



17 May 2022

Dear Bryan

**Subject: Stage 1 Pre-Lodgement Meeting - RZ/14/2021
69C, 81, 81D & 85 Trinity Point Drive, Morisset Park**

Thank you for attending and presenting at the Pre-Lodgement Meeting for your proposal at Trinity Point Drive, Morisset Park on 28 April 2022. Please find attached the Pre-Lodgement Assessment summary and minutes of the meeting for your consideration in the preparation of a planning proposal.

Should you have any enquiries in relation to the attached assessment and minutes, please do not hesitate to contact me at bbryant@lakemac.nsw.gov.au or phone 4921 0316.

Yours faithfully,

A handwritten signature in black ink, appearing to read "B Bryant", with a stylized flourish at the end.

Breanne Bryant
Senior Strategic Planner
Integrated Planning

Our Ref: **Error! No document variable supplied.** Your Ref: **Error! No document variable supplied.**

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Stage 1 Pre-Lodgement Advice and Minutes

1. Proposal Details

Application No.	RZ/14/2021
Proponent:	Johnson Property Group
Lot and DP:	Lots 101 & 102 DP 1256630 Lot 34 DP 1117408 Lot 1 DP 1252681
Address:	69C, 81, 81D & 85 Trinity Point Drive Morisset Park
Description of proposal:	<p>Proposed amendment of Council's planning controls in particular Clause 7.16 'Development on certain land at Trinity Point, Morisset Park' to facilitate a mixed use tourism and residential development.</p> <p>The proposed amendments include:</p> <ul style="list-style-type: none">• increased building height to 42m, on Lots 101, & 102 DP 1256630 and Lot 34 DP 1117408,• Additional Permitted Use of helipad on Lot 1 DP 1252681• increase the total floor area of commercial premises not permitted in the SP3 zone to 750m² (200m² increase)• remove the restrictions on residential development that restricts the development to 150 dwellings and no more than 50% of dwellings to be used for permanent residential accommodation• include a floor space ratio provision• remove requirements for aboriginal education centre and amend the considerations for development consent.
Planning proposal category:	Standard

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Documents reviewed:	<ul style="list-style-type: none"> • Report to accompany request for Planning Proposal, Issue B, February 2022, ADW Johnson; • Attachment B Government Authority Submissions, September 2021; • Attachment 1 2 Locality and Maps • Attachment 3 Revised Local Provision; • Attachment 4 SEPP Review, 1 February 2022 • Attachment 5 Ministerial Directions, 5 August 2021; • Planning Secretary's Environmental Assessment Requirements, 24 September 2021; <p>It is noted that a copy of the Draft Environmental Impact Statement (EIS) for a Concept Development Application for State Significant Development (SSD) and supporting studies were provided to Council during the assessment. These studies were not shared to agencies due to confidentiality and being received after referrals were issued.</p>
Proponent justification:	<p>The proposed Local Environmental Plan (LEP) amendment is necessary to support the proposed SSD concept for a mixed use tourism development.</p>

2. External referrals

	Attachment No.	Date comments received
Department of Planning and Environment	A	29/03/2022
Transport for NSW	B	21/03/2022 & 18/03/2022
NSW Environment Protection Authority	C	24/03/2022
Subsidence Advisory NSW	D	1/04/2022
State Emergency Service	E	28/4/2022

*Any further comment received from Government Agencies following issue of this advice will be issued separately.



3. Pre- Lodgement Meeting

The Pre-Lodgement meeting is Stage 1 within the new LEP Making Guideline. It is designed to discuss the draft LEP amendments and for the proponent and their representatives to present their proposal, and Council and Agency representatives to provide feedback.

Location:	LMCC Committee Room and Online	Date:	28 April 2022
Chair:	Snr Strategic Planner Breanne Bryant	Time:	2pm – 3pm
Attendees:	<p><i>External Proponents:</i> Bryan Garland – JPG Keith Johnson - JPG Santi Botross – TTPP Ken Hollyoak – TTPP Sam Haddad – Strategic Advisor to JPG Craig Marler - ADW Johnson Nermine Zahran – Koichi Takada Architects Jon Pizey – DEM Andrew Biller – ADW Johnson</p> <p><i>Agency Representatives: (via Teams)</i> Glenn Hornal - Department of Planning and Environment Emma Butcher – Department of Planning and Environment Liz Smith – Transport for NSW Callista Harris – Transport for NSW Marg Johnston – Transport for NSW</p> <p><i>Council Staff:</i> Matthew Hill - Strategic Landuse Planning Coordinator Iain Moore – Strategic Land use Planning Coordinator Samantha Hardie – Economic Strategist Stephen Prince – Recreation and Land Planning Coordinator Kathy Langlade – Environmental Health Officer Karen Mason – Senior Natural Landscapes Officer Annette Young – Integrated Planning Business Support Team Robert Morris – Transport Operations Lead Symon Walpole – Environmental Strategy Coordinator Stephen McAlister – Coordinator Social and Community Planning</p>		

4. Site assessment

Site description and locality

The site is located on the edge of Lake Macquarie within Morisset Park. The main land-based site has an approximate area of 37,298m² and marina lot has an approximate area of 62,160m². The site is generally cleared of vegetation and currently contains a temporary restaurant, carpark and 94-berth marina.

It is noted the property addresses in the draft Planning Proposal do not match the lot and Deposited Plan (DP) number. 49 Trinity Point Drive is listed however this does not appear to be part of the project. No. 69C should be referenced instead.

History and current land uses

A Part 3A approval was granted in September 2009 to a marina and mixed use development concept. An amendment to Lake Macquarie Local Environmental Plan 2014 (LMLEP 2014) was also undertaken to support the mixed use development (RZ/2/2007 - Amendment 40) to reflect the Part 3A assessment. This amendment permitted with consent, dwellings, residential flat buildings, shops and commercial development within a 6(2) Tourism and Recreation Zone (at the time), subject to restricting these uses to being part of a tourist complex. The Amendment also introduced controls on the height of buildings, densities and foreshore set-backs. This was achieved through the introduction of a local clause for Trinity Point and Height of Building Map changes with various height limits across the site of 16m, 6m and 12m.

