

Planning Proposal

Draft Amendment to Lake Macquarie Local Environmental Plan 2014 Clause 7.16 Development on certain land at Trinity Point, Morisset Park to facilitate tourism and residential uses

Name of Draft LEP:	Lake Macquarie Local Environmental Plan (LMLEP) 2014 Trinity Point, Morisset Park Draft Amendment
Subject Land:	Lot 101 DP 1256630 - 81 Trinity Point Drive Morisset Park Lot 102 DP 1256630 - 85 Trinity Point Drive Morisset Park Lot 1 DP 1252681 - 81D Trinity Point Drive Morisset Park Lot 34 DP 1117408 - 69C Trinity Point Drive Morisset Park
Land Owners:	Lot 101 & 102 DP 1256630 - Trinity Point Holdings8 Pty Ltd, Lot 1 DP 1252681 - The State of NSW, Lot 34 DP 1117408 - Lake Macquarie City Council
Proponent:	Johnson Property Group Pty Ltd
DPE Reference:	PP-2022-1990
Council Reference:	RZ/14/2021
Document Date and Version:	14 November 2022 Exhibition
Document Author:	Breanne Bryant - Senior Strategic Planner
Pre-Lodgement Meeting and Advice:	Meeting 28 April 2022 Advice Issued 17 May 2022
Attachments:	Attachment 1: Pre-Lodgement Consultation Attachment 2: Architectural Design Report Attachment 3: BDAR Report and Waiver Attachment 4: Flood Impact Assessment Attachment 5: Hydrogeological and Contamination Assessment Attachment 6: Traffic Impact Assessment Attachment 7: Landscape and Visual Impact Assessment Attachment 8: Noise and Vibration Impact Assessment Attachment 9: Social Impact Assessment Attachment 10: Economic Impact Assessment Attachment 11: Concept Stormwater Management and Infrastructure Servicing Assessment Attachment 12: Statement of Heritage Impact Attachment 13: Aboriginal Cultural Heritage Assessment Report Attachment 14: Engagement Report Attachment 15: Landscape Masterplan

Version	Date	Details
1	August 2022	Council endorsement for Gateway Determination
2	November 2022	Exhibition

INTRODUCTION

This planning proposal relates to land at 69C, 81, 81D and 85 Trinity Point Drive, Morisset Park, known as Trinity Point. The site is currently zoned SP3 Tourist and W1 Natural Waterways. *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014) Clause 7.16 'Development on certain land at Trinity Point, Morisset Park' currently applies to this site. A Part 3A Major Project Concept Approval (06_0309) was granted in 2009 for the Trinity Point Marina and Mixed-use Development and subsequent development consents have been issued under this concept. This planning proposal now seeks to amend the local provision (cl.7.16) and associated Additional Permitted Use map to permit a mixed use tourism, residential & commercial development proposed under a new State Significant Development Concept Plan (SSD 27028161) and permit *helipads* under the LMLEP 2014 in the existing lease area where consent has already been granted for the construction and operation of a helipad.

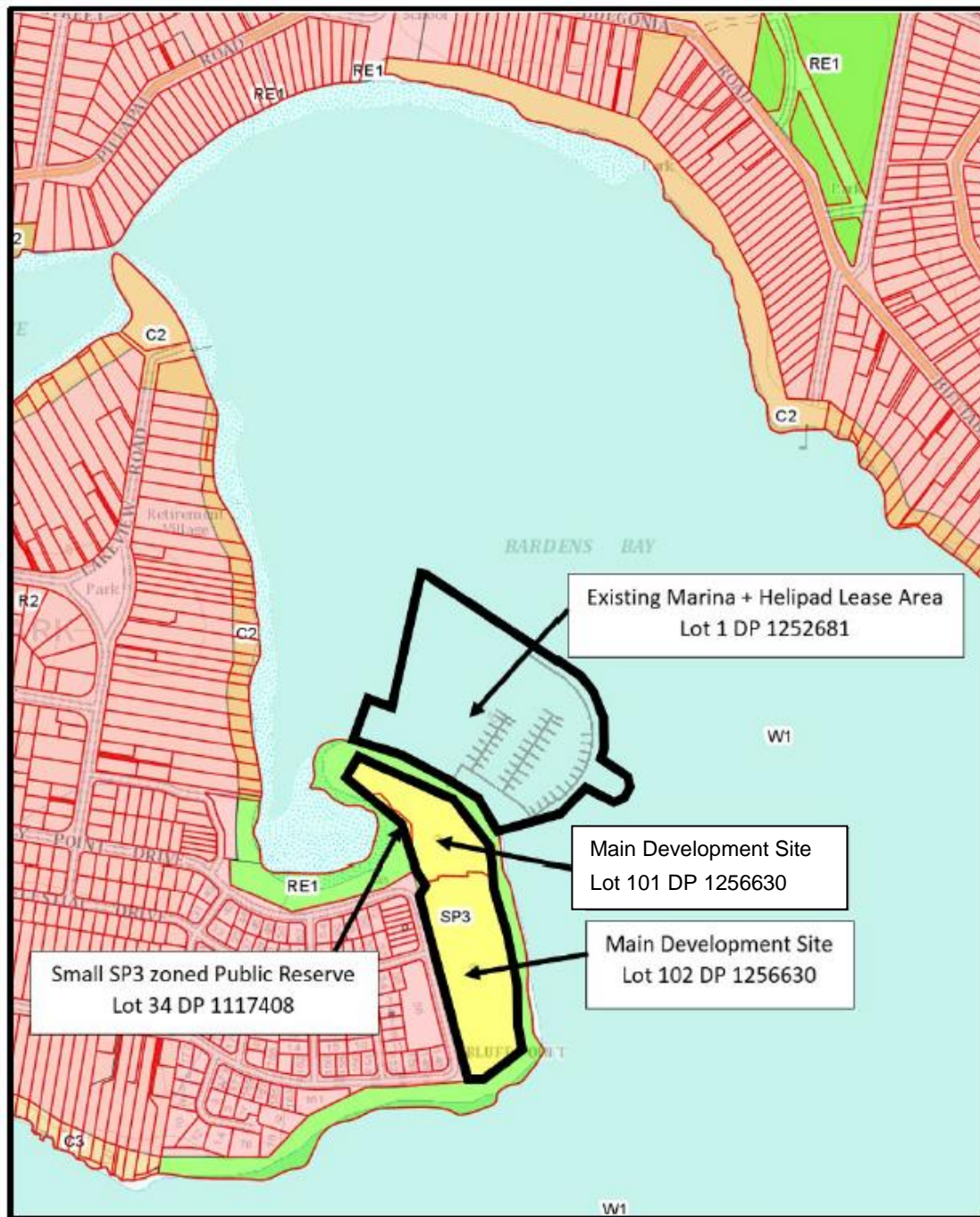


Figure 1 - Land subject to Planning Proposal



- Subject Land
- Land Parcel

Air Photo

2022 Aerial Photography

Nearmap Imagery 2022

0 200
Metres



*Preliminary Amendment to Clause 7.16

Date: 21/07/2022

Planning Proposal: RZ/14/2021

Figure 2 – Aerial Photo of site

Part 1 – OBJECTIVES AND INTENDED OUTCOMES

Objective

The objective of this planning proposal is to amend the *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014) in order to facilitate a State Significant Development proposal (SSD 27028161) for a mixed use tourism, residential and commercial development at 81, 81D, and 85 Trinity Point Drive, Morisset Park. It is also proposed that *helipad* be added as a permissible use in the location where an existing approval applies for this use. It is proposed to achieve this through an amendment to LMLEP 2014 Clause 7.16 'Development on certain land at Trinity Point, Morisset Park' (and associated mapping).

SSD 27028161 is currently being considered by the State Government under separate application and includes:

- Mixed use tourist, hospitality and residential development including six buildings incorporating sculptural rolling roofs and facades covered in greenery
- A maximum Ground Floor Area (GFA) of 42,675m²
- Four residential buildings consisting of 180 residential units
- Two hotel buildings consisting of 224 tourism units
- Two 300-seat restaurants (600m²)
- A 300-seat function/conference centre
- Ancillary uses such as wellness centre (357m²), business centre (215m²) and retail (535m²)
- 611 basement parking spaces

The planning proposal also seeks to rezone Lot 34 DP 1117408 (69C Trinity Point Drive) from SP3 Tourist to RE1 Public Recreation and remove the current Additional Permitted Use (APU) from this lot to reflect the use of this public community land. The height of building provision for this lot will also be amended from 16m to 8.5m. A minor amendment to the land zone, height of building and lot size maps will also be made to align with the cadastre between Trinity Point Drive roundabout and Lots 101 and 102 DP 1256630.

While this planning proposal seeks to enable the above SSD through the local provisions, the physical development is being considered separately through the SSD assessment process. It should be noted other applications could be made under the proposed planning controls should this specific development not proceed.

Intended outcomes

- Permit an appropriate mix and balance of land uses including tourism, residential and commercial that contribute to a distinct, vibrant, activated lakeside tourist destination;
- Permit residential accommodation where it supports and sustains tourism related uses and still achieves the original intent of clause 7.16 for a minimum of 50 percent of units for tourism;
- Permit additional land uses that are not currently permitted in the relevant Land Use Table, but will support the tourism uses on the site such as *helipad*;
- Deliver on strategic goals for Trinity Point that call for a significant tourist outcome;
- Permit unique and immediately identifiable buildings, including taller buildings, where development exhibits high quality and sustainable design that has regard for the surrounding landform;
- Permit additional height of buildings where it enables a significant tourist outcome and delivers a high standard of architectural design;
- Capture significant local, regional and state, social and economic benefits including substantial private financial investment, construction and operational employment and multiplier effects, improved tourism product and other public benefits;
- Support Morisset as a regionally significant growth area;

- Provide housing diversity in south-west Lake Macquarie and Morisset Peninsula in a high amenity location;
- Facilitate delivery of public domain improvements, improved connectivity and activation of the lake foreshore, whilst protecting those areas with biodiversity and Aboriginal heritage values; and
- Contribute to the transformative destination and experience potential of Trinity Point within the local, regional and state context.

