

# JOINT REGIONAL PLANNING PANEL

## Hunter and Central Coast

JRPP No	<b>2014HCC030</b>
DA Number	<b>DA/1731/2014</b>
Local Government Area	<b>Lake Macquarie City</b>
Proposed Development	<b>Mixed Use Development – ‘Tourism and Hospitality’ Trinity Point Tourism Resort</b>
Street Address	<b>41, 48 and 71 Trinity Point Drive, Morisset Park NSW 2264 and Council Reserve  Pt Lots 31 and 32 DP 1117408; Lot 410 DP1139690 and Pt Lot 1 DP 1107753</b>
Applicant	<b>Johnson Property Group Pty Ltd</b>
Owner	<b>At lodgement:</b>  <ul style="list-style-type: none"> <li>- <b>The Trustees of the Hospitaller Brothers of St John of God</b></li> <li>- <b>Lake Macquarie City Council</b></li> </ul> <b>At date of Report:</b>  <ul style="list-style-type: none"> <li>- <b>Trinity Point Holdings8 Pty Ltd</b></li> <li>- <b>Lake Macquarie City Council</b></li> </ul>
Number of Submissions	<b>106</b>
Regional Development Criteria	<b>Capital Investment Value &gt; \$20 million</b>
List all documents submitted with this report	<b>Appendix 1 – Conditions Submissions</b>
Recommendation	<b>Approval with Conditions</b>
Report by	<b>Chris Dwyer</b>
Report Date	<b>21 April 2016</b>

<b>APPLICATION REFERENCES</b>	
<b>File No:</b>	DA/1731/2014
<b>Assessing Officer:</b>	Chris Dwyer
<b>Property Description:</b>	41, 48 and 71 Trinity Point Drive, Morisset Park NSW 2264 and Council Reserve  Pt Lots 31 and 32 DP 1117408; Lot 410 DP1139690 and Pt Lot 1 DP 1107753
<b>Application Description:</b>	Mixed Use Development – ‘Tourism and Hospitality’  Trinity Point Tourism Resort
<b>Owner’s Consent?:</b>	Yes
<b>Capital Investment Value:</b>	\$24,615,000

## **Background**

### **Concept Approval**

The Trinity Point Marina and Tourist development was approved by the (then) Minister for Planning on 5 September 2009. The approval consisted of a 188 berth marina, 150 accommodation units, restaurant, café, function centre, shops and office, parking landscaping and boardwalk (Concept Approval MP 06\_0309).

The developer and applicant for the proposal is the Johnson Property Group (JPG).

### **Marina – ‘DA1’**

Designated Development Application DA/1503/2014 for a 94 berth Marina and associated land based facilities was approved by the Hunter and Central Coast Joint Regional Planning Panel (JRPP) on 18 June 2015.

### **Tourism and Hospitality – ‘DA2’**

Development Application DA/1731/2014 was lodged by JPG on 23 October 2014. The application is for the first stage of the land based components of the tourism development and includes a hotel, restaurant and function centre. The proposal is Regional Development and the JRPP is the consent authority.

### **Serviced Apartments and Residential Apartments – ‘DA 3’**

Development Application DA/496/2015 was lodged by JPG on 31 March 2015. This application is for the second stage of the land based components of the tourism development and includes four residential flat buildings providing accommodation for tourists and permanent residents. This proposal is also Regional Development and JRPP is the consent authority.

## **Modifications to Concept Approval**

On 1 April 2014, the Department of Planning and Environment (DoPE) approved a modification (**MOD 1**) to amend the lapsing provisions in Schedule 1 of the Concept Plan.

On 1 October 2013, the Proponent lodged a request for Secretary's Environmental Assessment Requirements (SEARs) to permit the creation of a helipad at the marina (**MOD 3**). SEARs were issued on 2 December 2013. This aspect of the proposal has been pursued by DA/1176/2014, however further background testing for a helipad in this location is being undertaken and this application has not progressed to date.

On 26 August 2014, the DoPE approved a modification (**MOD 4**) to amend the lapsing provisions in Schedule 1 of the Concept Plan, with updated ownership information.

On 9 April 2015, the Planning Assessment Commission approved a modification (**MOD 2**) permitting changes to the water based (marina) component of the development.

On 25 November 2015 the Planning Assessment Commission approved a modification (**MOD 5**) updating plans to provide consistency between the lodged Development Applications and Concept Approval.

On 15 December 2015 the DoPE approved a modification (**MOD 6**) to cater for a change to Term C22B requiring the installation of the heritage interpretation devices prior to the issue of an Occupation Certificate.