Subsequent Development Consents were issued for a marina consisting of the first 94 berths; a helipad; a mixed use development for tourism and hospitality; a mixed use development for serviced apartments and residential accommodation; subdivision; and a temporary restaurant/cafe. A development application is currently being considered by council for the second stage of the marina consisting of an additional 94 berths.

The site currently contains the 94 berth marina, temporary restaurant and associated carparking.

A State Significant Development Concept (**SSD 27028161**) is currently under consideration by Department of Planning and Environment (DPE). The proposed development consists of 220 hotel rooms/suites, 180 residential apartments, 300 seat function centre, and two 300 seat restaurants on the subject site. The proposal has a maximum building height of approximately 42m and a floor space ratio of approximately 1.18:1.

5. Advice for preparing a planning proposal

Comments on the scope of the proposal

The following comments are provided in regard to the scope of the proposal:

Draft Clause

It is noted that the clause prepared by the proponent is draft only and for the purpose of providing greater clarification and an example of the intent of the proposal. Final wording and mechanism for amendment will be dependent on Council/DPE assessment and Parliamentary Counsel (PC) drafting should the proposal be supported.

Justification for proposed changes to the existing clause 7.16 of LMLEP 2014 is to be included in the Planning Proposal outlining how any proposed change addresses previous community concerns, the current intent of the clause and how it would result in a high quality tourism outcome. It may assist to include a comparison table of the current clause versus proposed controls to assess the impact of the change. This may also include a comparison of the clause to the approved development and proposed State Significant Development Concept.

The requirement to provide an iconic and sustainable design is considered subjective and consideration must be given to how this could be achieved. Reconsideration of wording, clearly outlining the intent is necessary. The inclusion of a requirement to 'sign off' on the design by an architectural design review panel may be an option to consider to ensure any future development that utilises this clause results in a high quality organic design.

Height

The proposed dual height approach accounts for upper floor/roof elements and space for servicing and would remove the need for any clause 4.6 variation. The proposal however is a significant increase to the mapped maximum building height across the site (up to 700%) and also above the approved development. This extent of change needs to be addressed and justified in the Planning Proposal and visual impact assessment which must include consideration of transition to neighbouring land and visual impact from surrounding areas both land-based and from the lake. Any assessment must consider the impact of the change across the full site and not just from the concept design.

Floor Space Ratio (FSR)

It is noted that FSR is proposed in order to control the overall impact of any proposed development in regard to bulk and scale. The Pre-Lodgement application has proposed an FSR of 1.2:1. It is noted that documentation submitted with the EIS proposes an FSR of 1.3:1. The proposed FSR must be clarified in the Planning Proposal and justification for the increase beyond the SSD concept which is approximately 1.18:1 is required. This should also address how FSR will operate should the SSD not proceed and alternate design be



proposed on the site and how transition to adjoining lower density residential land uses is addressed.

The LMLEP 2014 does not adopt Standard Instrument LEP Clause 4.4 'Floor Space Ratio' or Clause 4.5 'Calculation of floor space ratio and site area' and as such no definition of floor space is included in the LMLEP 2014. This will need to be considered as part of the proposal.

Commercial

The need for additional commercial floor space requires greater justification. The SP3 Tourist zone permits a number of commercial uses that are considered appropriate as part of a tourism development. The existing clause 7.16 permits commercial premises as an additional use with a total floor area of 550m². Additional detail is required on what commercial land uses, that are not already permitted in the Land use table, are proposed and why there is a need for additional floor space. It is noted that the proposal is for a gross floor area of 750m² for commercial uses not already permitted in the SP3 zone.

Gateway Determination

It is noted that the draft Planning Proposal states that exhibition of the Planning Proposal will occur without the need for a Gateway determination prior to the exhibition.

As per the LEP making guideline and Council's LEP procedure any recommendation to Council, should the proposal be supported, would recommend that a request for Gateway Determination be made prior to exhibition of the proposal. This is also consistent with advice received from DPE which states that the *supporting studies and documentation within the EIS [can] be utilised for the exhibition of both the EIS and planning proposal once a Gateway determination is issued.*

Preliminary advice on strategic and site-specific merit

The Pre-Lodgement process is not a full merit assessment of the proposal. The Pre-Lodgement advice is based on information available to Council at the time of assessment and based on consistency with relevant regional and Council strategies.

The proposal is considered to have strategic merit, as it is generally consistent with the Hunter Regional Plan 2036, The Draft Hunter Regional Plan 2041, the Greater Newcastle Metropolitan Plan 2036, as well as Councils Community Strategic Plan, Local Strategic Planning Statement (LSPS) and the Lake Macquarie Housing Strategy. Council's LSPS identifies Trinity Point in the South West Growth Area to be developed into a significant tourism asset, supporting a growing visitor economy including conference facilities, restaurants and a marina.



It is noted however, that there is some concern as to the scale of the proposed changes to the maximum building height. The increase is considered substantial ranging from a 262%-700% increase from the current maximum building height under the LMLEP 2014. This significant increase must be addressed in the Planning Proposal outlining how the proposed height, bulk and scale will responds to the site, surrounding development, and vistas from the Lake and locations with sightline to this site.

Given the site is zoned SP3 Tourism any proposed planning amendments should ensure a significant tourism outcome.

Required studies

Council acknowledges the benefit in providing a single set of studies for the Planning Proposal and the Environmental Impact Statement (EIS) for the State Significant Development application to reduce confusion for the community. These studies however must address the full extent of impact from the proposed LEP amendments and not only the single concept proposed under the SSD process. It may be beneficial to have an executive summary or a section within each study that specifically addresses the LEP amendments. The studies should also include a statement that these studies can be used for the purpose of the Planning Proposal and any limitations include this proposal.