Part 2 – EXPLANATION OF PROVISIONS

The proposed objective will be achieved by amending the LMLEP 2014 with the following changes:

- a. Rezone Lot 34 DP 1117408 (69C Trinity Point Drive) from SP3 Tourist to RE1 Public Recreation, remove the current APU from this lot, and amend the Height of Building map for this lot to 8.5m.
- b. Align the R2 Low density residential zone boundary, 8.5 maximum height of building and 450m² minimum lot size with the road cadastre where the Trinity Point Drive Roundabout adjoins Lot 101 and 102 DP 1256630.
- c. Replace Part 7 Additional Local Provisions, Clause 7.16 'Development on certain land at Trinity Point, Morisset Park' with a new/revised local provision to enable a significant tourism and residential development on the subject site. All other planning controls applying to the site will remain unchanged to ensure that if any future proposal cannot meet the requirements under the local provision, the clause could not be utilised and development would need to comply with standard controls such as clause 4.3 Height of Building (lower heights) and general SP3 Tourist zone Land Use Table.
- d. The revised local clause will apply where design excellence is exhibited and will amend 'Morisset Park Area 1' on the Additional Permitted Uses (APU) Map by splitting into two distinct areas (Area 1 and Area 2) and adding an additional area (Area 3) within the eastern section of Lot 1 DP 1252681. The proposed APU areas are shown in Figure 3 below.
- e. For Area 1 and Area 2:
 - i. permit a maximum building height of 42 metres to the upper most roof element including equipment for servicing the building such as plant, lift motor rooms, fire stairs, green infrastructure and the like contained in the roof structure. These elements are to be fully integrated into the design of the roof feature. Any other part of the building that includes occupied floor space is not to exceed a maximum height of 34 metres. The inclusion of height controls in the draft clause is intended as an exception to Clause 4.3 Height of Buildings and its associated maps. Heights under Clause 4.3 would still apply where the provisions of the new clause are not met. The additional height for the roof structure is consistent with the design vision of unique hill shaped buildings as proposed in the concurrent SSD concept.
 - ii. include a floor space ratio (FSR) of 1.25:1 to prevent the site being built out to a height of 42m. The floor space ratio is intended to limit the bulk and scale of future development across the full site. This FSR would allow for a design similar to that proposed under the State Significant Development concept development application - SSD 27028161. It is noted that LMLEP 2014 does not adopt *Standard Instrument - Principal LEP* Clause 4.4 'Floor Space Ratio' or Clause 4.5 'Calculation of floor space ratio and site area'

retain the 6m setback for all buildings from the boundary with Lot 32 DP 1117408, other than those directly associated with a marina.

-
- The map displays the Morisset Park area, highlighting three specific subject land parcels. The surrounding area includes various land parcels, some labeled with numbers (e.g., 19, 31, 35, 37, 39, 49A, 51A, 53A, 55C, 5, 14, 16, 17, 40, 31, 42, 33, 46, 50, 52, 54, 56, 58, 60, 62, 47, 55, 57, 34, 7, 40, 9, 4, 11, 6, 176, 8, 42, 44, 46, 3, 8, 5, 10, 7, 12, 14, 162, 48, 52, 7, 4, 9, 6, 11, 8, 15, 10, 54, 3, 58, 152, 160, 175, 4, 6, 8, 3, 5, 7, 9, 12, 14, 16, 18, 12C, 161) and letters (e.g., 21C, 81D, 81, 85). Roads shown include Sundial Drive, Celestial Drive, Mirrabay Drive, and Trinity Point Drive. Lake Macquarie is located to the east of the subject land. The legend indicates that the thick black outline represents the Subject Land, the thin black outline represents the Land Parcel, and the colored areas represent the APU Name: Morisset Park Area 1 (green), Morisset Park Area 2 (orange), and Morisset Park Area 3 (blue).

Figure 3 - Proposed Additional Permitted Uses (Area 1, 2 and 3)

- f. For Area 1 retain the current Additional Permitted Use of commercial premises which will not exceed 550 square metres as per the current LMLEP 2014 cl. 7.16
- g. For Area 1 permit access, carparking and services associated with the residential accommodation
- h. Retain the Additional Permitted Use of residential accommodation, but restrict this only to Area 2. The residential accommodation is not to be developed in isolation

and should form part of a mix of uses including tourism accommodation and associated uses

- i. For Area 3 (part of Lot 1 DP 1252681) permit *helipad*. This is to be located where consent has been granted under DA/1176/2014 for a helipad. It is noted that there is an existing Additional Permitted Use already applying to Area 3 under Cl. 12 of Schedule 1 of LMLEP 2014 which permits development for the purposes of food and drink premises (excluding pubs) and kiosks with development consent in Lake Macquarie. This Additional Permitted Use applies to all of Lake Macquarie Waterway and it is not intended to remove this existing Additional Permitted Use. As such, consideration of how this is documented in the LEP will need to be given during final drafting
- j. Retain the requirement to protect the Aboriginal middens located on the southern and south eastern foreshore of Lake Macquarie
- k. Retain requirements to provide or maintain physical pedestrian connection and visual permeability from Trinity Point Drive through the development to the foreshore
- l. Amend the requirement for an Aboriginal education centre to instead require and implement a historical and Aboriginal heritage interpretation strategy for the site in consultation with the local Aboriginal land council
- m. In relation to this clause ‘design excellence’ means a high standard of architectural design, with materials and detailing appropriate to the building type and location. The built form and external appearance of proposed development should be unique and respond to the natural landscape and locality, including the Lake Macquarie waterway and the Watagan Mountains through organic forms.

An example clause 7.16 is provided below. It is noted that this draft clause is for clarification and may be redrafted or alternative mechanism utilised prior to finalisation:

Example Local Provision:

7.16 Development on certain land at Trinity Point, Morisset Park

1. This clause applies to land identified as “Morisset Park Area 1”, “Morisset Park Area 2” and “Morisset Park Area 3” on the Additional Permitted Uses Map.
2. The objectives of this clause are as follows –
 - a. To allow residential accommodation and associated uses on part of the land provided that it is part of a mix of uses that includes tourism accommodation and associated uses, and
 - b. To provide additional permitted uses that support the tourism use of the site, and
 - c. To allow additional height of buildings where the development exhibits design excellence.
3. Development consent may be granted to development on Morisset Park Area 1 for the purpose of commercial premises if
 - a. the total floor area of commercial premises (excluding those permitted with consent other than by this clause) will not exceed 550 square metres, and
 - b. buildings, other than those directly associated with a marina, have a minimum 6 metre setback from the boundary of Lot 32 DP 1117408.
4. Development consent may be granted to development on Morisset Park Area 2 for the purpose of residential accommodation, if
 - a. buildings have a minimum 6 metre setback from the boundary of Lot 32 DP 1117408.
5. Development consent may be granted to development on Morisset Park Area 1 for the purposes of access,

	carparking and provision of services for residential accommodation in Morisset Park Area 2.
6.	Development consent may be granted to development on Morisset Park Area 3 for the purposes of a helipad.
7.	Development consent must not be granted under subclauses (3) and (4), unless the consent authority is satisfied that — <ul style="list-style-type: none"> a. the development will provide for the protection of the Aboriginal middens located on the southern and south eastern foreshore of Lake Macquarie. b. the development provides or maintains physical pedestrian connection and visual permeability from Trinity Point Drive through the development and to foreshore reserve at Lot 32 DP 1117408.
8.	Despite clause 4.3 the building height of any building on Morisset Park Area 1 and Morisset Park Area 2 must not exceed 34 metres.
9.	Despite subclause 8 development that includes an architectural roof design or features that exceed, or causes a building to exceed, the height limits set by subclause 8 may be carried out to a maximum of 42m, but only with development consent. The architectural roof design and features may include equipment for servicing the building (such as plant, lift motor rooms, fire stairs, green infrastructure and the like) provided that it is fully integrated into the design of the roof feature.
10.	The maximum floor space ratio for buildings on Morisset Park Area 1 and Morisset Park Area 2 is not to exceed 1.25:1.
11.	Development consent must not be granted to development to which this clause applies unless the consent authority is satisfied that the proposed development exhibits design excellence. In considering whether development exhibits design excellence, the consent authority must have regard to the following matters— <ul style="list-style-type: none"> a. whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved, b. Whether the built form and external appearance of the proposed development is unique and responds to the natural landscape and locality, including the Lake Macquarie waterway and the Watagan Mountains through organic forms.
12.	Any development application must be accompanied by the following – <ul style="list-style-type: none"> a. a historical and Aboriginal heritage interpretation strategy for the site, and b. a staging plan is to be submitted with each development application that details how the objective under subclause (2)(a) will be achieved and provides the schedule of delivery for Area 1 and Area 2.

The intent of the amended local provision is to enable a significant landmark tourism and residential development on the subject site. All other planning controls applying to the site will remain unchanged. This is to ensure that if any future proposal cannot meet the requirements under the local provision, the clause could not be utilised and development would be subject to standard controls, such as the general SP3 Tourist zone Land Use Table and Height of Building Map (lower heights).

Part 3 – JUSTIFICATION OF STRATEGIC AND SITE-SPECIFIC MERIT

Table 3. Matters for consideration

No.	Question	Considerations
Section A – need for the planning proposal		
1	Is the planning proposal a result of an endorsed LSPS, strategic study or report?	<p>The planning proposal has been lodged to support a State Significant Development Concept Proposal on the subject site for a mixed-use tourism and residential development.</p> <p>The site is identified in the Lake Macquarie Local Strategic Planning Statement (LSPS) as being within the South West Growth Area which is identified for significant population and employment growth. The LSPS further identifies the role of Trinity Point as a “<i>significant tourist asset, supporting a growing visitor economy including conference facilities, restaurants and a marina</i>”.</p>

No.	Question	Considerations
Section A – need for the planning proposal		
<p>Lot 34 DP 1117408 is included in the Trinity Point Foreshore Reserve Plan of Management (POM). The POM includes an action to rezone this lot for public recreation.</p>		
2	<p>Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?</p>	<p>Yes, a planning proposal to amend the LMLEP 2014 is considered the most appropriate means of achieving the identified objectives and intended outcomes.</p> <p>The SSD concept could be approved exclusive of the LMLEP 2014 amendment, as Section 4.38 of the EP&A Act 1979 enables development consent to be granted despite the development being partly prohibited by the LMLEP 2014. However, Section 4.15 of the EP&A Act requires consideration of any environmental planning instrument. The Department of Planning and Environment (DPE) have advised that consideration of a planning proposal concurrent with SSD is the preferred approach, given the scale of the variation to the LMLEP 2014 that is proposed.</p> <p><u>The alternative approaches considered are outlined below:</u></p> <p><i>Rely solely on SSD Process</i></p> <p>Section 4.38 of the EP&A Act 1979 enables consent to be granted for an SSD that is partly prohibited by an environmental planning instrument. In this case the SSD concept does not wholly comply with LMLEP 2014 Clause 7.16 'Development on certain land at Trinity Point, Morisset Park' and Clause 4.3 'Height of buildings'. As such a variation under Clause 4.6 of the LMLEP 2014 would need to be considered to these clauses. The extent of the variation sought is considered, by DPE, to be too significant to solely rely on the SSD process and a planning proposal to amend the LEP, considered concurrently with the SSD, is their preferred approach. Reliance solely on the SSD process would also exclude Council from a formal role in the LEP amendment process.</p> <p><i>Planning proposal to rezone that part of the site mapped for residential use from SP3 Tourist to R3 Medium Density Residential Zone</i></p> <p>While this may be a valid statutory option to permit residential flat buildings, the retention of the SP3 Tourist zone is considered a better outcome. The SP3 zone will require consideration of the tourist objectives and require integration and connection with the tourism elements of the site. If the current development concept does not proceed the SP3 zoning would still require a tourism outcome on the site as opposed to a separate stand-alone residential outcome.</p> <p><i>Planning proposal to replace the current local provision (Cl.7.16) with a clause relating to an 'integrated tourist facility' as provided for other lands within the LMLEP 2014 (i.e. Clause 7.14)</i></p> <p>The LMLEP 2014 includes other local provisions that relate to integrated tourist facilities. A similar provision could be applied which is more general and without any numerical limits or considerations. This may result in challenges in development assessment and does not provide as much certainty for Council, the proponent or the community.</p>

