

<b>22SP085</b>	Planning Proposal Morisset Park - 69C, 81, 81D and 85 Trinity Point Drive
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<b>Key focus area</b>	4. Diverse economy
<b>Objective</b>	4.1 Our city is a vibrant destination that reflects the lifestyle, culture and natural environment that makes it special  4.5 New development and growth complement our unique character and sense of place, now and into the future
<b>File</b>	RZ/14/2021 - D10717691
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<b>Address</b>	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
<b>Owners</b>	Trinity Point Holdings8 Pty Ltd The State of NSW Lake Macquarie City Council
<b>Proponent</b>	Johnson Property Group Pty Ltd

### ***Executive Summary***

This report identifies proposed amendments to *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014) required to support assessment of a State Significant Development (SSD) Concept Plan (SSD-27028161) which has been lodged with the Department of Planning and Environment (DPE) for a landmark mixed-use tourist and residential development at Trinity Point. The planning proposal (Attachment 1) seeks to:

- permit increased building heights and introduce changes to planning controls for the mixed-use tourism and residential development at 81, 81D and 85 Trinity Point Drive, Morisset Park.
- include an Additional Permitted Use (APU) of a helipad at the location of the approved helipad.
- rezone Council owned land at 69C Trinity Point Drive from SP3 Tourist to RE1 Public Recreation, remove the current APU from this lot and make associated height of building map changes.

**Recommendation**

Council:

- A. requests a Gateway determination from the Department of Planning and Environment, pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979), in relation to the draft planning proposal in Attachment 1,
- B. undertakes consultation with State Government agencies and service authorities in accordance with the Gateway determination,
- C. places the draft planning proposal on exhibition, subject to the outcome of the Gateway determination,
- D. notifies stakeholders and affected landowners of the public exhibition period as required, and
- E. receives a further report on the matter following public exhibition.

**Discussion**

This planning proposal applies to land at 69C, 81, 81D and 85 Trinity Point Drive, Morisset Park, known as Trinity Point. The site is zoned SP3 Tourist and W1 Natural Waterways. The SP3 Tourist zone permits a range of tourism land uses. Clause 7.16 of LMLEP 2014 also permits residential accommodation and commercial development as part of the overall land use mix on the site.

In September 2009, the State Government issued Concept Approval for the Trinity Point Marina and Mixed-use Development (06\_0309) which included a marina, tourist and residential accommodation, restaurant, café, function centre and associated works. At the time, an amendment to LMLEP 2004 was undertaken (Amendment 40) which introduced provisions to reflect the Concept Approval and permitted with consent, dwellings, residential flat buildings, shops and commercial development within the 6(2) Tourism and Recreation Zone, as long as these additional uses were part of a tourist complex. This amendment also introduced controls for:

- building height limits across the site of 16m, 12m and 6m,
- the total number and mix of tourism and residential units, and
- set-backs to foreshore reserves.

These provisions were transferred to the LMLEP 2014 when it commenced in 2014 and are contained in the current Clause 7.16 and Height of Building (HOB) Maps.

Following the Concept Approval, a range of development has been approved on the site. These approvals include Stage 1 Marina (DA/1503/2014), Helipad (DA/1176/2014), Mixed Use Development - Tourism and Hospitality (DA/1731/2014), Mixed Use Development - Serviced Apartments and Residential Flat Buildings (DA/496/2015) and a Temporary restaurant/café and exhibition/sales office (DA/1494/2018).

Stage 1 of the marina and the temporary restaurant/café have been constructed. Stage 2 of the marina is currently being assessed (DA/226/2022). The proponent has advised that some components of the overall development, as approved, have not proceeded due to a shift in market and economic conditions. This has required the proponent to reconsider and reimagine the development outcomes for the site having regard for the strategic direction for

the Morisset area and the site's identification in the Lake Macquarie Local Strategic Planning Statement (LSPS) as a significant tourist asset.