Based on assessment of the scoping proposal and review of agency referral requirements the following information/studies are identified as necessary to support the submission of a Planning Proposal (Please see Attachments A-E for the referral advice from external agencies):

Study	Scope / Comment
Biodiversity Impact Assessment	It is noted that a BDAR waiver has been issued for the SSD concept. A copy of this waiver should be provided with the Planning Proposal.
Visual Impact Assessment	To be prepared by a suitably qualified professional and in accordance with Lake Macquarie Council Scenic Management Guideline 2013 including contextually accurate photo montages/ or massing diagrams to indicate the bulk and scale of any future development using the proposed controls on the site. This should also address the impact of removing the need for appropriate height to plan width proportions from the clause. The visual impact of a building at 42m should be considered from vantage points around the Lake including from the Central Coast LGA and having regard for surrounding vegetation currently within the foreshore area.

	Any planning controls should ensure that visual permeability is retained through the site to enable view corridors to the foreshore reserve. The foreshore tree canopy should remain a dominant feature of the site when viewed from the Lake and future built form should be located within an appropriate landscape setting that reflects the unique qualities of the site.
Urban Design Analysis	<p>Demonstrate how future development utilising the proposed planning controls (height, FSR etc) can address and respond to the context, sites characteristics, exiting and future character and result in a high quality development.</p> <p>Outline the scope of public domain improvements, pedestrian and bicycle linkages, street activation, and landscaping to be provided for future development.</p>
Traffic and Transport Assessment (TIA)	<p>A Traffic and Transport Assessment prepared by a suitably qualified person/s in accordance with the Austroads Guide to Traffic Management Part 12, the complementary TfNSW Supplement and the Guide to Traffic Generating Developments. Detail of the required assessment is included in the TfNSW advice attached and below:</p> <ul style="list-style-type: none"> • An initial review of the TIA has been undertaken and the traffic engineer is satisfied with the intersections that have been assessed within the network being, Macquarie Street/ Fishery Point Road Signalised (for TfNSW consideration), 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). TfNSW also requires consideration of Mandalong Road, Wyee Road, Dora Street and Freemans Drive intersection, Dora Street & Ourimbah Street, and any other impacted intersections along Macquarie Road such as Campview Road, Wyee Street and Bridge Street. • In addition to the TIA electronic Sidra files are required to be submitted to interrogate the modelling. <p>Modelling should include:</p> <ul style="list-style-type: none"> - Current traffic counts and 10-year traffic growth projections - With and without development scenarios - 95th percentile back of queue lengths - Delays and level of service on all legs for the relevant intersections

- Electronic data for TfNSW review.

- A specific development scenario can be proposed; however, sensitivity analysis is to demonstrate the transport demand generated by total development of the site, having consideration for the highest-best use permissible within the proposed Land Use Zone and the proposed development controls.
- There are concerns with some of the volumes used in the modelling. E.g. Fishery Point Road/Morisset Park Road, the right turn out of Fishery Point Road (from north) is less in the future scenarios with the development. This is the critical turn movement for this intersection and is unlikely to be reduced from current volumes. This would need to be modelled with the current volumes plus a growth factor in the future scenarios.
- The intersection of Fishery Point Road and Morisset Park Road is a key safety concern for the school and road users, and an increase of traffic on Morisset Park Road will increase queuing on Fishery Point Road. The increase in traffic may require full signalisation.
- Morisset Park Road from Fishery Point Road to Trinity Point Drive is degraded and sub-standard. In particular, the provision of sealed shoulders is a minimum requirement to improve the star (safety) rating of the road.
- The TIA states that *"There are no marked bicycle lanes in the immediate vicinity of the subject site. However, given the nature the local road nature of the surrounding streets, cycling on the roadway would be considered acceptable. Further from the site, there is an off-road shared path along Fishery Point Road."* The current road network and Morisset Park Road in particular, to connect with the shared path on Fishery Point Road, is not considered suitable for on road cycling. Both on road and off road cycling are a key requirement of any upgrade to the road and improvement of the star rating.
- An assessment of demand generated for active transport infrastructure and public transport services.
- The supporting assessment should address all relevant issues as detailed in Attachment C of the Local Environmental Plan

	<p>Making Guideline.</p> <p>The Proponent is encouraged to meet with TfNSW to obtain feedback and reach agreement on the methodology, inputs and assumptions informing the supporting technical assessment and prior to progressing any modelling for the planning proposal. Any request for a meeting can be directed to the email provided in TfNSW correspondence at attachment B.</p> <p>TfNSW have advised that correspondence dated 16 June 2016 from then RMS remains relevant for consideration of a helipad as a permissible use. This related to 38 flight movements per week. Consideration of marine safety and navigation, noise and vibration, and pollution impacts from the helipad and associated helicopters is required.</p>
Economic Impact Assessment	<p>The Economic Impact Assessment should consider the impact of additional commercial floorspace and uses on the nearby Bonnells Bay and Morisset commercial centres.</p>
Flood Assessment	<p>A Flood Assessment should identify and describe any on-site flood impacts and risks associated with the proposed amendments and proposed increase in density. This should include impacts of sea level rise. This should identify any mitigation and management measures to minimise the impacts of flooding on the future development</p> <p>The Planning Proposal will need to consider Ministerial Direction 4.3 Flood Prone Land and NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual 2005. Advice from SES is attached as attachment E and draws attention to specific principles which are important the NSW SES.</p>
Social Impact Assessment (SIA)	<p>A Social Impact Assessment (SIA) is required for the Planning Proposal. The SIA prepared for the SSD concept fails to consider the implications of the proposed LEP amendment. Further matters that would need to be considered by the SIA in relation to the LEP amendment include:</p> <ul style="list-style-type: none"> • The impacts (both positive and negative) resulting from the proposed change in land use from tourism to that of residential and commercial, for the local and wider community. This is due to the proposed amendments:

	<ul style="list-style-type: none"> ○ No longer requiring tourism and visitor accommodation and residential accommodation, to be evenly distributed across the whole site ○ No longer requiring the commercial uses to reflect the needs of the tourist resort facility and local community ○ A substantial proportion of the site (Morisset Park Area 2) able to be used entirely for residential development ○ Providing no controls as to the extent of the tourism requirements – i.e. stipulating minimum requirements (Morisset Park Area 1 could be used entirely for commercial space, and car parking, services and access for the residential areas in Area 2) ○ Removal of requirements regarding building height transitions between Lake Macquarie and nearby streets • An investigation of the potential impacts that may result from a 'maximum' development yield proposed by the LEP amendments – whilst the SIA considers the impacts regarding the proposed concept design, it does not consider the impacts that may result from alternate designs that may be permitted by the LEP amendments, which may result in significantly higher numbers of residential / tourism development. This will require: <ul style="list-style-type: none"> ○ Development of alternative models / options to be detailed identifying the potential development yields resulting from the LEP amendments ○ How the impacts arising from these models/options differ, or whether there is no change from those already identified in the SIA, ○ What are other measures (i.e. to enhance the positive impacts, or mitigate the negative impacts) would need to be considered as result of these potential models • The impacts of the loss of the Aboriginal Education Centre required under the current LEP
Statement of Heritage Impact (SHE)	<p>The SHE should be revised to include that the archaeological monitoring is undertaken by a suitably qualified archaeologist. An additional recommendation should be included that the development will provide historic heritage interpretation as outlined in the Cultural Heritage Management Plan and the Heritage Interpretation Plan which will be required to be</p>

	updated as part of the ongoing works.
Aboriginal Cultural Heritage Assessment Report	A review of the Aboriginal Cultural Heritage Assessment Report dated 30/03/2022 has been undertaken and Council's Heritage Support officer concurs with the seven report recommendations, without alteration.
Contamination Assessment	The contamination assessment indicates asbestos in shallow soils and has recommended a Remediation Action Plan (RAP) which shall be submitted to Council prior to the issue of a construction certificate for any works on the site.
Noise and Vibration Assessment	The Acoustic report prepared considers impact of aircraft and future development. Most commentary regarding plant and equipment noise in the report is based on broad assumptions because specific mechanical equipment and the location of the equipment is currently unknown. This will need to be addressed in greater detail at the DA stage, with further noise control measures or time restrictions possibly being required to achieve noise targets if the assumption regarding mechanical plant noise cannot be substantiated at a later date.
Local Infrastructure Assessment	<p>As per the LEP Making Guideline it is the responsibility of the proponent to investigate infrastructure requirements and associated funding for the proposal. As such impact on Local Infrastructure is required to be considered. This includes addressing the requirements of any relevant contribution plan(s), planning agreement or EPI requiring a monetary contribution, dedication of land and/or works-in-kind.</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. The current s7.11 or the s7.12 Contribution Plans could not have considered the full impact of the potential additional development that could arise from the LEP amendment. As such, amendment to the contributions plan(s) or a voluntary planning agreement are mechanisms available to Council to provide for contributions to reflect the full impact of the potential additional development. A time allowance will be required if Council is to undertake either option.</p> <p>Council would not be in a position to review the contributions plan prior to Gateway; however, this matter must be considered in the Planning Proposal.</p>

	In regard to open space there is nothing in the current contributions plan that recognises the proposal. Council notes the proposed open space embellishment and is willing to discuss this in greater detail.
Stormwater Management Report	<p>Provide a preliminary stormwater management report demonstrating how stormwater would be appropriately managed accordance with Council's requirements.</p> <p>Assess water quality and hydrology impacts of future development, including any downstream impacts for both surface and groundwater and any impacts on natural processes and functions.</p>
Service and Utilities Impact Assessment	<p>In consultation with relevant service providers prepare a services and utilities impact assessment which:</p> <ul style="list-style-type: none"> • assess the capacity and impacts of the development on existing utility infrastructure and service provider assets surrounding the site. • identify any infrastructure upgrades required onsite and off-site to facilitate the development.
Geotechnical assessment and Acid Sulfate Soils assessment	Identifying that the site is suitable for future development.
Section 9.1 Ministerial Directions	<p>The Planning Proposal is to address the most recent Section 9.1 Ministerial Directions signed by the Minister for Planning and Homes on 28 February 2022.</p> <p>Draft Ministerial Directions in relation to Local Infrastructure Contributions are also to be addressed in the Planning Proposal. These are expected to come into force in July 2022.</p>
State Environmental Planning Policies	<p>The NSW Government has released updated SEPPs that have come into force over the past few months. In this regard, the Planning Proposal is to reference the SEPPs current at the time of lodgement of the Planning Proposal.</p> <p>Whilst the draft Planning Proposal indicates that the <i>SEPP (Biodiversity and Conservation) 2021 Bushland in Urban Areas</i> and the <i>SEPP (Resilience and Hazards) 2021</i> are matters for consideration at the DA stage, Council needs to be satisfied that these matters can be adequately addressed when rezoning the land. As such, <i>SEPP (Resilience and Hazards) 2021</i> (in particular cl.</p>

	<p>2.10 and cl. 2.11) and clause 6.8 of Chapter 6 in <i>SEPP (Biodiversity and Conservation) 2021</i> should be addressed in detail.</p> <p>Potential impacts include stormwater management, artificial lighting, noise, visual impacts and overshadowing. The impacts of sea level rise on the proposal should also be assessed.</p> <p>Council needs to be satisfied that the impacts of subsequent development (including edge impacts on the Council reserve, lake foreshores and waters) will be acceptable and/or manageable prior to amending planning controls on the land and evidence needs to be submitted to enable Council to make this decision.</p>
Strategies	Include assessment against the Draft Hunter Regional Plan 2041.
Planning Proposal	<p>The Planning Proposal must ensure that the intent of the zoning for tourism purposes can be achieved and address matters raised in this Pre-Lodgement advice and as follows:</p> <ul style="list-style-type: none"> • Include statutory context site history and background <ul style="list-style-type: none"> ○ Address all relevant legislation, strategic planning framework, environmental planning instruments (EPIs) (including drafts), plans, policies and guidelines. ○ Identify existing and proposed development standards and LEP clauses. ○ Detail the site history and background which led to the proposal. ○ Include estimates of the timeframe for major milestones in the planning proposal pathway including request for gateway determination, exhibition and finalisation ○ Include a note to advise in the explanation of provisions the final wording of proposed clause 7.16 clause may be subject to change. • Employment and Homes <ul style="list-style-type: none"> ○ Provide an estimate of the new jobs that would be created as a result of the proposal. ○ Provide an estimate of the new homes that would be created as a result of the proposal. ○ Include details of the methodology to determine the figures provided.