No.	Question	Considerations
Section A – need for the planning proposal		
		<p><i>Planning proposal to amend Height of Building Map Layer</i></p> <p>The current maximum building heights under the LMLEP 2014 are 16m, 12m and 6m across the site; however, the Concept Approval 06_0309 (as amended) and Development Approvals for the Mixed-Use Development - Serviced Apartments and Residential Flat Buildings already exceed the permissible building heights. The current proposal seeks to increase the maximum building height to 34m with an additional allowance to 42m for certain elements.</p> <p>Amendment to the Height of Building (HOB) Map could be undertaken to increase the maximum height of buildings or to remove any height allocation at all, which may provide greater transparency in planning controls. However, the inclusion of the additional height in a local clause is considered a better option as it will require consideration of the unique design approach and context and only permit the additional height in certain circumstances. This enables a consent authority to consider those circumstances and not be otherwise directed by higher mapped areas, or the absence of any provision. Any proposal that does not meet the additional provisions would revert back to the lower heights shown on the HOB Map.</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
3	Will the planning proposal give effect to the objectives and actions of the applicable regional or district plan or strategy (including any exhibited draft plans or strategies)?	<p>Yes, the proposal will give effect to objectives and actions of the Hunter Regional Plan 2036 (HRP) and the Greater Newcastle Metropolitan Plan (GNMP). The HRP applies to a broader region and established regional goals, with the GNMP providing a strategic focus to the metropolitan planning approach in Greater Newcastle.</p> <p>Hunter Regional Plan 2036 (HRP 2036)</p> <p>The planning proposal will give effect to regional goals of contributing to the regional (and local) economy, creating thriving communities and providing greater housing choice and jobs.</p> <p>The subject land is in close proximity to Morisset, which is identified as a strategic centre. The proposal will support and compliment the strategic centre and growth area identified at Morisset, and form part of a connection of tourism uses and facilities in this part of the region. The HRP acknowledges this part of the Local Government Area (LGA) has convenient connections to other parts of the Hunter, Central Coast and Sydney which attracts residents and visitors to the area.</p> <p>Direction 9 of the HRP is to 'grow tourism in the region' and acknowledges that there is a <i>huge potential for the Hunter to increase the number of nights visitors spend in the region from an annual 8.8 million</i> and seeks to enable investment in infrastructure to expand the tourism industry, including connections to tourism gateways and attractions. The planning proposal and concurrent SSD will significantly contribute to investment, capacity and connections in regional tourism.</p> <p>The HRP identifies the ready access to natural areas and unique experiences as contributing to the region's identity and health of its</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		

communities (Directions 17, 18 and 20). Trinity Point offers a profile destination to enhance that access and experiences by connecting land and water, and connecting residents with visitors. This will contribute to a thriving community with potential to integrate walking and cycling, areas for social interaction, activation, accessibility, connectivity to, and usage of, public open space.

The planning proposal and concurrent SSD aims to reinforce and expand the profile of Lake Macquarie and the Hunter Region for tourism, hospitality, functions, boating, recreation and lifestyle, with economic investment and jobs. Trinity Point presents emerging job opportunities that are significant in the local and regional context (Directions 1, 8, 9).

The planning proposal and concurrent SSD will also contribute to housing and housing choice within an existing area with services and infrastructure, good access to open space and high amenity. It will also contribute to housing within 30min of a strategic centre, an action of the HRP (Direction 1).

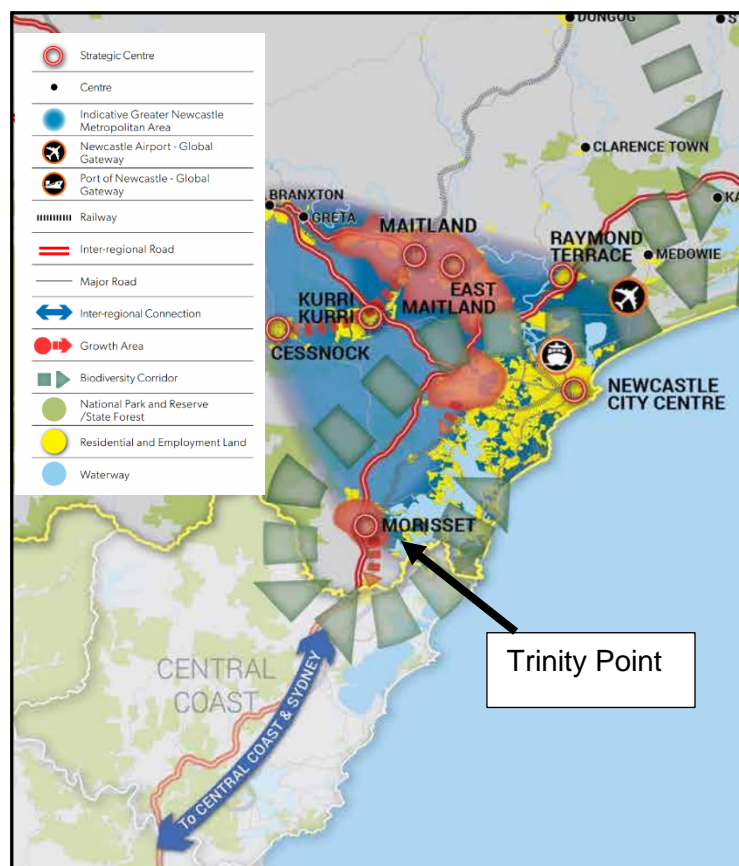


Figure 6 - Extract from HRP Figures.

Draft Hunter Regional Plan 2041 (draft HRP 2041)

The draft HRP 2041 builds on the current plan and resets the regional plan priorities to ensure it continues to respond to the region's needs for the next 20 years. The draft HRP 2041 responds to the new ways people live and work in light of the COVID-19 pandemic by adopting a place-based approach to create a sustainable '15-minute region'. The

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>planning proposal will retain permissibility of land uses that service surrounding residential areas and visitors (commercial & tourism) and will increase residential density to increase vibrancy and activity within the locality. The nearby Bonnells Bay local centre and Morisset Strategic Centre are within an 8-minute drive and 15-20-minute bicycle ride of the subject site, which provides access to everyday needs and supports the idea of ‘complete communities’ as identified in the draft plan.</p> <p>A key element of the draft plan is a greater diversification of employment. The concurrent SSD development will be consistent with this objective, providing for significant employment in the tourism industry.</p> <p>The plan also places emphasis on infill approaches to growth. Trinity Point is already zoned for an urban outcome and the proposed amendments would allow increased density of urban land.</p> <p>Morisset is identified in the draft plan as a Regionally Significant Growth Area. Trinity Point will contribute to this with the demand for goods and services.</p> <p>Greater Newcastle Metropolitan Plan 2036 (GNMP 2036)</p> <p>Trinity Point is located within the Metro Frame, being the outer boundary of the Greater Newcastle Metropolitan Area, which contains an arc of lifestyle centres and iconic tourism destinations and frames the metro core and metro heart.</p> <p>The planning proposal is consistent with the strategies and actions of the GNMP 2036. In particular the planning proposal gives effect to:</p> <ul style="list-style-type: none"> • <i>Strategy 6 Promote tourism, major events and sporting teams on the national and international stage</i> <p>Trinity Point is zoned SP3 Tourist and the proposal will retain this zoning with the use of a local provision to ensure a significant tourism outcome on the site. Tourism accommodation in this location will help to support other nearby major event spaces such as the planned Cedar Mill tourism, cultural and event space at Morisset, which is likely to attract more tourists to the area.</p> <p>Lake Macquarie, which bounds the site, is identified as an iconic tourist destination which is one of five ‘elements’ identified in the GNMP 2036 that will shape Greater Newcastle. Outcome 1 identifies tourism as part of the strength of Newcastle’s diversified and resilient economy. Trinity Point as a tourist destination with provision of accommodation, marina and helipad will be a drawcard and help to support the increased domestic and international visitation that is expected. Action 6.3 requires Council plans to increase flexibility for new tourism proposals including in the metro frame that do not affect natural features or natural amenity and the proposal is consistent with this action.</p> <ul style="list-style-type: none"> • <i>Strategy 10 Create better buildings and great places</i> <p>The proposal aims to amend planning controls to allow for a more</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		

unique and innovative building design that is also sustainable and attractive.

- *Strategy 16 Prioritise the delivery of infill housing opportunities within existing urban areas*

The GNMP 2036 identifies Trinity Point as a Housing Release Area (see Figure 7 below) where it aims to focus housing delivery and to develop as a mixed-use neighbourhood that offers a range and choice of housing and other services (Strategy 16). A key outcome of the plan is to deliver housing close to jobs and services, open space and bushland, make use of land that is not limited by biodiversity values and enhance amenity for quality of life with walking and cycling opportunities. The planning proposal is consistent with this outcome, providing additional opportunity for housing in proximity to the strategic centre of Morisset and with a high amenity lakeside location. Trinity Point will also contribute to regional targets of the number of people that live within 30minutes (and closer) to a strategic centre.

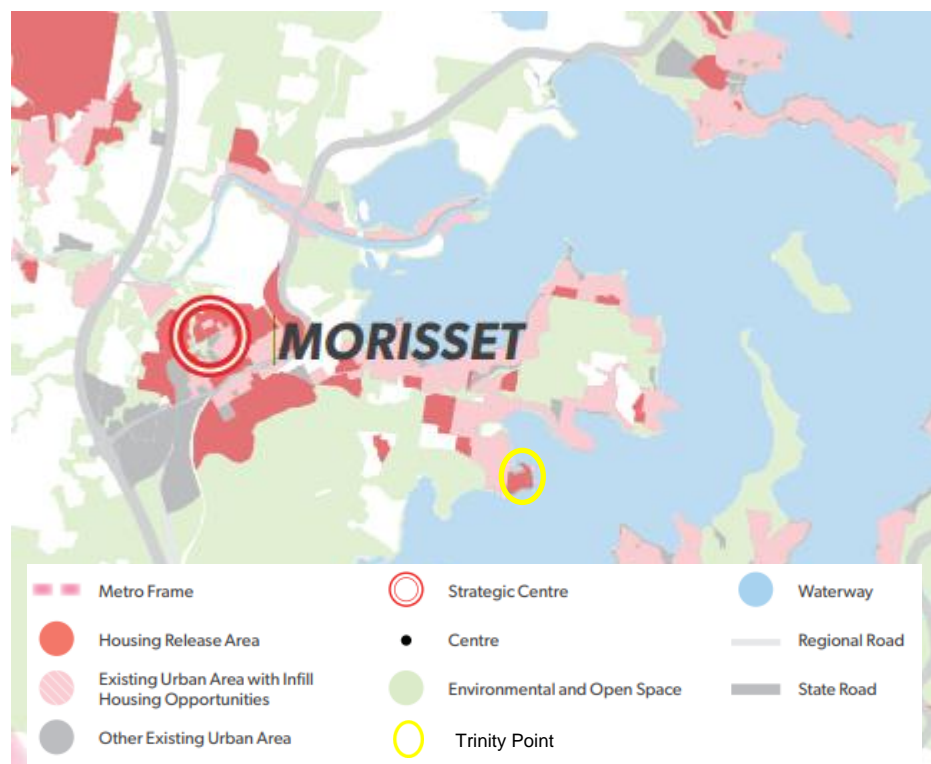


Figure 7 - Housing Opportunities (GNMP 2036)

