	<ul style="list-style-type: none"> Coastal engineers have determined that the location is appropriate for a marina accounting for all coastal processes. The suggestion that the marina is not well located because of the need for a break wall is not supported by evidence. Many marinas are protected by break walls.
Incomplete works	1	<ul style="list-style-type: none"> There is an amount of road works associated with the Trinity Point Residential Estate which have not been completed. The proposed development, if approved should not be allowed to proceed until those earlier works are completed. 	<ul style="list-style-type: none"> The proposed development will comply with the requirements of Council/RTA in relation to current and ongoing road works.
Inconsistency with legislation	34	<ul style="list-style-type: none"> The development is not consistent with a number of pieces of legislation. This includes (but is not limited to) the following: <ul style="list-style-type: none"> State and local government legislation relating to development within the lake, such as jetties and mooring poles; 	<ul style="list-style-type: none"> The proposed development is considered to be consistent with the objectives of the relevant legislation.

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Topic	Number of references in submissions	Details / Comment	JPG Response
		<ul style="list-style-type: none"> ○ State government legislation and policies relating to coastal development and development within public open space zones, including SEPP 71, SEPP 19 and the NSW Coastal Policy; ○ Council's Lifestyle 2020 Strategy, LEP and foreshore/lake development policies such as the Council's Mooring Plan; ○ The EP&A Act, as it relates to the principles of ecologically sustainable development and the precautionary principle; and ○ SEPP 65 	
Increase in traffic volume	72	<ul style="list-style-type: none"> ● There will be a significant increase in the volume of traffic both during the construction and operation of the development. This will result in further congestion of the roads at the Morisset Peninsula, inconvenience to the local residents, increased likelihood of accidents, and increased traffic pollution. 	<ul style="list-style-type: none"> ● Increased traffic as a result of the proposed development is inevitable. The impacts have been addressed in the submitted documentation and are considered to be within reasonable standards. Where necessary road improvements works will be implemented. ● The proposed development will not unreasonably contribute to the likelihood of traffic accidents or traffic pollution.
Lack of Infrastructure	74	<ul style="list-style-type: none"> ● The Morisset Peninsula does not have adequate infrastructure to cater for the development; nor does the development propose to provide such adequate infrastructure. This includes public transport services such as bus and rail, police and health care professionals, inadequate 	<ul style="list-style-type: none"> ● The proposed increased demand for public infrastructure in percentage terms is not significant. The social infrastructure report included with the documentation establishes that existing facilities are appropriate for the development type proposed.

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Topic	Number of references in submissions	Details / Comment	JPG Response
		roadways to the development site, lack of other tourist facilities for potential occupants/visitors, lack of appropriate waste water management facilities, and lack of playground and open space areas.	
Marina	9 15 93 1	<ul style="list-style-type: none"> The marina will likely require lighting to be used to illuminate the piers at night. This lighting would have a significant impact on the residents of the lake, to whom these lights are visible. The marina is marketed towards larger, ocean going boats. The use of these larger boats will require more openings of Swansea Bridge to enable access to/from the Lake. This increase in bridge openings will cause localised traffic congestion within Swansea. The increased number and in particular the increased size of boats in the area will cause local environmental problems and impact to other smaller boat users in the Lake. This includes disturbance of the lake bottom and subsequent environmental impacts, increased foreshore erosion from the wash created by the larger boats, increased siltation, increased water traffic problems, overcrowding and safety issues. 	<ul style="list-style-type: none"> Lighting will be designed to meet Australian Standards and will be addressed in greater detail as part of the future development / project application process. No significant increased demand for opening of Swansea Bridge is likely to result. Bridge opening times are fixed and no changes are proposed as a result. Significant environmental studies have been conducted and it is considered that the proposed development will not have unreasonable impacts. The marina will operate to best practice standards. MSB are in favour of Marinas rather than a proliferation of swing moorings.

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Topic	Number of references in submissions	Details / Comment	JPG Response
		<ul style="list-style-type: none"> The marina will displace the existing swing moorings located in the bay. 	
Mines	1	<ul style="list-style-type: none"> The driving of poles into the floor of the lake has the potential to cause cracking of the lake floor. This cracking can then result in water entering into the mines that are located below the lake. The impacts of this could be disastrous. 	<ul style="list-style-type: none"> The proposed marina design relies on minimal disturbance to the lake bed. The proposal will meet requirements of the Mine Subsidence Board and other authorities
Need	27	<ul style="list-style-type: none"> There is no apparent need for this type of development (the buildings, the marina, or the helipad) to be built in this area of the Lake. There is substantial land available for low density residential development, and there is no need for high density living in this area of the Lake. There are also a number of existing marinas in the Lake which could be expanded. Lastly, there are other air travel facilities such as Warnervale airport where clients could fly to. 	<ul style="list-style-type: none"> Council has identified a demand for tourism and has zoned the site accordingly. The proposed development seeks to meet the demand. The proposed development could not be regarded as high density as reflected by the low FSR. The helipad has been deleted from the proposed development.
Noise	207	<ul style="list-style-type: none"> Residences of the area would be subjected to unacceptable noise impacts. These impacts would primarily arise from the use of the helipad and helicopters (at any time of the day), however, would also be generated by the increased use of larger boats in the area, the daily operations of the site (boat repair, general traffic, functions, etc), and noise generated by construction of the development. 	<ul style="list-style-type: none"> The proposed helipad has been deleted following concerns raised by the community. All other potential noise aspects have been adequately addressed in detail reports submitted with the application. The proposed development will comply with relevant noise controls standards. Construction noise will be addressed through appropriate management plans. Further assessment of such issues will occur as part of future development / project applications.
Political donations	1	<ul style="list-style-type: none"> It is not clear whether or not the developer has 	<ul style="list-style-type: none"> Information on these matters is available through the