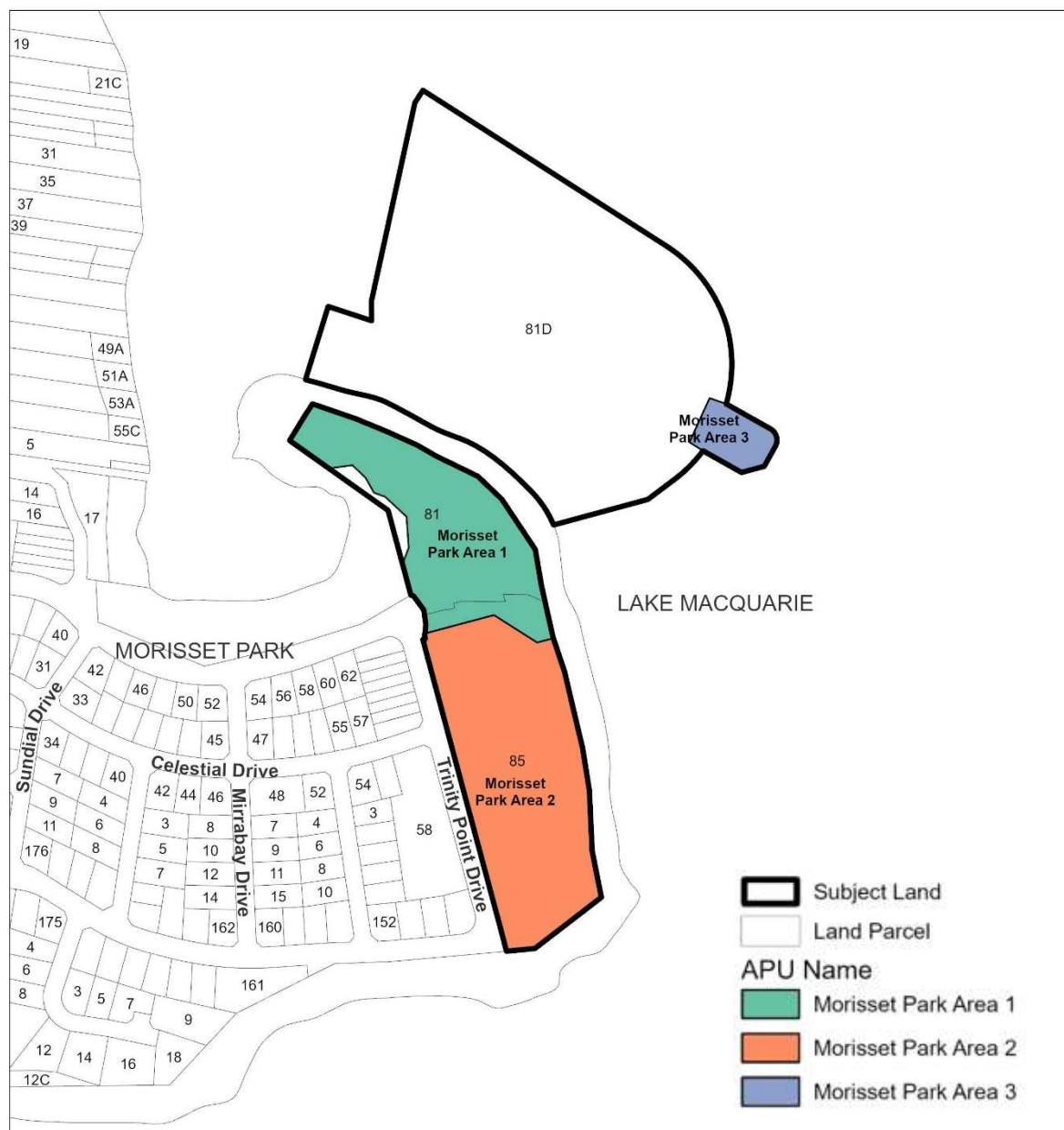
The proponent has now lodged a new SSD Concept with DPE for assessment which includes a larger scale mixed-use tourist, hospitality and residential development including six buildings incorporating sculptural rolling roofs and facades covered in greenery. The SSD Concept consists of 180 residential units across four buildings, 224 tourism units across two buildings, two 300-seat restaurants, a 300-seat function/conference centre and ancillary uses such as a wellness centre, business centre and shops.