4	Is the planning proposal consistent with a council LSPS that has been endorsed by the Planning Secretary or GSC, or another	Yes, the proposal is consistent with Council's endorsed Local Strategic Planning Statement.
		Lake Macquarie City Local Strategic Planning Statement (LSPS)
		The LSPS identifies Trinity Point in the South West Growth Area to be <i>developed into a significant tourism asset, supporting a growing visitor economy including conference facilities, restaurants and a marina.</i>
		The proposal retains the SP3 Tourist zone while permitting residential

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
	endorsed local strategy or strategic plan?	<p>accommodation within the zone. It is recommended that any amendment to the local provision ensure a significant tourism outcome on the site and that residential accommodation not be undertaken in isolation. The concurrent SSD concept being considered by DPE proposes a tourism outcome on the site including conference facilities, restaurants and a marina.</p> <p>The Morisset strategic economic centre and surrounding land is identified for significant population and employment growth, benefiting from its positioning to regional connections and employment. This planning proposal enhances this opportunity further.</p> <p>This planning proposal will assist in achieving planning priorities and the overall vision for the City, and is consistent with the principles and actions by:</p> <ul style="list-style-type: none">• Priority 1 A City of Vibrant Centres -Where People Live, Work, Visit and Play. <p>The planning proposal will support the emerging strategic economic centre of Morisset.</p> <ul style="list-style-type: none">• Priority 2 A City to Call Home – Where Diverse Housing Options Cater to Everyone’s Needs. <p>The planning proposal will increase housing choice through the residential accommodation proposed on site, which provides an alternative housing type to the predominately detached housing in the locality.</p> <ul style="list-style-type: none">• Priority 3 A City of Prosperity – That Attracts Investment, Creates Jobs, and Fosters Innovation. <p>The LSPS encourages mixed use tourism and residential developments as a means of attracting investment. The planning proposal aligns with this objective by supporting a development with a significant investment that will provide economic and social benefits for the locality.</p> <ul style="list-style-type: none">• Priority 6 A City with A Vast Natural Environment – That is Valued Protected and Enhanced. <p>The planning proposal incorporates provisions to ensure buildings are appropriately setback from the foreshore reserve on Lot 32 DP 1117408, and to ensure the protection of Aboriginal middens located on the southern and south eastern foreshore of Lake Macquarie.</p> <ul style="list-style-type: none">• Priority 7 A City of Resilience Where People and Places Are Responsive and Proactive to Change. <p>The proposal in part responds to changes in investment, lending and demand as a result of the COVID -19 pandemic. The proposal provides a more flexible approach to delivering a mixed use tourism and residential development and provides for increased density in a scenic location close to services and facilities.</p> <p>Lake Macquarie Housing Strategy (LMHS)</p> <p>While the site is not zoned residential, LMLEP 2014 Cl. 7.16 currently permits residential accommodation on the site. The proposal will</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>enable increased housing density and building typology, which will increase diversity and choice in housing, close to open space, and in a co-ordinated and efficient way. It will provide a local contribution to the priorities and strategy objectives identified by the LMHS beyond the low density detached housing evident in the locality to date.</p>
<p>5</p> <p>Is the planning proposal consistent with any other applicable State and regional studies or strategies?</p>		<p>The proposal is generally consistent with the following State and regional strategies:</p> <p>A 20-Year Economic Vision for Regional NSW (2021)</p> <p>The 20-Year Economic Vision for Regional NSW is the NSW Government's plan to drive sustainable, long-term economic growth in regional NSW. The Plan notes that the tourism sector has been severely affected from recent events, such as COVID 19 and at present <i>there is also a once-in-a-lifetime opportunity to capitalise on growth in domestic tourism by supporting regional areas to transform into iconic, must-see destinations</i>. Enabling a mixed use tourist development will allow for the creation of a unique destination which drives increased visitation and spending in the region in accordance with the Plan. The flexibility for residential accommodation to support financing and development of the tourism destination is considered to be consistent with the aims of the plan.</p> <p>Hunter Regional Transport Plan (H RTP) and Future Transport Strategy 2056 (FTS)</p> <p>The H RTP details the actions the NSW Government will take to address the transport challenges in the Hunter Region. The subject site is located within an 8-minute drive or 15-20-minute bicycle ride of the Morisset train station, which provides links to Sydney and Newcastle. Future development of the site will be required to contribute to the local transport infrastructure. Any future development will need to include appropriate provision for walking and cycling and connection with existing network in accordance with the H RTP.</p> <p>Housing 2041: NSW Housing Strategy</p> <p>The 20-year vision to 2041 aims to deliver better housing outcomes in the right locations and to suit diverse needs. The planning proposal will enable additional residential dwellings and increase housing choice in Morisset Park and surrounds. The proposal will also support jobs and services within close proximity to residential areas. The proposal aligns directly with three of the four pillars – supply, diversity and resilience, while the fourth pillar of affordability is not specifically addressed by the proposal it does locate residential accommodation close to employment opportunities and jobs and the concurrent SSD considers a sustainable design and opportunities for personal networks through shared spaces.</p>
<p>6</p> <p>Is the planning proposal consistent with applicable SEPP's</p>		<p>The following State Environmental Planning Policies are applicable to the planning proposal:</p> <p>SEPP (Planning Systems) 2021</p> <p>The SEPP does not include any provisions directly relevant to the planning proposal; however, the concurrent SSD Concept DA is</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>identified development that is state significant development, under Clause 13(2)(b) of Schedule 1, being development for other tourist related purposes that has a capital investment value of more than \$10million and is located in a sensitive coastal location. It is proposed to exhibit this concept concurrently with the Planning Proposal.</p> <p>SEPP (Transport and Infrastructure) 2021</p> <p>The SEPP includes provisions for traffic generating development under Clause 2.121. Both the current Trinity Point local provision, and the proposed amendments, give rise to development of a scale that is likely to be traffic generating development (i.e. accommodating more than 200 parking spaces).</p> <p>Preliminary consultation has been undertaken at the Stage 1 Pre-Lodgement phase for this planning proposal in addition to briefings between the proponent and TfNSW relating to the traffic and transport assessment required for the concurrent Concept DA. TfNSW raised no objection to the proposed LEP amendment; however, noted that the planning proposal has the potential to generate an increase in demand on the road network and for transport services and requested a Traffic Impact Assessment (TIA) be prepared.</p> <p>A TIA has been prepared for the SSD concept, which is an example of development that could be permitted under the proposed LEP amendment, and concludes that it would result in minimal impacts to the road network operation. Further consultation with TfNSW may be required following the Gateway determination.</p> <p>The Proponent and Council have identified impacts on the State Road network which are being considered as part of the concept SSD which will require a proportionate contribution, and will be dealt with through the SSD process to deliver State Road upgrade works. Any impact on the local network will also be considered as part of the SSD concept.</p> <p>SEPP (Resilience and Hazards) 2021</p> <p>The planning proposal is consistent with the SEPP and the aims and objectives of relevant chapters as follows:</p> <p><u>Chapter 2 Coastal Management:</u> The subject site is located within the Coastal Environment Area and Coastal Use Area as mapped under the SEPP, with Lake Macquarie listed as a Coastal Lake under Schedule 1. The site is not mapped as being part of any coastal wetlands or littoral rainforest (or proximity) area. The planning proposal is consistent with the SEPP and future development is capable of addressing Clauses 2.10-2.15. The draft local clause retains a requirement for a 6m setback to the foreshore reserve and consideration of Aboriginal heritage and the protection of Aboriginal middens located on the southern and south eastern foreshore of Lake Macquarie.</p> <p><u>Chapter 4 Remediation of Land:</u> Previous environmental assessments have been completed for the site including the preparation of a Site Audit Statement (SAS) in 2007 which found the site had been appropriately remediated and suitable for residential, recreational, and commercial usage. A further contamination assessment was prepared in February 2022 to assess any contaminating activities since 2007.</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>This assessment indicates asbestos in shallow soils and has recommended a Remediation Action Plan (RAP) which would be required to be submitted prior to any construction. It also makes further recommendation relating to the future development of the site:</p> <ul style="list-style-type: none"> • Implementation of the Douglas Partners (2007) Acid Sulfate Soils Management Plan (ASSMP) during soil disturbance works at the site; and • Development of a dewatering management plan once the final basement design has been finalised as part of future DA's for the site. <p>These matters can be considered at the development assessment stage.</p> <p>SEPP 65 – Design Quality of Residential Apartment Development</p> <p>The planning proposal proposes to introduce circumstances where additional building height may be considered, and introduces a floor space ratio control to manage future built form and scale. The planning proposal is consistent with the SEPP and future development is capable of compliance, which is addressed at a concept level as part of the concurrent SSD Concept DA - refer Architectural Design Report at Attachment 2. Future DAs for residential development will also be required to address SEPP 65.</p> <p>SEPP (Housing) 2021</p> <p>While this SEPP does not include any specific provisions relevant to this planning proposal, the proposal does align with the SEPPs principles of enabling housing diversity, housing with a reasonable level of amenity, and reinforcing the importance of designing housing that reflects and enhances its locality.</p> <p>SEPP (Biodiversity and Conservation) 2021</p> <p>Chapter 4 Koala habitat protection 2021 applies as Lake Macquarie is listed in Schedule 2 within the Central Coast Koala management area. The site is generally cleared of vegetation and where remnant trees are on site these have approval for removal under existing consents.</p> <p>As it relates to planning proposals, Chapter 6 Bushland in urban areas applies and requires that consideration be given to retaining bushland unless it is satisfied that significant environmental, economic or social benefits will arise which outweigh the value of bushland.</p> <p>Both the current and proposed clause 7.16 continues to protect bushland in the adjoining public open space zoned land consistent with its plan of management and consistent with the aims of the SEPP. The subject site is predominantly cleared of bushland and any remaining vegetation on the development site is already approved for removal under existing consents. Vegetation on the adjoining site (foreshore reserve - Lot 32) including Threatened Ecological Communities, are covered by an approved Vegetation Management Plan for the ongoing improvement and conservation of these communities, and no increased indirect impact from the planning proposal is anticipated. The effect of future proposed development on adjoining bushland, including erosion and sediment control, weed management and other</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>matters, are matters for development assessment and are capable of being satisfied.</p> <p>In addition, a Biodiversity Development Assessment Report (BDAR) waiver dated 1/3/2022 has been issued for the concurrent SSD concept on the site and is considered relevant for this planning proposal. A copy of the BDAR waiver is provided in Attachment 3.</p>
7	Is the planning proposal consistent with the applicable Ministerial Directions (section 9.1 Directions)?	<p>The following Ministerial Directions are applicable to the planning proposal:</p> <p>1.1 Implementation of Regional Plans</p> <p>The planning proposal is consistent with the Hunter Regional Plan 2036 and the draft Hunter Regional Plan 2041 as detailed in Section B (No. 3) of this planning proposal.</p> <p>1.3 Approval and Referral Requirements</p> <p>The planning proposal is consistent with this direction as it does not include any provisions that require concurrence of or referral to a Minister or public authority and does not identify development as designated development.</p> <p>1.4 Site Specific Provisions</p> <p>The planning proposal is inconsistent with Direction 1.4 as it proposes to introduce a development standard that is not already contained in the LMLEP 2014. The proposal to amend existing site-specific clause 7.16. will continue to allow tourist, residential and commercial development and permit a new land use of <i>helipad</i> to be carried out in the existing zones. The proposed Additional Permitted Use of <i>helipad</i> will apply to the area where consent has already been issued for construction and operation of a <i>helipad</i>.</p> <p>The proposed amendment will also introduce a requirement for floor space ratio at 1.25:1 which is not already included in the LMLEP 2014. The introduction of this development standard is to control bulk and scale across the site and where additional height is proposed beyond Clause 4.3 and associated Height of Building Map.</p> <p>The amendments to existing Cl. 7.16 are not considered to be unnecessarily restrictive and are considered to support the additional land uses and desired outcome of a high-quality mixed use tourism development that has regard for the characteristics of the site, bulk and scale and surrounding landform and development. As such this inconsistency is considered to be of minor significance. The Secretary of the DPE will be requested to support that this inconsistency is of minor significance.</p> <p>3.2 Heritage Conservation</p> <p>The planning proposal is consistent with this direction. There are no items of heritage significance listed in Schedule 5 of the LMLEP 2014 on or within close proximity to the site. A Statement of Heritage Impact (SHI) has been prepared and provides four recommendations to allow future works to proceed. The SHI identified items of cultural value on</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>site including historic plantings in the southern portion of the site, which can be retained as part of future development. There is a sundial and grotto located in the adjoining Council reserve and mitigation measures (fencing) could be included in future development to avoid this area. There is an area in the southern portion of the site which requires archaeological monitoring which can be managed prior to any future construction.</p> <p>Previous archaeological investigations and ongoing consultation with Aboriginal stakeholder indicates that Trinity Point is a site of cultural significance. An Aboriginal Cultural Heritage Assessment Report (ACHAR) has been prepared for the site and inspections undertaken as part of the ACHAR did not identify any previously unrecorded sites. It was noted that the site has been previously salvaged (two archaeological deposits AHIMS# 45-7-0228 and 45-7-0244) and there are other recorded sites in-situ in the adjoining Trinity Point Foreshore (AHIMS# 45-7-0263, 45-7-0262, and 45-7-0257), which should be avoided by future development. The current Clause 7.16 includes controls that provide for the protection of the Aboriginal midden located on the southern foreshore of Lake Macquarie including a 6m setback to the foreshore lot boundary and the inclusion of an Aboriginal education centre in development on the site.</p> <p>The amendments to the clause propose to retain the requirements for protection of middens and a 6m setback to the foreshore lot boundary but removes reference to the Aboriginal Education Centre within the local provision. It is proposed to be replaced with a requirement for the preparation and implementation of an Aboriginal heritage interpretation strategy for the site with any development application. This is considered to provide a more holistic approach to the site, undertaking a Designing with Country process and providing the opportunity for heritage interpretation and engagement with the significant cultural landscape of Trinity Point.</p> <p>The ACHAR provides seven recommendations to allow future works to proceed. These recommendations will be considered as part of the separate SSD or future DA process and are considered acceptable.</p> <p>A copy of the SHI and ACHAR are provided in Attachment 12 and 13.</p> <p>4.1 Flooding</p> <p>The planning proposal is consistent with this Direction. The site is identified as being within a flood planning area (lake-waterway flooding) and the proposal is supported by a Flood Impact Assessment (Attachment 4). The assessment concludes that the site is not a floodway and there are no flood impacts on other properties. No significant increase of development is proposed in the flood planning area and no increase in government flood mitigation spending would be required. This proposal does not permit development without consent or impose additional flood related development controls for residential development.</p> <p>The LMLEP 2014 includes existing provisions that were prepared having regard for the NSW Government's Flood Prone Land Policy, the principles of the NSW Floodplain Development Manual, 2005 and</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>relevant Floodplain Risk Management Plans. These provisions are considered appropriate and no special flood consideration needs to be included in the proposed local clause.</p> <p>The separate concept approval that currently applies to the site (157 dwellings and 158 tourist accommodation units) demonstrated and permitted development in the flood planning area and the residential APU has been refined to apply only to land outside of the designated Flood Control Lot - High Hazard area (1 in 100-year flood extent). The concurrent SSD Concept DA estimates an additional 23 dwellings (to 180 dwellings), allocated away from the lowest parts of the site. Appropriate floor height controls and emergency evacuation requirements will be considered as part of the SSD or any future development application.</p> <p>The additional permitted use for <i>helipads</i> is proposed within Lot 1 DP 1252681 which is sited within Lake Macquarie waterway. A helipad in this location would form part of a floating structure and it is not envisaged that there will be any changes to the flooding outcomes. A helipad is already approved under separate development consent (DA/1176/2014) and impacts of flooding were considered as part of this DA. Any future development application could be managed through design and conditions.</p> <p>While the planning proposal seeks to increase development on the site and within the flood planning area, it is considered that the site is capable of development. The proposal is considered consistent with Council's Flood Planning Policy Development Control Plan 2014 - Revision 27, LMCC DCP 2014 control "Lake Flooding and Tidal Inundation (Incorporating Sea Level Rise)", and consistent with minimum flood planning levels and other risk-based policy provisions of Council's adopted <i>Lake Macquarie Waterway Flood Risk Management Study and Plan (2012)</i>, prepared in accordance with the principles and guidelines of the NSW Floodplain Development Manual, 2005.</p> <p>Lake Macquarie Council has a comprehensive framework to guide development in flood planning areas. That framework was used as the basis for development approved previously in the flood planning area by adherence to development controls relating to flood planning levels incorporating sea level rise and commensurate with flood hazard. Previous studies over the site have identified development of flood prone land consistent with relevant government policy, hazard and impact, and the PP does not change the ability for development to satisfy the objectives of the Direction. An appropriate development outcome and safe escape from the site has been clearly demonstrated through previous studies and approvals.</p>
		<p>4.2 Coastal Management</p> <p>The planning proposal is consistent with this Direction. Trinity Point is mapped within the coastal zone and is within the coastal environment area and coastal use area as mapped under <i>SEPP (Resilience and Hazards) 2021</i>. Any future development will be required to have regard to <i>SEPP (Resilience and Hazards) 2021</i>. It is not proposed to rezone land and the 6m building setback to the foreshore reserve will be</p>