## PART 1 - Approved Concept Development – MP06\_0309

The Trinity Point tourism development is approved through the Concept Plan as depicted in the figure below:

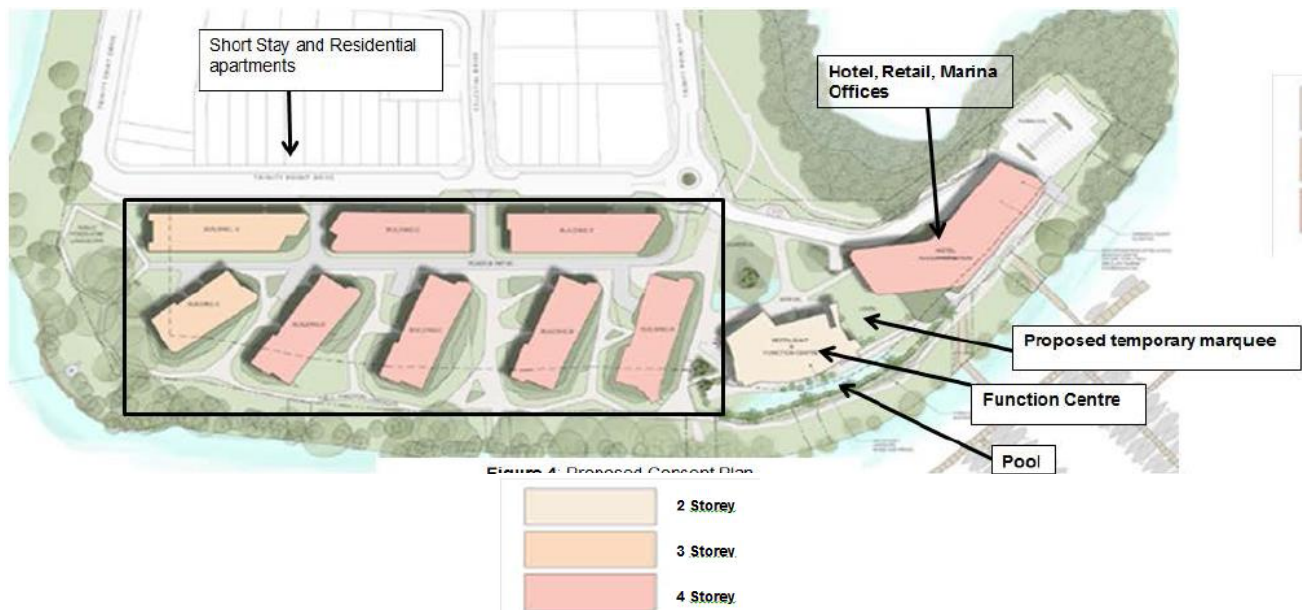


Figure 1 – Site Plan MP06\_0309

### Requirements of Concept Approval 06\_0309 including Mods 5 and 6

The Concept Approval requires certain matters to be undertaken prior to a development application being lodged, and then requires certain matters to be addressed with the development application, prior to its determination.

The relevant provisions of the Concept Approval as they relate to this development application are detailed below:

## **PART A – TERMS OF CONCEPT APPROVAL**

### **Term A1 – Development Description**

An extract of Term A1 as it relates to this Tourism and Hospitality DA is included below:

Concept Plan approval is granted only to carrying out the development solely in accordance with the Concept Plan as described in:

- i the Preferred Project Report, prepared by AdW/Johnson Property Group, dated 5 June 2009, as modified by the following documents:
  - a) the section 75W modification application dated 6 August 2014, (MOD 4) prepared by Johnson Property Group;
  - b) the section 75W modification dated 15 August 2014, (MOD 2) prepared by Johnson Property Group; and
  - c) the Environmental Assessment dated October 2014 (MOD 5) prepared by AdW Johnson, except where amended by the RtS (MOD 5) dated April 2015, prepared by AdW Johnson and the Revised UDG dated June 2015, prepared by Johnson Property Group.
- d) the section 75W modification dated 2 December 2015, (MOD 6) prepared by Johnson Property Group.

#### **Tourism and Hospitality Precinct**

- 1. The Tourism and Hospitality Precinct will contain the following buildings:
  - a) the northern most building consists of a four storey building comprised of marina offices, retail, sales centre, hotel foyer, car parking and associated uses at ground level with up to 3 storeys of hotel accommodation and associated uses above; and
  - b) the building along the eastern edge of the precinct consists of a two storey building containing a function centre, restaurant, bar and café with below ground car parking.