This SSD Concept varies considerably from the current planning controls for the site and as such, the Department of Planning and Environment (DPE) has required the preparation of a planning proposal to amend the LMLEP 2014 to better reflect the SSD Concept. DPE also advised the proponent that the exhibition of the SSD should occur at the same time, or as close as possible, to the exhibition of this planning proposal. In response, the planning proposal was lodged with Council to amend Clause 7.16 of the LMLEP 2014, which is the site-specific clause relating to Trinity Point. It should be noted that while the planning proposal has been prepared to support the SSD Concept, other applications could be made under the proposed planning controls if this particular SSD does not proceed.

### **Proposed Amendments**

Clause 7.16 of LMLEP 2014 is proposed to be replaced with a new clause that would permit the SSD Concept that is currently being assessed by DPE and would allow greater flexibility for a significant mixed-use tourism and residential development. The proposed Clause 7.16 will:

1. Amend 'Morisset Park Area 1' on the Additional Permitted Use (APU) Map to apply to three distinct areas, Area 1, Area 2 and Area 3, as shown in Figure 1. Currently, commercial uses and residential accommodation are permitted on both Areas 1 and 2. This will be changed so the APU for commercial development will only apply to Area 1, and the APU for residential accommodation will only apply to Area 2. A new APU for helipad is proposed in Area 3 which is the location where the construction and operation of a helipad has already been approved.
2. Increase the building height on Area 1 and Area 2 to 34m with an additional allowance of up to 42m for the upper most architectural roof elements including equipment for servicing the building such as plant, lift motor rooms, fire stairs, green infrastructure and the like which must be fully integrated into the design of the roof feature.
3. Include a Floor Space Ratio (FSR) of 1.25:1 for Area 1 and Area 2. FSR is currently not used in the LMLEP 2014, however, is considered an appropriate mechanism to control bulk and scale of buildings and unit yield across the site. This FSR has been based on the SSD concept design and supporting studies.



**Figure 1 - Proposed Additional Permitted Uses  
Area 1 (commercial), Area 2 (residential) and Area 3 (helipad)**

4. Amend the requirements 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. This will provide a more holistic approach to the site and be prepared in consultation with Aboriginal stakeholders.
5. Replace the requirements for high quality urban form, satisfactory views from adjoining R2 Low Density Residential zoned and view sharing along the edge of the lake with a requirement for the development to maintain physical pedestrian connection and visual permeability from Trinity Point Drive through the development to the foreshore. This provides greater flexibility while still considering the amenity and views in the area.
6. Replace the requirements for a transition of building heights and height-to-width proportions with a requirement for development to exhibit 'design excellence'. This would require a high standard of architectural design, using materials and detailing



appropriate to the building type and location and responding to the natural landscape and locality through organic form. This will allow for a striking built form that differs from buildings in the area and delivers on the strategic objectives for the site as outlined in the LSPS.

7. Include new objectives to ensure residential accommodation is not developed in isolation and forms part of a mixed-use development which includes tourism accommodation and associated uses.
8. Require any development application under the clause to be accompanied by a staging plan which details how the above objective is met and outlines the schedule of delivery for development of Area 1, 2 and 3.
9. The current cap of 150 dwellings with no more than 50% of these to be used for residential purposes is proposed to be removed. Maintaining a significant tourism outcome on the site remains a key priority and will be managed through new objectives of the clause, different APU areas and a requirement for a staging plan. Site capacity will be managed through the introduction of the FSR clause. It is noted that the SSD Concept includes 180 residential units and 224 tourism units.

Other existing provisions under current Clause 7.16 proposed to be retained include the 6m setback to Lot 32 DP 1117408 (foreshore lot), protection of Aboriginal middens and the requirement for commercial premises not to exceed 550m<sup>2</sup>.

The Planning Proposal also seeks to rezone Lot 34 DP 1117408 (69C Trinity Point Drive) from SP3 Tourist to RE1 Public Recreation, remove the current APU from this lot and make associated height of building map changes. This lot is owned by Council and is included in the Trinity Point Foreshore Reserve Plan of Management which includes an action to rezone this lot to public recreation.