No.	Question	Considerations
Section B – relationship to the strategic planning framework		

retained, maintaining public access. While additional height may impact on visual amenity, provisions are proposed to control bulk and scale and retain visual permeability to the foreshore.

There are no coastal management programs applicable to the site. Coastal management is to be carried out in accordance with this SEPP and any future development will need to have regard for SEPP (*Resilience and Hazards*) 2021.

4.3 Planning for Bushfire Protection

The planning proposal is on land that is not mapped as bushfire prone land, nor within proximity to land mapped as bushfire prone land.

4.4 Remediation of Contaminated Land

The planning proposal is consistent with this Direction.

The planning proposal occurs over land that is identified on the contaminated land database as having possible contamination. Previous contamination assessments have been undertaken and site remediation works have resulted in a Site Audit Statement (SAS) being issued which concluded the site was suitable for residential accommodation and commercial development and was relied upon for past approvals that authorised residential and recreational use of the site and adjoining lands.

A further assessment, to assess whether there had been any contaminating activities at the site since the issue of the SAS that may have resulted in contamination was undertaken by EP Risk in February 2022. This assessment indicated asbestos in shallow soils and has recommended a Remediation Action Plan (RAP) which would be required to be submitted to Council prior to the issue of any construction certificate for works on the site.

The Hydrogeological and Contamination Assessment is included at Attachment 5.

4.5 Acid Sulfate Soils

The planning proposal is consistent with this Direction. The potential acid sulfate soils map indicates that no. 85 Trinity Point Drive has potential class 5 acid sulfate soils, no. 81 and 69C has potential class 2 acid sulfate soils, and 81D has Class 1 Acid Sulfate soils. The planning proposal does propose an opportunity, through the local provision, to intensify land uses on land identified with acid sulfate soils. The Direction requires consideration of a study assessing the appropriateness of the change of use, with that study provided prior to community consultation.

An Acid sulfate Soil Assessment was undertaken by Douglas Partners in 2007 which identified the presence of actual and potential acid sulfate soils and an acid sulfate soil management plan (ASSMP) to manage future soil disturbance works. EP Risk have undertaken further testing in 2022 which identified elevated net acidity in nine samples collected across the site confirming the requirement for the implementation of the Douglas Partner (2007) ASSMP.

No.	Question	Considerations
Section B – relationship to the strategic planning framework		

The APU for the helipad will apply to the area where development consent has already been granted for construction and operation of a helipad. Acid sulfate soils were considered as part of that approval and the development considered appropriate.

A Hydrogeological and Contamination Assessment addressing acid sulfate soils is included at Attachment 5.

4.6 Mine Subsidence and Unstable Land

The subject site is located within a declared mine subsidence district. Subsidence Advisory NSW advised during the Pre-Lodgement consultation that its comment was the same as that provided for the SSD concept and it has no objection to the proposal. Correspondence stated:

The proposal is located within an active coal mine lease, applications of the size and scale outlined in the proposal would be assessed under Subsidence Advisory's Merit Assessment & Subdivision Policy.

In accordance with these policies, applications that are located within an active mining lease require consultation with the relevant lease holder to determine the likelihood of future underground mine activity impacting the site. Recent consultation with the coal lease holder indicates future coal extraction under the subject site is unlikely. The lease holder has not requested subsidence design criteria for the development.

Given the above, Subsidence Advisory has no objection to the proposal.

Further consultation with Subsidence Advisory NSW will be undertaken if required by the Gateway Determination, however the proposal is considered to be Consistent with this Direction.

5.1 Integrating Land Use and Transport

The planning proposal is consistent with this direction as the land is already zoned for tourism and permits residential and commercial development. However, the proposal does propose the opportunity for increased building height and floor space which will increase density. A Traffic Impact Assessment (TIA) (Attachment 7) has been prepared considering the SSD concept which is development that could be possible on the site considering the controls proposed in the draft clause. The TIA demonstrates that the surrounding road network is able to accommodate the development as proposed.

This Direction requires that provisions of the proposal are consistent with the aims, objectives and principles of the documents 'Improving Transport Choice – Guidelines for planning and development' (DUAP 2001), and 'The Right Place for Business and Services – Planning Policy' (DUAP 2001). These documents encourage multi-use destinations that are aligned with and accessible by public transport, walking and cycling and reduced reliance on cars. A key objective of the former document is for every household to be within 400m walking distance of a bus route that links with a railway station served at least

No.	Question	Considerations
Section B – relationship to the strategic planning framework		

every 30 minutes. The subject site is approximately 850m/10minute walk from the nearest bus stop at Lakeview Road/Macquarie Road. The location of bus stops is outside of the control of Council, but should be considered as part of and development application. The site can also be accessed via boat through Lake Macquarie, or an 8-minute cycle from Bonnells Bay and 15-20 minutes from Morisset town centre. Morisset Railway Station which is an 8-minute drive from the site provides a connection to Newcastle and Sydney.