Phase 2 assessment fee

Fees are payable in accordance with Councils published fees and charges^{*}. Upon lodging a Planning Proposal on the NSW Planning Portal, Council will request payment of the Phase 2 upfront fixed fee, and enter into an agreement with the proponent to cover the cost of staff time spent processing the LEP amendment after the fixed fee is expended.

^{*}Fees are subject to change and are as published at the date of lodgement

Assessment time-frames and milestones

The proposal is categorised as 'standard' under the Local Environmental Plan Making Guide (December 2021). The maximum benchmark end-to-end timeframe of 320 working days will apply to the proposal. The following timeframes and milestones are consistent with those provided in the Local Environmental Plan Making Guide (December 2021):

Key Steps		Time-frame (working days)
Council assessment	After the planning proposal is lodged on the NSW Planning Portal and the Phase 2 fee paid, assessment of the planning proposal will commence. A report will be prepared to seek endorsement from the elected Council to seek a Gateway Determination.	95
Gateway Determination	The Council endorsed planning proposal is submitted to the Department of Planning and Environment for assessment and issue of a Gateway Determination.	25
Post Gateway Review	Satisfaction of Gateway conditions, undertake technical studies and consult with authorities and government agencies if required.	50
Public Exhibition & Assessment	Exhibition of the Planning Proposal as required by the Gateway Determination. A report will be prepared to the elected Council to report on the exhibition and seek endorsement for the LEP to be made.	95
Finalisation	Final Mapping, legal drafting and the LEP being made	55

It is noted that timeframes are estimates and may change over the life of the proposal. The project timeline must be provided in the Planning Proposal and may be amended by



Council or the Gateway determination to provide the necessary level of confidence that the LEP will be finalised within a reasonable timeframe.

Planning Proposal reporting requirements

The Planning Proposal must be prepared in accordance with this Pre-Lodgement advice and the LEP Making Guideline including assessments against Attachment C to the Guideline. The LEP Making Guideline and supporting information can be viewed on the NSW Department of Planning and Environment's website. Information about Council's process can be found [here](#).

Validity of advice

This advice is provided for the purpose of preparing a Planning Proposal and does not guarantee Council support for the submitted Planning Proposal. Additional information or studies may be identified as needed during the assessment of the Planning Proposal to demonstrate site specific merit.

The advice contained in this report is valid for 12 months from the date of issue. Additional Pre-Lodgement do-and-charge fees may apply beyond 12 months where the initial Pre-Lodgement advice needs to be reviewed and updated.

We encourage ongoing engagement in the preparation and completion of required studies.

Review of studies prior to lodgement on NSW Planning Portal

Prior to lodging a formal Planning Proposal on the NSW Planning Portal under Stage 2 of the LEP Making Guideline the applicant is encouraged to provide a copy of any requested studies to Council to ensure they have been prepared to Council's satisfaction.



Attachment A – Agency Pre-Lodgement advice – Department of Planning and Environment



Department of Planning and Environment

Breanne Bryant
Senior Strategic Planner
Lake Macquarie City Council
Via email: bbryant@lakemac.nsw.gov.au

Dear Ms Bryant,

Pre-Lodgement Advice - Trinity Point Drive, Morisset Park

Thank you for the opportunity to provide pre-lodgement advice on the scoping proposal submitted on 25 February 2022 to amend Clause 7.16 of *Lake Macquarie Local Environmental Plan 2014* for Trinity Point Drive, Morisset Park. I note Council's updated advice dated 7 March 2022 identifying a floor space ratio of 1.2:1 and maximum building height of 42m, including roof and plant infrastructure will apply to the proposal.

The draft planning proposal will likely provide economic benefit to a region, the State or the national economy, such as those with high levels of investment and continuing or long-term employment generation.

The department has reviewed the draft planning proposal and provides the following comments for your consideration. The advice contained in this letter is not a full merit assessment of the proposal, however, should be considered by the proponent and council in proceeding with and preparing a planning proposal.

The planning proposal is categorised as 'standard' under the *NSW Local Environmental Plan Making Guide* (December 2021) which has a maximum benchmark end-to-end timeframe of 320 working days. Any supporting technical studies should be sufficiently detailed, and the planning proposal completed to a standard that enables achievement of these timeframes.

The scoping proposal has addressed consistency with the regional and local strategic planning framework, however, consistency with the Draft Hunter Regional Plan 2041 should also be addressed in the planning proposal.

The Department released updated SEPPs and Ministerial directions that have come into force over the past few months. Please ensure the planning proposal references the current versions of these plans and directions.

It is acknowledged that a State Significant Development Application (SSD 27028161) for a Mixed-Use Development at Trinity Point has been issued. Secretary's Environmental Assessment Requirements and an Environmental Impact Statement (EIS) is being prepared.

As discussed previously with Council, it is appropriate that supporting studies and documentation within the EIS be utilised for the exhibition of both the EIS and planning proposal once a Gateway determination is issued. Council should also consider whether there are any other matters specific to the planning proposal that should be addressed in the EIS. Public exhibition of the planning proposal and EIS should ideally occur at the same time, or as close together as is practicable.