### ***Assessment of options***

There are a number of options that have been considered to progress the proposal. The SSD concept proposes a mixed-use development that exceeds the current maximum height of buildings under the LMLEP 2014 and does not comply with other requirements under Clause 7.16 'Development on certain land at Trinity Point, Morisset Park', such as maximum number of residential dwellings and other matters. While the SSD concept could be approved by the Minister for Planning (or delegate) without amending the local planning controls, DPE have advised that given the scale of variation sought, with particular regard to building height, it is not appropriate to solely rely on the SSD process. As a result, a concurrent planning proposal to amend the LMLEP 2014 is DPE's preferred approach. Relying solely on the SSD process would also result in Council not having a formal role in the development process.

The proposal to amend the local provisions under Clause 7.16 of LMLEP 2014 is considered the best approach as this will allow for site specific consideration and any future development that utilises this clause will need to meet all criteria to receive the additional height and land uses.

Other options considered were to amend the HOB Map or rezone part of the land from SP3 Tourist to R3 Medium Density Residential. These options are not recommended. The inclusion of additional height in a local clause is considered a better option than increasing building height on the HOB Maps or removing height allocation altogether, as the local clause requires consideration of the unique design approach and would only permit the additional height where a proposed development meets the requirements of Clause 7.16 for 'design excellence' and other matters outlined above. Retention of the SP3 Tourist zone retains the requirement to integrate and connect the residential component with the tourism

elements of the site rather than allowing a separate stand-alone residential development. Development that did not comply with the local clause would be required to comply with the lower heights shown on the HOB Map and land uses permitted under the SP3 Tourist zone.

Council may decide to make changes to the planning proposal or not request a Gateway determination. These options are not recommended because the planning proposal will support a significant tourism outcome on the site which is consistent with the LSPS objectives for the site and proceeding to exhibition will enable the community to provide feedback on the proposed changes. The draft clause has been prepared based on feedback from state agencies and council staff and seeks to deliver a balanced high-quality development outcome on the site.

### ***Community engagement and internal consultation***

Consultation with NSW government agencies DPE, Transport for NSW, NSW Environment Protection Authority, Subsidence Advisory NSW, State Emergency Services and Heritage NSW has been undertaken and advice from these agencies has been considered in preparing the draft planning proposal.

Internal consultation has been undertaken with staff from Council's Development Assessment and Certification, Property and Business Development, Community Partnerships, Asset Management, and Environmental Systems departments. Advice received from these departments has been considered and addressed in the draft planning proposal.

A Councillor briefing on the draft planning proposal was held on 19 September 2022.

If Council resolves to proceed, the draft planning proposal will be placed on public exhibition in accordance with the Gateway determination. It is recommended that the draft planning proposal be exhibited for a minimum of 28 days. DPE will be seeking to exhibit the SSD Concept concurrently with the draft planning proposal which will allow the community access to all available information to enable informed feedback.