A key requirement of the latter document is conformance of Rezoning Proposals with Council strategies relating to *the integration of land use and transport and cycle routes and pedestrian plans*.

Councils Walking, Cycling and Better Streets Strategy 2031 identifies and proposes a 254km Principal Bicycle Network including a route from Morisset to Bonnells Bay and Cooranbong which includes Trinity Point. This route connects peninsula suburbs, such as Trinity Point, to Morisset and connects Morisset to Cooranbong and the Watagan Park estate with a potential extension to Awaba Mountain Bike Park. 85km of the overall network had been constructed in 2021. The link between the existing cycle route and Trinity Point is yet to be constructed and is identified in the Morisset Contributions Plan to be funded by development contributions. As such future development of the site will contribute towards these works.

The TIA identifies that there are no marked bicycle lanes in the immediate vicinity of the subject site, but that cycling on the roadway would be considered acceptable given the nature of the local roads. Council has undertaken further assessment using iRAP - International Road Assessment Programme and the Road Safety Star Rating for Morisset Park Road using traffic volumes associated with the current planning controls and the proposed SSD concept. The results indicate a one-star rating which could be improved by widening Morisset Park Road to include sealed shoulders between the Trinity Point site and Fishery Point Road. This would improve the star rating and facilitate safe access benefiting the residential and tourism uses enabled by this planning proposal. Further investigation and assessment of pedestrian and cyclist safety on Morisset Park Road can occur as part of the assessment of the SSD Concept.

5.2 Reserving Land for Public Purposes

The planning proposal is consistent with this direction. The direction aims to facilitate the provision of public services and facilities by reserving land for public purposes. It also aims to facilitate the removal of reservations of land for public purposes where the land is no longer required for acquisition.

The planning proposal is consistent with the direction as it seeks to rezone existing community land already held in public ownership from SP3 Tourist to RE1 Public Recreation. It also seeks to remove this land from the APU map. This will result in the provisions applying to the land being consistent with the existing and ongoing future use of the land as community land.

6.1 Residential Zones

No.	Question	Considerations
Section B – relationship to the strategic planning framework		
		<p>The planning proposal is consistent with this direction. This Direction applies to a planning proposal that affects land within a residential zone, or any other zone in which significant residential development is permitted or proposed to be permitted. The existing clause 7.16 permits residential accommodation on the subject site.</p> <p>The planning proposal is consistent with this direction as it provides the basis for development of residential flat buildings and apartments on the site. This provides for greater housing diversity and makes efficient use of existing infrastructure and services, while reducing the consumption of land for housing and associated urban development on the urban fringe. The planning proposal also provides for good design by terms included in the local provision. The planning proposal does not contain any provision that reduces residential density of land.</p>

No.	Question	Considerations
Section C – environmental, social and economic impact		
8	Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected because of the proposal?	<p>The land is generally cleared of significant vegetation, and is otherwise grassed with some trees on its higher southern interface (Bluff Point). The land adjoins a public foreshore reserve and is within proximity to the edge of Lake Macquarie. The planning proposal will not result in the removal, or alteration, of the surrounding terrestrial and aquatic ecology contained within the foreshore reserve and the Lake. This planning proposal does not create any likelihood of adverse effect to critical habitat, threatened species population or ecological communities or their habitats that has not already been considered as part of prior approvals. A BDAR waiver has been granted for the concurrent SSD concept and is provided in Attachment 3. The helipad APU has been refined to the area where consent has already been granted and environmental assessment has been undertaken.</p>
9	Are there any other likely environmental effects of the planning proposal and how are they proposed to be managed?	<p>Visual Impact</p> <p>The planning proposal seeks to increase the maximum building height across the site up to a maximum of 42m, which will result in the development being highly visible from the surrounding locality. The proposed height is a significant increase to that permitted under the existing planning controls. Given the lakefront location of the site it has an extensive effective visual catchment including areas across the lake such as Brightwaters, Mannering Park and Summerland Point. The surrounding development consists of low-density housing with land immediately to the west undergoing development for detached and medium density housing. These areas are likely to experience a substantial change as a result of the increased height and scale. Further to the west are the Watagan mountains which provide a distant backdrop and, with the existing foreshore vegetation, will help to absorb the built form when viewed from the lake. A Landscape and Visual Impact Assessment is included at Attachment 7 and an Architectural Design Report at Attachment 2. These reports have been prepared based on the concurrent SSD concept and provide an indication of the potential impact from development that could be approved under the draft clause. The reports note that a development</p>

No.	Question	Considerations
Section C – environmental, social and economic impact		

of the scale proposed would significantly affect the character of the site and be a major introduction into the landscape resulting in loss of visual connectivity from existing residential development to the lake and changing the skyline profile. The Landscape and Visual Impact Assessment considers the zone of visual influence, and undertakes a detailed assessment of 36 key viewpoints with mitigation measures listed that should be incorporated into future development design. This assessment demonstrates that the visual impacts associated with a development of the scale will be significant but can be mitigated through design. The proposed draft clause includes provision for visual permeability to the foreshore and a requirement for the consent authority to be satisfied that the proposed development exhibits design excellence. This includes consideration of the surrounding natural landscape including the lake, tree-lined foreshore and Watagan mountain range to the west. As the development outcome on the site is not intended to be a standard rectilinear box-type building/s an FSR of 1.25:1 is proposed to help control bulk and scale of future buildings across the site.

A Landscape Masterplan has also been prepared for the concurrent SSD concept (Attachment 15) which provides an example of how landscaping can be implemented as part of future development, having regard for cultural heritage values of the site, designing with 'country', and the integration with existing vegetation in the adjoining foreshore area.



Existing view from foreshore open space - Bardon Street, Brightwaters



Year 0 view from foreshore open space - Bardon Street, Brightwaters

Figure 8 – Indicative Visual Impact (SSD Concept Architectural Design)

Acoustic

A Noise and Vibration Impact Assessment has been prepared by Wilkinson Murray in support of the concurrent SSD concept (refer Attachment 8). The results of the assessment indicate, in-principle, that noise emissions from

No.	Question	Considerations
Section C – environmental, social and economic impact		
		<p>the site are capable of complying with the relevant acoustic requirements through considered design and the implementation of appropriate acoustic treatments and noise management controls.</p> <p>Helipad</p> <p>A helipad in the waterway has the potential for noise impact on both surrounding development and aquatic ecosystems including the possible impacts on important habitat and nursery areas such as seagrass beds. Given the existing approvals have already considered the environmental and acoustic impacts of helicopters using a helipad attached to the marina (stage 1 constructed and stage 2 currently under assessment) it is appropriate to limit the helipad APU to the area that is subject to development consent DA/1176/2014.</p> <p>The land included in this planning proposal is subject to a number of existing development approvals. These approvals have been granted with conditions that manage potential environmental effects of developing the land. The amendments to Clause 7.16 are not likely to result in any other environmental effects that are not already addressed above and in Sections A and B.</p>
<p>10</p> <p>Has the planning proposal adequately addressed any social and economic effects?</p>		<p>Social:</p> <p>The Bonnells Bay – Silverwater Statistical Area Level 2 (SA2) consists of predominantly single detached dwellings and has a larger population of older residents in couple only or lone person households. The provision of two, three and four bedroom residential units on the subject site will provide greater housing choice allowing people to downsize, age in place and potentially free up existing detached housing for families and larger households. The provision of residential accommodation on existing SP3 Tourist zoned land is only considered given the ability to support and sustain the other significant tourism related uses on site. The refinement of the residential use to part of the site will help to achieve the original intent of clause 7.16 which was to achieve 50% or more units for tourism.</p> <p>Other social benefits of development facilitated by the planning proposal include:</p> <ul style="list-style-type: none"> • Provision of medium density dwellings close to emerging strategic centre and amenities; • Creation of significant numbers of employment opportunities for people in the local community (including 1,287 direct jobs during construction phase and 398 jobs during ongoing operations); • Boosting Lake Macquarie’s profile as a destination for tourism and events; and • Access to additional local services and facilities such as wellness centre, retail, and business centre; • Improved accessibility for the community to the lake foreshore and public reserve. <p>Social impacts of development facilitated by the planning proposal and how these are adequately addressed includes:</p> <ul style="list-style-type: none"> • increased demand for community services and facilities <p>This arises from the incremental change in resident population compared to approved development of 64 persons, with impacts on</p>

No.	Question	Considerations
Section C – environmental, social and economic impact		
		<p>demand not expected to be significant, and otherwise accommodated through existing council contribution plans.</p> <ul style="list-style-type: none"> Impact on community cohesion and sense of place arising from potential noise, traffic and visual impacts <p>This will be addressed through appropriate expert study and assessment of noise, traffic and visual impact and inclusion of any management or mitigation recommendations in future development, and ongoing community engagement.</p> <p>A Social Impact Assessment is included at Attachment 9.</p> <p>Economic:</p> <p>The economic impacts of development facilitated by the planning proposal are significant to the region during both construction and operation phases, with net increases to jobs both ongoing and construction. The proposal will also provide additional economic activity and significant stimulus to the Morisset area and more broadly within Lake Macquarie.</p> <p>Development that could be facilitated by the planning proposal, using the concurrent SSD concept as an example, is estimated in the Economic Impact Assessment, – (Attachment 10), as providing the following economic benefits:</p> <ul style="list-style-type: none"> 398 total jobs generated during the operational phase \$15.8M in total salaries generated \$550M construction costs \$1600M direct and \$4301M direct and indirect economic activity from construction 1,287 direct and 4,301 direct and indirect jobs during the projected 4-year construction phase \$26.8M industry added to GDP <p>This is a significant increase to the economic benefits that could otherwise be achieved through the existing development approval or development permissible under the current Clause 7.16.</p> <p>The Economic Impact Assessment identifies the residential component of the SSD (estimated at 328 persons) will play a key role in sustaining the tourism development and associated uses outside of peak holiday season (Easter, October and Christmas school holidays). Enabling a regionally significant and sustainable tourist destination supported by a residential development will bring economic growth to the area.</p> <p>The concurrent SSD Concept associated with this planning proposal, coupled with the recently approved Cedar Mill tourism and recreation development, and proposed Myuna Bay sport and Recreation centre, will help to bring visitors and encourage further investment in the area.</p> <p>The potential visual impact of increased height and scale of development on the site will need to be considered against the significant economic opportunities enabled by this planning proposal.</p> <p>Draft Lake Macquarie Destination Management Plan 2022-2026</p> <p>The draft Lake Macquarie Destination Management Plan is currently on exhibition and provides a framework to better understand the visitor economy. The Plan sets the vision to “transform Lake Macquarie into a</p>