The basement level car park is permitted to sit 1.2 m to 1.5 m above the finished ground level.

#### **Additional Works**

- 3. The following building/works will be undertaken as shown on the Concept Plan and the Revised UDG, as modified by Term B5 of this approval:
  - a) a marina and associated facilities;
  - b) a walkway/cycle path around the eastern and southern edge of the development between the buildings and the lake edge;
  - c) internal vehicular access roads and pedestrian pathways;
  - d) at-grade and basement parking areas;
  - e) stormwater management measures;
  - f) bulk earthworks; and
  - g) landscaping.

The proposal under the development application is consistent with the description as defined by Term A1 above.

**Term A2 - Project in Accordance with Plans; and  
Term A3 – Development in Accordance with Documents**

Terms A2 and A3 of the Concept Approval provide:

**A2 Project in Accordance with Plans**

The development must be undertaken in accordance with:

1. The Environmental Assessment, dated November 2008, prepared by AdW Johnson, as amended by the Preferred Project Report, dated 5 June 2009, prepared by AdW Johnson/Johnson Property Group, as modified by the following documents:
  - a) the section 75W modification dated 6 August 2014 (MOD 4) prepared by Johnson Property Group;
  - b) the section 75W modification dated 15 August 2014 (MOD 2) prepared by Johnson Property Group;
  - c) the section 75W Environmental Assessment dated October 2014 (MOD 5) prepared by AdW Johnson, except where amended by the RtS (MOD 5) dated April 2015, prepared by AdW Johnson and the Revised UDG dated June 2015 prepared by Johnson Property Group; and
  - d) the following drawings except as modified by the terms in Part B and C of approval below:

Revised Principles, Objectives & Urban Design Guidelines (Revised UDG) Prepared by Johnson Property Group June 2015			
Drawing No.	Revision	Name of Plan	Date
Principles 1 to 19	N/A	Revised Principles, Objectives & Urban Design Guidelines Trinity Point Marina and Mixed Use Development	June 2015
Not provided	N/A	Indicative Outcome - Summary Figure Plan by Squillace Architects in Part C of Revised UDG	Part of Revised UDG June 2015
Modified Concept Plan Marina Layout Prepared by RHDHV			
8A0379- MA_LB031	B	Concept Marina Layout - Overall	4 August 2014
8A0379-MA_LB021	B	Concept Marina Layout - Stage 1a & 1 b	4 August 2014
8A0379-MA_LB011	C	Concept Marina Layout - Stage 1a	15 January 2014

*Term A2 – Project in Accordance with Plans*

Environmental Assessment (MOD 5) dated October 2014, prepared by AdW Johnson including all its appendices, except where amended by the RtS (MOD 5) dated April 2015, prepared by AdW Johnson, including all its appendices and the Revised UDG dated June 2015, prepared by Johnson Property Group.

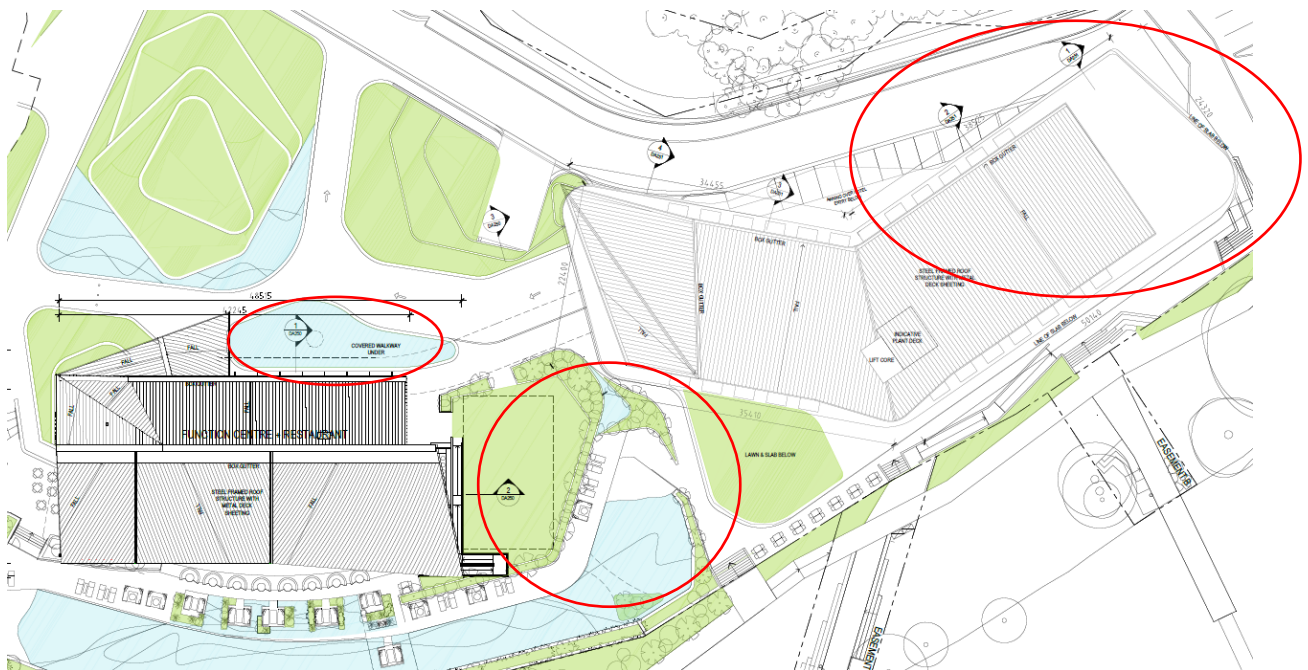
*Term A3 – Development in Accordance with Documents*