### ***Key considerations***

<b>Economic impacts</b>	<p>The economic benefit of development facilitated by the planning proposal is significant to the region during both the construction and operation phases. An Economic Impact Assessment has been prepared and based on the findings, the operation of a development enabled by the proposed planning controls is expected to generate 398 jobs (159 more than the approved concept) and a \$26.8 million contribution to gross domestic product (\$10.8 million more than the approved concept) each year.</p> <p>The capital expenditure for the SSD Concept is approximately \$550m. The construction associated with this scale of development is expected to generate \$1.6 billion of direct economic activity and directly create 1,287 jobs providing significant stimulus to the Morisset area and wider region.</p> <p>A larger scale mixed use tourism and residential development will support local, regional and international tourism and economic activity. The increase to residential accommodation will play a major role in sustaining and making the tourism development and associated uses more viable.</p>
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<p><b>Environment</b></p>	<p>The land included in this planning proposal is subject to a number of existing development approvals that 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 further environmental impacts. The draft controls seek to protect the foreshore and important cultural heritage values of the site and surrounds by retaining a 6m setback from the foreshore reserve. Provisions for protection of items of cultural significance and allowing for indigenous interpretation are also proposed.</p> <p>The location of the helipad APU, originally proposed across the whole of Lot 1 DP 1252681, has been refined to the area where consent has already been granted. This will further reduce potential noise and vibration impacts.</p> <p>There are no biodiversity impacts associated with the proposal as the site is mostly cleared except for a small number of trees that will be considered as part of the SSD Concept or other future development applications.</p>
<p><b>Community</b></p>	<p>A Social Impact Assessment has been prepared which considers the increased scale of development and its impacts and benefits on the area. The increased scale of development is likely to significantly increase the permanent population and visitors to the site, activating the area and providing greater housing choice and tourism opportunities. The residential component is intended to support and sustain the significant tourism related uses on site. The increase in population and visitors is not considered to significantly increase the demand for community services and facilities. Future development will pay development contributions towards providing infrastructure and facilities identified in the relevant development contributions plan. The proposal has the potential to create significant employment opportunities and boost the City's profile as a destination for tourism. No significant impacts have been identified that cannot be mitigated through the SSD Concept or other future development applications.</p> <p><u>Visual Impact</u></p> <p>The LMLEP 2014, currently permits building heights on the site of 16m (northern section), 6m (south-eastern section) and 12m along Trinity Point Drive. It is now proposed to increase the height to 34m with an additional allowance for architectural and unique roof forms up to 42m. While the existing heights in the LMLEP 2014 are substantially lower than those sought by the planning proposal, there are existing development approvals for the site (up to 20 m) that exceed the current height controls. The proposed increase in height has the potential to enable landmark buildings, creating a destination tourism development.</p> <p>A Landscape and Visual Impact Assessment has been prepared based on the SSD concept. This larger-scale proposal will create a high level of visual change in the landscape and a direct impact on visual amenity when viewed from surrounding areas. Mitigation measures will need to be applied through design and</p>

	<p>integration with landscape elements and organic building form. For this reason, the planning proposal will require future development to exhibit design excellence, maintain visual permeability to the foreshore and have regard for the surrounding environment (lake, tree-lined foreshore and Watagan mountains). Requirements to control bulk and scale of buildings are also proposed.</p> <p>The potential visual impact of increased height and scale of future development that would be permitted by the draft clause has been considered against the significant economic opportunities enabled by this planning proposal.</p>
<b>Civic leadership</b>	<p>The planning proposal demonstrates Council's commitment and support for a growing visitor economy and increased flexibility for new tourism products in line with the LSPS, draft Lake Macquarie Destination Management Plan 2022-2026 and relevant regional strategic plans.</p> <p>Progression of the proposal to Gateway determination and public exhibition allows for community and stakeholder consultation.</p>
<b>Financial</b>	<p>There is minimal financial impact to Council as the proponent has paid the relevant fees associated with progressing the planning proposal in accordance with Council's fees and charges.</p>
<b>Infrastructure</b>	<p>The proposal would allow for additional dwellings and tourism units beyond the current controls and the already approved development on site. Councils Section 7.12 Contributions Plan and Council's Morisset Catchment Contributions Plan (s7.11 plan) apply to this site. Future development will pay development contributions towards providing infrastructure and facilities identified in the relevant development contributions plan. The s7.11 plan identifies an off-road cycleway to connect Trinity Point with the existing cycleway at Fishery Point Road.</p> <p>Transport for NSW (TfNSW) have raised no objection to the proposed LEP amendment subject to a Traffic and Transport Impact Assessment (TIA) being prepared. Council staff have reviewed the TIA that has been prepared and agrees that no further upgrades to local road intersections are required as a result of changes to planning controls. Council staff have undertaken further assessment of pedestrian and cyclist safety which can be further investigated and addressed as part of the SSD Concept assessment. TfNSW 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>
<b>Risk and insurance</b>	<p>The risks associated with preparing a planning proposal and seeking a Gateway determination are minimised by following the process outlined in the <i>EP&amp;A Act 1979</i>, the <i>Environmental Planning and Assessment Regulation 2021</i>, and Council's procedures.</p>

### ***Legislative and policy considerations***