No.	Question	Considerations
Section C – environmental, social and economic impact		
		<p>recognised visitor destination both nationally and internationally”. A key strategic priority is to “deliver unique visitor experiences to enable growth in tourism”. The planning proposal will support these priorities being achieved at Trinity Point for the benefit of Lake Macquarie as a destination and by providing amenities to attract visitors to the region.</p> <p>The draft Plan specifically recognises the current approved development and proposed SSD concept as having a positive impact, helping to build the City’s profile as a high-profile visitor destination. The proposal is consistent with the plan’s actions to:</p> <ul style="list-style-type: none"> • ensure that planning regulations encourage and facilitate the development of new accommodation • continue to pursue opportunities to attract new accommodation, particularly large, branded hotel properties, to the City • explore opportunities with sailing clubs and other landowners to develop lakeside accommodation. <p>Lake Activation Strategy 2021</p> <p>The planning proposal is consistent with Council’s Lake Activation Strategy. The strategy supports lake activation and encourages connections to and interaction with the lake for both local residents and visitors. Foreshore land bounding the Trinity Point site is identified in the Strategy as a ‘Level 2 place – District’ in the Activation hierarchy. The Strategy also recognises that quality accommodation is required in proximity to the lake.</p>

No.	Question	Considerations
Section D – Infrastructure (Local, State and Commonwealth)		
11	Is there adequate public infrastructure for the planning proposal?	<p>The proposed increase in height and scale has the potential to increase density at the site and therefore demand for public facilities and services.</p> <p>The Lake Macquarie City Council, Section 7.12 Contributions Plan – Citywide 2019 (s7.12 plan) and the Lake Macquarie City Council Development Contributions Plan – 2012 Morisset Contributions Catchment (s7.11 plan) apply to this site.</p> <p>While the current s7.11 or the s7.12 Contribution Plans could not have considered the full impact generated by the potential additional demand that could arise from the LEP amendment, the plans allow for collection of contributions for the works enabled by the proposal. The extension of the off-road cycleway from Fishery Point Road to Trinity Point (OS-039) is identified in the s7.11 plan.</p> <p>Modelling indicates that intersections within the network, being Macquarie Street/ Fishery Point Road (signalised), Morisset Park Road/ Trinity Point Drive/ Charles Avenue, Fishery Point Road/ Morisset Park Road Priority (give-way), Fishery Point Road/ Station Street Priority (give-way), operate satisfactorily with the addition of future development traffic permitted under the proposal. TfNSW, Council and the proponent have determined, as part of the concurrent SSD assessment, a monetary contribution that will be made by the</p>

No.	Question	Considerations
		<p>proponent toward other state road intersection upgrades in the area. A condition was included in DA 1731/2014 that the developer enter into an agreement with NSW Roads and Maritime to pay a contribution towards upgrading the intersection of Macquarie Street/ Fishery Point Road. Since this consent was issued the intersection has been upgraded to traffic signals. Transport for NSW will assess the impact on the state road network as part of the SSD process and in accordance with any Gateway determination for the planning proposal.</p> <p>Assessment undertaken by Council using iRAP - International Road Assessment Programme and the Road Safety Star Rating for Morisset Park Road indicates a one-star rating which could be improved by widening Morisset Park Road to include sealed shoulders between the Trinity Point site and Fishery Point Road. Further investigation and assessment of pedestrian and cyclist safety can occur as part of the assessment of the SSD Concept.</p> <p>A Concept Stormwater Management and Infrastructure Servicing Assessment has been prepared for the concurrent SSD and is provided in Attachment 11. The Assessment concludes that there is sufficient communications infrastructure and capacity in the existing water network to support development of the scale that would be permitted under the amended controls i.e. the concurrent SSD concept. As such, servicing matters can be adequately addressed through the SSD or DA process.</p> <p>Hunter Water have advised that there is currently insufficient capacity within the existing local sewer network and upgrades to Morisset Park 4 and Windermere 2 waste water pumping stations will be required to support the development. However, the planning proposal does not result in substantial increases to existing approved capacity and these matters can be addressed through the SSD or development application process.</p> <p>Existing gas infrastructure is located in Trinity Point Drive. Advice has not been received from Jemena. This will be required for the SSD Concept/DA.</p>

No.	Question	Considerations
Section E – State and Commonwealth Interest		
12	What are the views of state and federal public authorities and government agencies consulted in order to inform the Gateway determination?	<p>Preliminary consultation has occurred with State authorities during the Pre-Lodgement assessment. Referrals were sent to the following agencies during the Pre-Lodgement scoping phases:</p> <ul style="list-style-type: none"> • Department of Planning and Environment • Transport for NSW • NSW Environmental Protection Authority • Subsidence Advisory NSW • State Emergency Service • Heritage NSW • Hunter Water • Department of Health • NSW Environment, Energy and Science (Biodiversity) • National Resource Access Regulator (NRAR)


No.	Question	Considerations
Section E – State and Commonwealth Interest		
		<p>The following outlines comments received from agencies during LEP Pre-Lodgement Stage. A copy of the referral comments are provided in Attachment 1.</p> <p>Department of Planning and Environment (DPE)</p> <p>DPE classified the proposal as ‘standard’ and considered that the proposal will likely provide economic benefit to the region, State or national economy given the high level of investment proposed and continuing long term employment generation. The link between the SSD and planning proposal was acknowledged and recommendation provided to exhibit the proposals at the same time or as close together as practical.</p> <p>DPE required assessment against the Draft Regional Plan 2041, an Economic Impact Assessment, Social Impact Assessment, Servicing and Impact Capacity Assessment, estimate of jobs and homes created, Traffic Impact Assessment, Flora and Fauna Assessment, Flood Assessment, Stormwater Management Report, geotechnical and Acid Sulfate Soils Assessment, Contamination Assessment, Noise and Vibration Assessment, Aboriginal Cultural Heritage Assessment, Visual Impact Assessment, Urban Design Analysis and consideration of contributions and public benefit.</p> <p>These assessments have been undertaken and considered as part of the Planning Proposal.</p> <p>Transport for NSW (TfNSW)</p> <p>TfNSW raised no objection to the proposed LEP amendment, however noted the potential to generate an increase in demand on the road network and for transport services. A TIA was required to be prepared, tailored to the scope of the proposed SSD, which has been provided. TfNSW advised that comments provided in 2016 in regards to the helipad remain relevant. The 2016 advice required consideration of marine safety and navigation, noise and vibration impact and pollution impacts. These have been considered and the APU for the helipad is proposed in the location where development consent is already granted for the use.</p> <p>NSW Environment Protection Authority (EPA)</p> <p>NSW EPA stated that based on the information provided, the proposal does not constitute a Scheduled Activity under Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> (POEO Act) and therefore will not require an Environmental Protection Licence (EPL).</p> <p>Subsidence Advisory NSW</p> <p>Subsidence Advisory confirmed that the site is within an active coal mine lease and recent consultation with the coal lease holder indicated that future coal extraction under the subject site is unlikely. As such Subsidence Advisory has no objection to the proposal.</p> <p>State Emergency Service (SES)</p> <p>SES requires that Council consider the planning proposal against Ministerial Direction 4.3 – Flood Prone Land which is included in Section B above.</p>

No.	Question	Considerations
Section E – State and Commonwealth Interest		
		<p>Heritage NSW</p> <p>Heritage NSW recommended that an Aboriginal Cultural Heritage Assessment Report (ACHAR) be prepared to inform the planning proposal which has been prepared and provided in Attachment 13. The report concludes that works on the site may proceed subject to seven recommendations.</p> <p>Separate consultation has been undertaken as part of the SSD concept process and agencies have issued their requirements as part of the Secretary's Environmental Assessment Requirements (SEARS) which will need to be addressed as part of the Environmental Impact Statement (EIS) being prepared separately for the SSD concept. A copy of the Engagement Report prepared for the SSD Concept is provided at Attachment 14 which includes an outline of the consultation undertaken with agencies.</p> <p>Further consultation with State and Commonwealth public authorities will occur in accordance with the Gateway determination. Council recommends further consultation with the following authorities:</p> <ul style="list-style-type: none"> • Transport for NSW • Department of Planning and Environment