The following documentation should be provided in support of a planning proposal seeking Gateway determination.

No.	Key Issue	Comment
1	Statutory context, site history and background <ul style="list-style-type: none"> Address all relevant legislation, strategic planning framework, environmental planning instruments (EPIs) (including drafts), plans, policies and guidelines. Identify existing and proposed development standards and LEP clauses. Detail the site history and background which led to the proposal. Include estimates of the timeframe for major milestones in the planning proposal pathway including request for gateway determination, exhibition and finalisation. Include a note to advise in the explanation of provisions the final wording of proposed clause 7.16 clause may be subject to change. 	Address in planning proposal
2	Employment and Homes <ul style="list-style-type: none"> Provide an estimate of the new jobs that would be created as a result of the proposal. Provide an estimate of the new homes that would be created as a result of the proposal. Include details of the methodology to determine the figures provided. 	Address in planning proposal
3	Economic Impact <ul style="list-style-type: none"> Provide an Economic Impact Assessment. 	Economic Impact Assessment
4	Social Impact <ul style="list-style-type: none"> Provide a Social Impact Assessment. 	Social Impact Assessment
5	Servicing and Infrastructure Capacity Assessment <ul style="list-style-type: none"> In consultation with relevant service providers prepare a services and utilities impact assessment which: <ul style="list-style-type: none"> assess the capacity and impacts of the development on existing utility infrastructure and service provider assets surrounding the site. identify any infrastructure upgrades required on-site and off-site to facilitate the development. 	Address in planning proposal, provide agency advice if required
6	Traffic Impact Assessment <ul style="list-style-type: none"> Provide a Traffic and Transport Impact Assessment in accordance with Transport for NSW Guidelines. 	Traffic Impact Assessment
7	Biodiversity <ul style="list-style-type: none"> Assessment of flora and fauna impacts where significant vegetation or flora and fauna values would be affected by the proposed development. 	Flora and Fauna assessment
8	Flooding <ul style="list-style-type: none"> Identify and describe any on-site flood impacts and risks associated with the proposed development Identify changes to flood risk both on-site or off-site including sea level rise and identify any mitigation and 	Flood Assessment

No.	Key Issue	Comment
	management measures to minimise the impacts of flooding on the proposed development.	
9	Stormwater Management and Water Quality <ul style="list-style-type: none"> Provide a preliminary stormwater management report demonstrating how stormwater would be appropriately managed accordance with Council's requirements. Assess water quality and hydrology impacts of the development, including any downstream impacts for both surface and groundwater and any impacts on natural processes and functions. 	Stormwater Management Report
10	Ground and Water Conditions <ul style="list-style-type: none"> Include a geotechnical assessment which addresses potential subsidence risks. Acid Sulfate Soils assessment. 	Geotechnical assessment and Acid Sulfate Soils assessment
11	Contamination <ul style="list-style-type: none"> Assess and quantify any soil or groundwater contamination and demonstrate that the site is suitable (or will be made suitable, after remediation) for the development. 	Contamination Assessment
12	Aviation <ul style="list-style-type: none"> Assess the impacts of the development on the adjacent helicopter landing site and any existing flight paths. 	Address in planning proposal
13	Noise and Vibration <ul style="list-style-type: none"> Noise and vibration assessment prepared in accordance with the relevant NSW Environment Protection Authority (EPA) guidelines. 	Noise and vibration assessment
14	Aboriginal Cultural Heritage <ul style="list-style-type: none"> Provide an Aboriginal Cultural Heritage Assessment Report identifying, describing and assessing any impacts for any Aboriginal cultural heritage values on the site and mitigation measures. 	Aboriginal Cultural Heritage Assessment Report
15	Urban Design Analysis <ul style="list-style-type: none"> Demonstrate how the proposed built form addresses and responds to the context, site characteristics, streetscape and existing and future character of the locality. Demonstrate how the building design will deliver a high-quality development, including consideration of any proposed design controls such as façade design, articulation, activation, roof design, materials, finishes, colours, any signage and integration of services. Outline the scope of public domain improvements, pedestrian and bicycle linkages, street activation, and landscaping to be provided as a part of the proposal. 	Address in planning proposal

No.	Key Issue	Comment
16	Visual Impact <ul style="list-style-type: none"> Provide a visual analysis of the development from key viewpoints, including photomontages or perspectives showing the proposed and likely future development. Where the visual analysis has identified potential for significant visual impact, provide a visual impact assessment that addresses the impacts of the development on the existing catchment. 	Visual Impact Assessment
17	Public Space <ul style="list-style-type: none"> Demonstrate how the development maximises the amount, access to and quality of public spaces (including open space, public facilities and streets/plazas within and surrounding the site), reflecting relevant design guidelines and advice from the local council and the department. 	Address in planning proposal
18	Contributions and Public Benefit <ul style="list-style-type: none"> Address the requirements of any relevant contribution plan(s), planning agreement or EPI requiring a monetary contribution, dedication of land and/or works-in-kind. 	Address in planning proposal

Based on the above, agency consultation is recommended post-Gateway with the following agencies/ organisations:

- Subsidence Advisory NSW (note advice received on 14 October 2021)
- Transport for NSW
- Hunter Water and relevant utility providers
- Biodiversity and Conservation Division
- Biodiversity and Conservation Division - Flooding
- Heritage NSW

If during the technical assessment, Council or the department identifies that the proposal is no longer 'Standard' in accordance with the *NSW Local Environmental Plan Making Guideline*, the scoping information provided above may need to be updated.

If you have any more questions, please contact Glenn Horal, Senior Planning Officer on 02 4345 4409.