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Topic	Number of references in submissions	Details / Comment	JPG Response
		made contributions to the Labour Party over a number of years. Such information is relevant and should be made available to the general public.	existing sources.
Pollution	143	<ul style="list-style-type: none"> The development will generate a significant amount of pollution. For instance, pollution to the lake will occur from boats both when in use, and when moored at the marina through oil seepage, and anti-fouling and anti-corrosive measures. Furthermore, this situation would be further exacerbated as the bay has no natural tidal flush, so all pollution will remain in the area. 	<ul style="list-style-type: none"> The proposed development incorporates best practice environmental controls. DECC have assessed the proposed development and agree that it may be approved subject to appropriate conditions, further approvals and licences. In particular the proposed development meets the requirements for tidal flushing.
Property Values	12 4	<ul style="list-style-type: none"> The development will result in the devaluation of property in the area, due to the impacts of the development on existing properties within the area. The development will result in higher land values within the locality which is not desirable. The higher land values will produce higher rates, making the rural activities in the area uneconomical. This will in turn eliminate a source of food in a location close to the City. Additionally, the higher land values will unfairly squeeze a lot of ordinary people out of this area. 	<ul style="list-style-type: none"> There is no evidence provided to support the claim that the proposed development would result in property values falling. Indeed the opposite could be the case with people attracted to the opportunity of living in proximity of a marina and the facilities available.
Section 94 Contributions	1	<ul style="list-style-type: none"> The provisions of Section 94 of the EP&A Act are applicable to the development. The imposition of community facilities requires careful assessment. 	<ul style="list-style-type: none"> As previously stated the impact of the proposed development on existing services in percentage terms is small and in its own right does not require

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Topic	Number of references in submissions	Details / Comment	JPG Response
		The need for these facilities based on the increased residential density requires forthwith implementation. The scale of the development should ensure that community facilities are provided by the developer as the development proceeds on a staging basis. A monetary contribution is not considered to be the most efficient and timely manner of providing such facilities.	specific works. Accordingly the most efficient manner in which to cater for increased demands is through the existing section 94 contributions process. This will be further addressed as part of future development / project applications.
Size of the development	129	<ul style="list-style-type: none"> The development is a massive overdevelopment of the site. The size, scale, and density of the accommodation components are completely inappropriate for this part of the lake. Additionally, the marina is too large, extending approximately half way across the bay entrance, which is not acceptable. 	<ul style="list-style-type: none"> The scale of the proposed development has been reduced in response to community concern. This includes a reduction in overall height of buildings and a significantly reduced marina size.
Staging	12	<ul style="list-style-type: none"> The marina should be constructed in stages, with each stage subject to a separate application, based upon best practice at the time. No justification for the 308 berth marina has been made, and staging the development would enable a better outcome to be achieved. 	<ul style="list-style-type: none"> The proposed marina has been reduced in size and will be constructed in stages.
Sustainability	7	<ul style="list-style-type: none"> The development has not considered environmental sustainability. It does not consider the impacts of increased resource use associated with the development. We are in a period of global warming, with diminishing supplies of fossil fuels, yet the application 	<ul style="list-style-type: none"> All development requires the use of resources. To suggest that development should stop altogether is not in itself a sustainable response. A balanced and sustainable response is to minimise environmental footprint and select appropriate materials. JPG are committed to best practice and will be consistent