Part 4 – MAPS

Map 1 – Locality



 Subject Land

Locality

0 4
Kilometres



Projection GDA 1994
Zone 56



*Preliminary Amendment to Clause 7.16

Base Map Credits: World, Street, Map: Esri, HERE, Garmin, NGA, USGS

Date: 21/07/2022

Planning Proposal: RZ/14/2021

Map 2 – Aerial

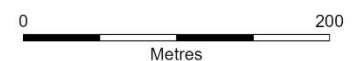


-  Subject Land
 Land Parcel

Air Photo

2022 Aerial Photography

Nearmap Imagery 2022

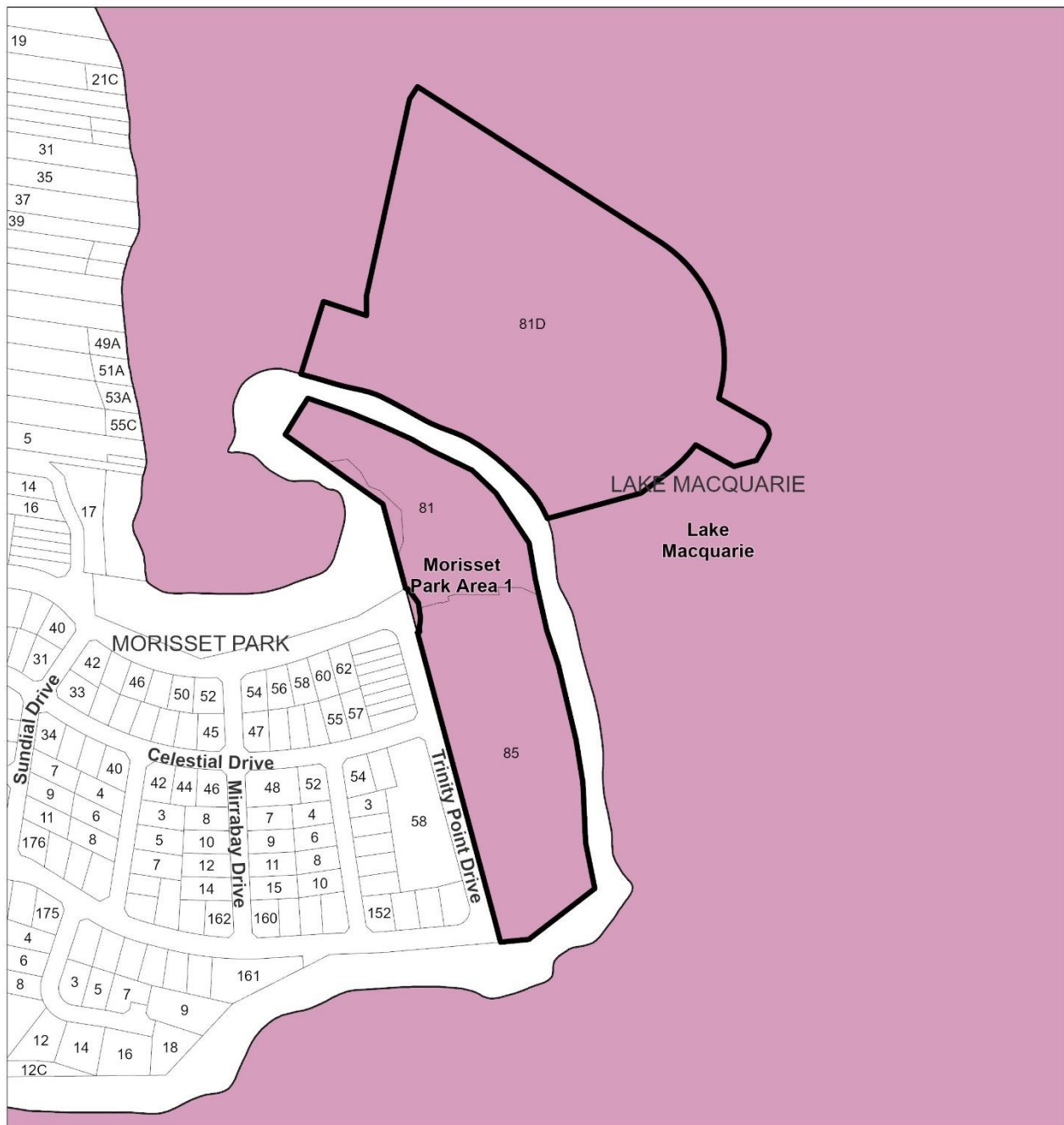
Projection GDA 1994
Zone 56

*Preliminary Amendment to Clause 7.16

Date: 21/07/2022

Planning Proposal: RZ/14/2021

Map 3 – Current Additional Permitted Uses Map

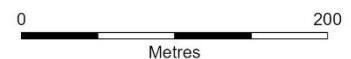


- Subject Land
- Land Parcel
- Additional Permissible Uses

Existing

Additional Permitted Uses Map

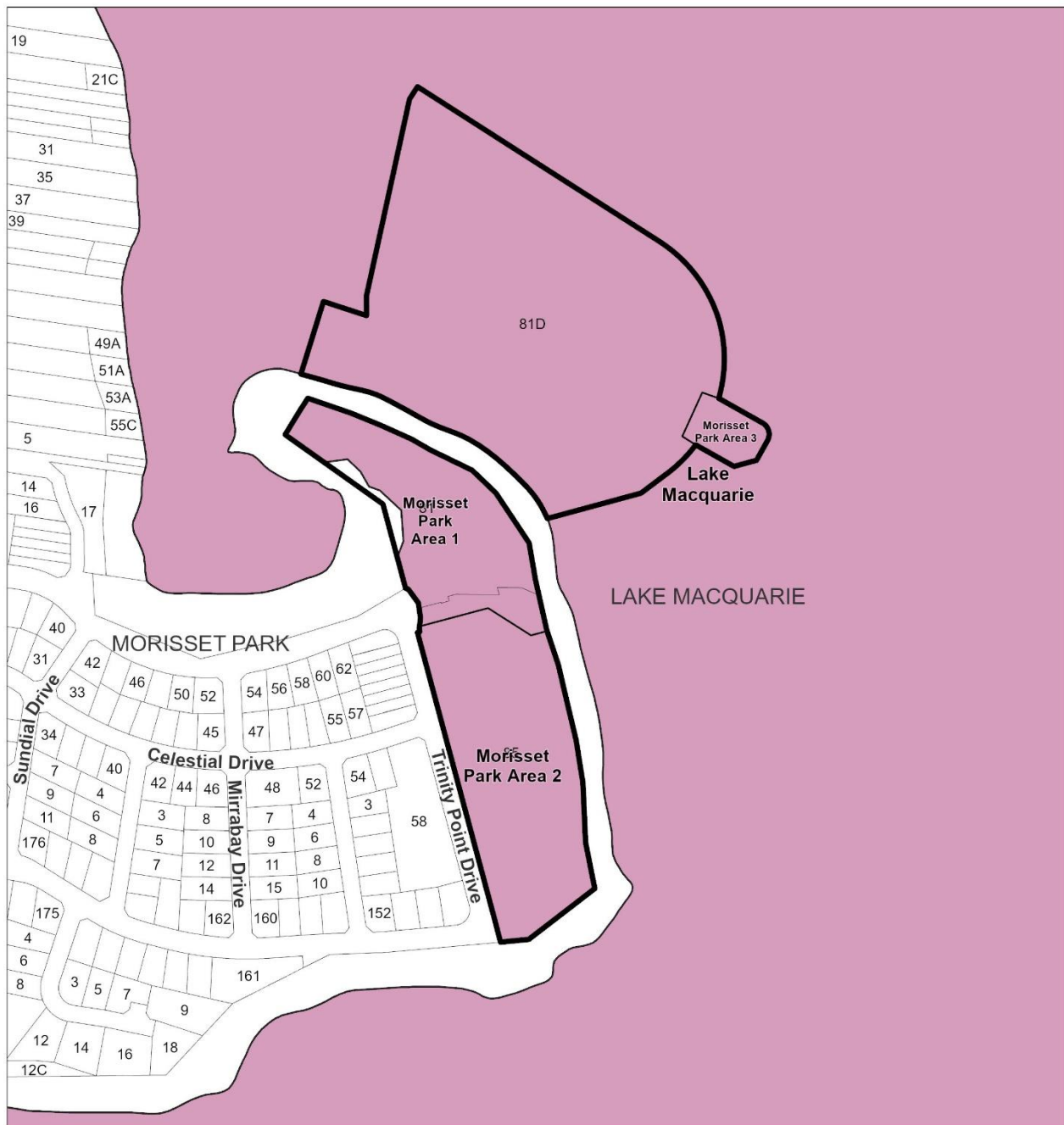
Lake Macquarie Local Environmental Plan 2014



*Preliminary Amendment to Clause 7.16

Date: 21/07/2022 Planning Proposal: RZ/14/2021

Map 4 – Proposed Additional Permitted Uses Map

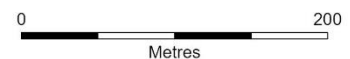


- Subject Land
- Land Parcel

Proposed

Additional Permitted Uses Map

Lake Macquarie Local Environmental Plan 2014



*Preliminary Amendment to Clause 7.16

Date: 6/09/2022 Planning Proposal: RZ/14/2021



Land Zoning Map



Date: 21/07/2022 Planning Proposal: RZ/14/2021

Map 6 – Proposed Land Zoning Map



Subject Land

Land Parcel

Land Zoning

C2 Environmental Conservation

R2 Low Density Residential

RE1 Public Recreation

SP3 Tourist

W1 Natural Waterways

Proposed

Land Zoning Map

Lake Macquarie Local Environmental Plan 2014

0 200
Metres

N
Projection GDA 1994
Zone 56





*Preliminary Amendment to Clause 7.16

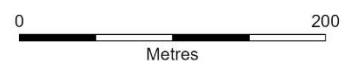
Date: 12/09/2022

Planning Proposal: RZ/14/2021



	5.5
	6
	8.5
	12
	16

Lake Macquarie Local Environmental Plan 2014



Projection GDA 1994
Zone 56



Date: 21/07/2022

Planning Proposal: RZ/14/2021

Map 8 – Proposed Height of Buildings Map



Subject Land

Land Parcel

Maximum Building Height (m)

5.5

6

8.5

12

16

Proposed

Height of Buildings Map

Lake Macquarie Local Environmental Plan 2014

0 200
Metres

N
Projection GDA 1994
Zone 56



*Preliminary Amendment to Clause 7.16

Date: 12/09/2022

Planning Proposal: RZ/14/2021

Map 9 – Existing Lot Size Map



- Subject Land
- Land Parcel

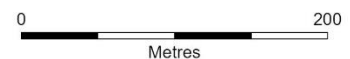
Lot Size

- 450 sq m
- 40 ha

Existing

Lot Size Map

Lake Macquarie Local Environmental Plan 2014



*Preliminary Amendment to Clause 7.16

Date: 12/09/2022 Planning Proposal: RZ/14/2021

Map 8 – Proposed Lot Size Map



- Subject Land
- Land Parcel

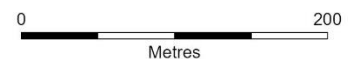
Lot Size

- 450 sq m
- 40 ha

Proposed

Lot Size Map

Lake Macquarie Local Environmental Plan 2014



*Preliminary Amendment to Clause 7.16

Date: 12/09/2022 Planning Proposal: RZ/14/2021

Part 5 – COMMUNITY CONSULTATION

A Pre-Lodgement scoping proposal was considered by Council in early 2022. This included consultation with Council staff and Government agencies. A Pre-Lodgement meeting was held on 28 April 2022 followed by the issue of written advice on 17 May 2022. The advice issued contained comment from the following:

- Lake Macquarie City Council
- Department of Planning and Environment
- Transport for NSW
- NSW Environment Protection Authority
- Subsidence Advisory NSW
- State Emergency Services
- Heritage NSW

The following agencies were also contacted during the Pre-Lodgement stage however no comment has been received at this stage:

- Hunter Water
- NSW Health
- Natural Resources Access Regulator

The proponent has also undertaken early consultation with the community through:

- Establishment of Trinity Point Planning Community Information Website including frequently asked questions, information and ability to register to receive updates;
- Establishment of Trinity Point Planning contact email and phone number for all enquiries;
- Consultation with Biraban and Bahtabah Local Aboriginal Land Councils, Awabakal descendants and Registered Aboriginal Parties (15 Aboriginal representatives),
- Community Information Day and Briefings to various groups (x3); and
- Community Door Knocking and Face to Face contact.

This consultation has been run independently of Council. A copy of the proponents Engagement Report is included as Attachment 14.

The planning proposal will be formally exhibited in accordance with the Lake Macquarie Community Participation Plan and the Gateway determination. The Gateway determination, issued by DPE, conditions that the planning proposal must be made publicly available for a minimum of 20 working days. This is in accordance with the NSW Government's 'Local Environmental Plan Making Guideline' for Planning Proposals categorised as 'standard'. As such the proposal will be exhibited for a period of 21 working days from Friday 18 November to Friday 16 December 2022.

The Gateway determination also conditions that the concurrent State Significant Development Concept Application (SSD-27028161) is exhibited at the same time or as close together as practical. DPE will exhibit SSD-27028161 concurrently with the planning proposal from 18 November to 16 December 2022.

Part 6 – PROJECT TIMELINE

Stage	Timeframe (working days) and/or date
Consideration by Council	95 days
Council decision	26 Sept 2022
Gateway determination	4 November 2022
Pre-exhibition	10 days
Public exhibition (commencement and completion dates)	18 November – 16

	December 2022
Consideration of submissions	20 days
Post exhibition review and additional studies (if required)	55 days
Submission to DPE to finalise LEP	10 days
Gazettal of LEP Amendment	45 days

*Note additional time may be required due to Christmas shutdown period.

Attachment 1: Pre-Lodgement Consultation

Attachment 2: Architectural Design Report

Attachment 3: Biodiversity Development Assessment Report Waiver

Attachment 4: Flood Impact Assessment

Attachment 5: Hydrogeological and Contamination Assessment

Attachment 6: Traffic Impact Assessment

Attachment 7: Landscape and Visual Impact Assessment

Attachment 8: Noise and Vibration Impact Assessment

Attachment 9: Social Impact Assessment

Attachment 10: Economic Impact Assessment

Attachment 11: Concept Stormwater Management and Infrastructure Servicing Assessment

Attachment 12: Statement of Heritage Impact

Attachment 13: Aboriginal Cultural Heritage Assessment Report

Attachment 14: Engagement Report

Attachment 15: Landscape Masterplan