Yours sincerely



29/3/2022
Daniel Starreveld
 Manager Local and Regional Planning
 Planning and Assessment



Attachment B – Agency Pre-Lodgement advice – Transport for NSW

Transport for NSW



18 March 2022

Ref: NTH22/00112/01

Chief Executive Officer
Lake Macquarie City Council
PO Box 1906
HRMC NSW 2310

Attention: Breanne Bryant

Dear Sir/Madam

MACQUARIE STREET (MR217): RZ/14/2021/PRELODGE, LEP AMENDMENT, MULTIPLE LOTS, 49, 81, 81D & 85 TRINITY POINT DRIVE MORISSET PARK

I refer to the abovementioned Planning Proposal referred to Transport for NSW (TfNSW) on 25 February 2021 for comment in accordance with Division 3.4 of the *Environmental Planning & Assessment Act 1979* and the *Local Environmental Plan Making Guideline (2021)*.

TfNSW key interests are the safety and efficiency of the transport network, the needs of our customers and the integration of land use and transport in accordance with *Future Transport Strategy 2056*.

Macquarie Street (MR217) (aka Dora Street, Mandalong Road & Wangi Road) are classified (State) roads. Trinity Point Drive is a local road. Council is the roads authority for both roads and all other public roads in the area except for the M1 – Pacific Motorway, in accordance with Section 7 of the *Roads Act 1993*.

TfNSW has reviewed the Planning Proposal and raises no objection to the proposed LEP amendment. The Planning Proposal has the potential to generate an increase in demand on the road network and for transport services.

TfNSW requests that a Traffic and Transport Assessment (TIA) be prepared by a suitably qualified person/s in accordance with the *Austroads Guide to Traffic Management Part 12*, the complementary TfNSW Supplement and the *Guide to Traffic Generating Developments*. In particular it is recommended that the TIA be tailored to the scope of the proposed development and include, but not be limited to the following:

- Consideration of the traffic and transport impacts on the safety and efficiency of existing and proposed intersections, in particular, the following intersections of:
 - Fishery Point Road and Macquarie Street,
 - Mandalong Road, Wyee Road, Dora Street and Freemans Drive,
 - Dora Street & Ourimbah St, and
 - any other impacted intersections along Macquarie Road such as Campview Road, Wyee Street and Bridge Street.

Transport for NSW
6 Stewart Avenue, Newcastle West NSW 2302
Locked Bag 2030, Newcastle West NSW 2302
T – (02) 4908 7688

Level 1, 76 Victoria Street, Grafton NSW 2460
PO Box 576, Grafton NSW 2460
T – (02) 6640 1362

1 of 2

- The capacity of the local and classified road network to safely cater for the additional demand generated by the proposed development during both the construction and operational stages. The assessment shall include the cumulative traffic impact of other proposed developments in the area.
- Traffic analysis of any major / relevant intersections impacted, using SIDRA or similar traffic model, including:
 - Current traffic counts and 10-year traffic growth projections
 - With and without development scenarios
 - 95th percentile back of queue lengths
 - Delays and level of service on all legs for the relevant intersections
 - Electronic data for TfNSW review.
- A specific development scenario can be proposed; however sensitivity analysis is to demonstrate the transport demand generated by total development of the site, having consideration for the highest-best use permissible within the proposed Land Use Zone and the proposed development controls.
- An assessment of demand generated for active transport infrastructure and public transport services.
- The assessment is to identify the transport infrastructure and/or services required to support
- The supporting assessment should address all relevant issues as detailed in Attachment C of the Local Environmental Plan Making Guideline.

The Proponent is encouraged to meet with TfNSW to obtain feedback and reach agreement on the methodology, inputs and assumptions informing the supporting technical assessment and prior to progressing any modelling for the planning proposal. Any request for a meeting can be directed to the email provided below.

In relation to the proposal to make 'helipad' a permitted use within the Morisset Park Area 3, Roads & Maritime Services comments from 25 August 2016 remain relevant (copy attached).

Should you have any further questions in relation to this matter then please contact Callista Harris, Development Services Case Officer, on 1300 207 783 or (02) 8650 1789 or by emailing: development.north@transport.nsw.gov.au

Yours sincerely

A handwritten signature in blue ink, appearing to read "Matt Adams", with a long, sweeping horizontal line extending to the right.

Matt Adams
Team Leader Development Services North
Community and Place | Region North
Regional and Outer Metropolitan

Attachment: RMS response to SEARs 846 - Trinity Point, dated 25 August 2016

Transport for NSW
6 Stewart Avenue, Newcastle West NSW 2302
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T - (02) 4908 7688

Level 1, 76 Victoria Street, Grafton NSW 2460
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2 of 2

25 August 2016

Nicola Chisholm
Planning Officer
Industry Assessments
GPO BOX 39
SYDNEY NSW 2001

Dear Ms Chisholm

Re: SEARs 846 Trinity Point – Helipad

Thank you for your email correspondence on 16 June 2016 in regards to the applicants request to extend the Standard Environmental Assessment Requirements (SEARs) for a proposed helipad at Trinity Point Marina. Apologies for Roads and Maritime delayed reply.

As advised, the proponent has requested to amend the original signed SEARs from proposed "7 flight movements per week or more to support the approved marina and mixed development" to an increase 38 flights per week.

The current report is adequate, however Roads and Maritime Services request that the proponent address the following factors in the extended SEARs report;

Marine Safety and Navigation

- Impact on moored vessels in marina and flight path.
- Emergency/Operational Management Plan for an accident over water. Operational Plans to include on water response to any incident or accident involving helicopter operations.
- Lights on marina helipad not to effect vessel navigation. (Vessel navigation lights are operational before sunrise, after sunset and in times of restricted visibility)
- An approved on-water exclusion zone may be required around the helipad/helicopter during landing and take-off operations.

Noise and Vibration Impacts

- The "wind force" produced from the rotor could significantly affect vessels navigating in the vicinity. Approved CASA representative to supply information on these matters.
- Impact on users of passive craft, such as canoes and kayaks.
- Information of "minimum distance off" a helicopter must keep from on water infrastructure.