It is noted that the plans of the Concept Approval and the DA are not identical, with the DA plans reducing the scale and bulk of the northern hotel building and varying the design and way in which the hotel building and restaurant building interact with the ground. The difference is noted in Figure 2 below:





*Approved Concept Plan*



*DA Plan*

**Figure 2 – Concept Plan and DA Plan Comparison**

The applicant advises that the alternate siting of the hotel building further to the south, the extension of the pool and water features and minor layout changes reflect a revised design based on operator needs.

It is confirmed that the amended DA plans remain generally consistent with Term A2 and A3 of the Concept Approval.

#### **Term A4 – Inconsistency Between Documents**

Conditions of approval prevail over approved documentation. The proposal is consistent with this Term as the assessment against conditions in this report will demonstrate.

#### **Term A5 – Lapsing of Approval**

Deleted by Mod 1 on 1 April 2014 and replaced with a note in Schedule 1 - Part B. In accordance with Schedule 6A(11)(3) of the Act, the development now lapses 5 years from the repeal of Part 3A, which is 1 October 2016. Notwithstanding, the marina component of the development has been physically commenced and as such, no lapse date is relevant.

#### **Term A6 – Determination of Future Applications**

Determination of this development application is to be generally consistent with the terms of approval of Concept Plan 06\_0309. This application is considered to be consistent with the Concept Approval.

#### **Term A7 – Dispute Resolution**

Term A7 was introduced by Mod 5 as follows:

##### **A7 Dispute Resolution**

In the event that a dispute arises between the Proponent and Council or a public authority, in relation to an applicable requirements in this approval, either party may refer the matter to the Secretary for resolution. The Secretary's determination of any such dispute shall be final and binding on the parties.

This Term is noted but not relevant to the assessment of this application, and is included for completeness.



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

**Term B1 Construction of the Marina;**

**Term B2 Marina Staging; and**

**Term B3 Reduction in the size of the travel boat lift (deleted)**

These Terms are related to the Marina which was approved by DA/1503/2014 by the JRPP on 22 June 2015.

### **Term B4 – Statement of Commitments**

Deleted by Mod 5.

### **Term B5 – Urban Design Guidelines**

Term B5 provides details on the Urban Design Guideline Principles.

The requirements of the Concept Approval have been incorporated into the revised and final Urban Design Guidelines dated November 2015.

The DoPE approved the Urban Design Guidelines on 15 December 2015, thus satisfying Term B5.

The development is consistent with the Urban Design Guidelines dated November 2015.

## PART C – FUTURE APPLICATIONS

### Term C1 – Consistency of Future Development with Concept Plan as modified

The development application is consistent with the approved Concept Approval as modified.