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Topic	Number of references in submissions	Details / Comment	JPG Response
		proposes to build an environment which cannot exist without the use of these fuels.	with the principles of ESD. This will be detailed further as part of future development / project applications.
Timing	6	<ul style="list-style-type: none"> The developer has indicated that the development will take up to fifteen to twenty years to be fully completed. Extending the construction period over this timeframe, is not satisfactory, as it will destroy the peace and quiet enjoyed by the residents in the area. 	<ul style="list-style-type: none"> The proposed development will see a construction period of this magnitude. Construction will occur in stages over a period of time. Construction management plans will be prepared to minimise impacts.
Use of and restricting the use of public land	115	<ul style="list-style-type: none"> The development will result in the use of public land and facilities being restricted for public use; it would be restricted to private use by the developer. For the land based component, this has been done via the design of the built environment, which whilst reserving a small area of public reserve still conveys a 'keep out' message to the public. Furthermore, the boat travel lift has been located such that when in use, the public reserve will not be able to be used. <p>In relation to the water based component, a significant proportion of the Lake will be brought into private ownership with the marina; the marina is essentially a private boat parking lot located upon public land. Furthermore, the marina will reduce the size of this area of the Lake which can be safely used for water activities.</p>	<ul style="list-style-type: none"> The proposed development has been designed to minimise impacts on what will become foreshore public reserve. The Concept Plan advises that works that council may wish to undertake in the acquired lands will not be impeded by the proposed development. Overall public access will be increased as a result of the proposed development, with the public being able to access through the site at multiple locations, which is currently not the case. The public will also be provided a physical access solution around the development edge and direct connection to the lake via the breakwater. The proposed travel lift does not adversely impact on public access along the foreshore. The access will be managed at this point in the interest of public

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Topic	Number of references in submissions	Details / Comment	JPG Response
			<p>safety. Access would only be prevented when the lift is in use.</p> <ul style="list-style-type: none"> The proposed marina has been substantially reduced in size responding to the concerns raised about the extent of bay taken up by the proposal.
Views	23	<ul style="list-style-type: none"> The development, particularly the high rise development will result in views within the area being obstructed and destroyed. 	<ul style="list-style-type: none"> The proposed development has reduced its height. The project has been the consideration of a detailed view analysis and altered to increase visual permeability through the site.
Waste disposal	3	<ul style="list-style-type: none"> The development must consider the treatment and disposal of sewerage and waste carefully given the site's proximity to the Lake and the density of the development. 	<ul style="list-style-type: none"> Agree the consideration of waste disposal is important. The proposal will comply with the requirements of the Hunter Water Corporation with regard to sewer. A waste management plan will be required as part of future development / project applications.
Water quality	51	<ul style="list-style-type: none"> The development will have an adverse impact on the water quality and ecology of the bay. This includes the construction of the break water which will restrict wave activity and natural currents within the Bay; inevitable changes to the ecology of the area will occur. When combining this change in ecology with the limited tidal exchange in the bay, it will result in the stagnation of the water, reducing the ability of the Lake to rid dead seagrass. 	<ul style="list-style-type: none"> The proposed development will be designed to have minimal impact on water quality and will comfortably comply with relevant standards.

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Support

Topic	Number of references in submissions	Details / Comment	
Additional facilities and services	8	<ul style="list-style-type: none"> The proposal will provide additional facilities and services within the LGA, which is something the Lake currently lacks. This includes the convention centre, which would have beneficial impacts by bringing more tourism to the area and providing an area for conferences and meetings. 	<ul style="list-style-type: none"> Agree
Built Environment	3	<ul style="list-style-type: none"> When comparing the bulk and scale of the proposed buildings to other existing developments along the lake foreshore, such as the electricity power stations, there is little competition. Given the existence of these developments, the accommodation buildings would not be incompatible with the present nature of the Lake's scenic quality. <p>Furthermore, development of the multi level accommodation buildings will reduce urban sprawl within the City. This will enable the development to provide quality open space and recreational facilities. The density and scale of the proposal is appropriate for the site and the market it will cater for.</p>	<ul style="list-style-type: none"> Agree, any concerns in relation the scale of the proposed development have been responded to with a reduction in overall building height.

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Economic impacts	6	<ul style="list-style-type: none"> Development will have positive economic impacts for the local economy. This includes the creation of jobs both during the construction phase and during the developments ongoing use, and an increase in tourism through the promotion of Lake Macquarie. 	<ul style="list-style-type: none"> Agree, the proposal will have a substantial positive economic impact.
General Support	170	<ul style="list-style-type: none"> Pro forma 	<ul style="list-style-type: none"> Noted
Helipad	1	<ul style="list-style-type: none"> The impacts of the helipad and its use will not have a significant impact on the amenity of the locality. We are subject to nearby helicopter landings, and have first hand knowledge that they are not intrusive at all. The location of the helipad away from the shore would not be a problem. 	<ul style="list-style-type: none"> Whilst JPG agree that the helipad can operate within the bounds of relevant standards it has decided to remove the helipad from the proposed development in response to overall community concern.

Other

Topic	Number of references in submissions	Details / Comment	
Request for extension of exhibition	3	<ul style="list-style-type: none"> Request for extension of exhibition period. 	<ul style="list-style-type: none"> Noted

APPENDIX G. ENVIRONMENTAL ASSESSMENT

APPENDIX H. PREFERRED PROJECT REPORT