Pollution Impacts

- Environmental pollution risk for vessels moored in marina or close proximity i.e. securing loose items to avoid items entering the water as a result of "wind force" produced by helicopter operations.
- Measures to ensure no fuel or chemical substances can enter the water.

Roads and Maritime Services

8 Cowper Street, Carrington NSW 2294 |
PO Box 653, Newcastle NSW 2300 |

www.rms.nsw.gov.au | 13 22 13

Attachment C – Agency Pre-Lodgement advice – Environment Protection Authority



DOC22/151690-4

24 March 2022

Ms Breanne Bryant
Senior Strategic Planner
Lake Macquarie City Council

(via email: bbryant@lakemac.nsw.gov.au)

Dear Ms Bryant

Stage 1 Pre-Lodgement Trinity Point, Morisset Park (RZ/14/2021) EPA comment on Pre-Lodgement

I am writing to you in reply to the Lake Macquarie City Council's invitation to the NSW Environment Protection Authority (EPA) to provide comment on the pre-lodgement for the above project at 49, 81, 81D & 85 Trinity Point Drive Morisset Park.

Table 1 Report to accompany Request for Planning Proposal Amendment to Clause 7.16 – Trinity Point (concurrent with SSD 27028161), prepared by ADW Johnson Pty Ltd, Issue B, dated 16 February 2022, does not identify the EPA for pre-lodgement engagement and states "The planning proposal does not introduce a new use in proximity to the marina EPL (and future amendments to accommodate the approved helipad), with the marina and helipad always planned as part of the mix of uses at Trinity Point, including residential."

The information provided indicates that the proposal does not constitute a Scheduled Activity under Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act) and therefore will not require an Environment Protection Licence (EPL) under the POEO Act.

As such, the EPA has no comment to provide on this request, and no follow-up consultation is required.

Should you require clarification of any of the above please contact Anna Timbrell on 9274 6345 or email anna.timbrell@epa.nsw.gov.au

Yours sincerely



Mitchell Bennett
Unit Head – Statutory Planning

Attachment D – Agency Pre-Lodgement advice – Subsidence Advisory



Subsidence Advisory

117 Bull Street, Newcastle West, NSW, 2302

T: (02) 4908 4300 | 24 Hour Emergency Service: 1800 248 083 (Free Call)

Emma Butcher
Senior Planner, Regional Assessments I
Via Email: Emma.Butcher@planning.nsw.gov.au

Dear Emma,

TRINITY POINT PLANNING PROPOSAL – SSD-27028161 – EMIN21-00013

I refer to your invitation for Subsidence Advisory NSW (Subsidence Advisory) to provide comment on a planning proposal at Trinity Point within Lake Macquarie Council's local government area. It is understood that the proposal would allow for a mixed residential and commercial development of up to eleven stories over Trinity Point.

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.

If you would like more information, please contact Subsidence Advisory NSW on 4908 4300 or subsidencedevelopment@customerservice.nsw.gov.au

Yours sincerely



Kieran Black
Technical Specialist

14 October 2021



Attachment E – Agency Pre-Lodgement advice – State Emergency Service



Our Ref: ID1578
Your Ref: RZ/14/2021/PRELODGE

28 April 2022

Ms Breanne Bryant
Lake Macquarie City Council
Box 1906
Hunter Region Mail Centre NSW 2310

via email: bbryant@lakemac.nsw.gov.au

Dear Ms Bryant,

PLANNING PROPOSAL FOR LAKE MACQUARIE LEP AMENDMENT - TRINITY POINT DRIVE MORISSET PARK

Thank you for the opportunity to provide comment on the Planning Proposal for Lake Macquarie LEP Amendment - Trinity Point Drive Morisset Park.

The NSW State Emergency Service (NSW SES) notes the proposal seeks to amend the Lake Macquarie LEP 2014 to enable an increase to the maximum building height, increase in the permissible commercial floor area and residential accommodation, and permit a helipad on the subject land. The proposal will allow for a State Significant Development of a mixed-use tourist, hospitality and residential site, which includes a 300 seat function centre, two 300 seat restaurants, 220 hotel rooms/suites and 180 residential apartments.

The NSW SES is the agency responsible for dealing with floods, storms and tsunamis in NSW. This role includes, planning for, responding to and coordinating the initial recovery from floods. As such, the NSW SES has an interest in the public safety aspects of the development of flood prone land, particularly the potential for changes to land use to either exacerbate existing flood risk or create new flood risk for communities in NSW.

The consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.3 – Flood Prone Land and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005 (the Manual). Attention is drawn to the following principals outlined in the Manual which are of importance to the NSW SES role as described above:

- Zoning should not enable development that will result in an increase in risk to life, health or property of people living on the floodplain.
- Risk assessment should consider the full range of flooding, including events up to the Probable Maximum Flood (PMF) and not focus only on the 1% AEP flood.



STATE HEADQUARTERS

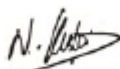
93 - 99 Burrelli Street, Wollongong 2500
PO Box 6126, Wollongong NSW 2500
P (02) 4251 6111
F (02) 4251 6190
www.ses.nsw.gov.au
ABN: 88 712 649 015

- Risk assessment should have regard to flood warning and evacuation demand on existing and future access/egress routes. Consideration should also be given to the impacts of localised flooding on evacuation routes.
- In the context of future development, self-evacuation of the community should be achievable in a manner which is consistent with the NSW SES's principles for evacuation.
- Future development must not conflict with the NSW SES's flood response and evacuation strategy for the existing community.
- Evacuation must not require people to drive or walk through flood water.
- Development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation.
- Development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.
- The NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management.

Due entirely to the need to meet priorities dictated by legislated responsibilities, the NSW SES is not able to assess any detailed development proposal or to work with developer's consultants in preparing any such proposal.

Please feel free to contact me via email at rra@ses.nsw.gov.au should you wish to discuss any of the matters raised in this correspondence.

Yours sincerely,



Nicholas Kuster
Manager Emergency Planning
NSW State Emergency Service