### Term C2 – Building Parameters

The development application must comply with the following development parameters, inclusive of the exceptions as identified:

Tourism and Hospitality Precinct	
Development Parameter	Requirement
<b>Marina Staging</b>	
A maximum of 94 private berths are permitted within Stage 1, and a maximum of 94 private berths are permitted within Stage 2 of the marina development.	
<b>Number of Storeys (maximum)</b>	
Northern Mixed Use Building	4 storeys exclusive of basement level car parking, which is permitted up to a maximum of 1.5 m above the finished ground level.
Eastern Building	2 storeys exclusive of basement level car parking, which is permitted up to a maximum of 1.5 m above the finished ground level.
<b>Building Setbacks to the Foreshore Reserve</b>	
Northern Mixed Use Building	7 m (to the external wall of main building) to the east.  Exceptions: <ul style="list-style-type: none"> <li>single level retail area is setback 5 m; and</li> <li>balconies/terraces, slab/roof overhangs and blade walls.</li> </ul>
Eastern Building	15 m (to the external wall of main building) setback to the eastern boundary.  Exceptions: <ul style="list-style-type: none"> <li>13 m setback on the north-eastern corner; and</li> <li>balconies/terraces, slab/roof overhangs, outdoor dining, terracing and pool.</li> </ul>
<b>Building Setback to the Unnamed Inlet to the West (minimum)</b>	
All Buildings	18 m, with the exception of slab/roof structures and associated columns.
<b>All Development</b>	
<b>Floorspace</b>	
Total Floor Space Ratio (maximum)	0.80:1
Total Gross Floor Area	29,282 m <sup>2</sup>
<b>Total Number of Accommodation Units</b>	
A maximum of 315	
<b>Residential Development</b>	
A maximum of 50 per cent of the total units are permitted for use as permanent residences. The site must maintain a dominant tourist use at all times.	
<b>Public Open Space</b>	
A minimum of 16,677 m <sup>2</sup> of land must be publicly accessible as per Figure 47 of the Urban Design Guidelines.	
<b>Car Parking</b>	
All car parking shall comply with the requirements of Council's Development Control Plan, as amended from time to time.	
<b>Flood Planning Levels</b>	
All development must comply with the flood planning levels outlined in Council's <i>Lake Macquarie Waterway Flood Risk Management Study and Plan</i> dated June 2012, as amended or replaced from time to time.	

The proposal complies with Term C2 as demonstrated below:

### *Number of Storeys (Maximum)*

Northern Mixed Use Building	The hotel building is four storeys in height, with no basement level, complying with this parameter.
Eastern Building	The restaurant building is storeys in height exclusive of the basement level, which is less than 1.5 metres from the finished ground level, complying with this parameter.

### *Building Setbacks to the Foreshore Reserve*

Northern Mixed Use Building	The hotel building is setback 7 metres to the east with the exception of retail uses which are setback 5 metres, complying with this parameter.
Eastern Building	The restaurant building is setback 15 metres with the approved exception of 13 metres in the north eastern corner, complying with this parameter.

### *Building Setback to the Unnamed Inlet to the West*

All buildings	All buildings are setback 18 metres, complying with this parameter.
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### *Floorspace*

Total Floor Space Ratio	Across the whole site, this DA results in a FSR of 0.18:1, complying with this parameter.
Total Gross Floor Area	The GFA of the proposal is 1,556m <sup>2</sup> for the Restaurant / Function Centre and 5,176m <sup>2</sup> for the Hotel, thus satisfying this parameter.

### *Total number of accommodation Units*

65 hotel rooms are proposed, complying with this parameter.

### *Residential Accommodation*

Not applicable to this application.

### *Public Open Space*

6695m<sup>2</sup> of Public Open Space is provide within this DA, consistent with Figure **37** (not 47) of the UDG, complying with this parameter.

### *Car parking*

A total of 187 car parking spaces, including overflow parking, is provided in accordance with DCP 2014, as agreed by Council, complying with this parameter.

### *Flood Planning Levels*

The finished floor levels, including basement levels and flood protection measures, are consistent with council Policy and comply with this parameter.

### **Term C3 – Urban Design**

The proposed development must comply with the Revised UDG, prepared by Johnson Property Group, dated June 2015. A final Urban Design Guideline incorporating the changes identified in Term B5 must be submitted to and approved by the Department of Planning & Environment within three (3) months of the date that the modification is determined. All future buildings must exhibit design excellence and consider whether:

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

All future development application/s must demonstrate the building materials and colours comply with Principle 7 – Building Materials and Colours in the Revised UDG prepared by Johnson Property Group, dated June 2015.

All future development applications for residential flat buildings must address the requirements of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

The application is consistent with the Revised Urban Design Guidelines as submitted to and approved by the DoPE on 15 December 2015. The new, revised UDG document is dated November 2015.

The application complies with Principle 7 – Building Materials and Colours, and addresses SEPP 65. Term C3 is complied with.

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

The use of the tourist accommodation units is to be for short stay tourist accommodation purposes only and no tourist accommodation units are to be occupied by a person for more than 42 consecutive days, or in aggregate no more than 150 days in any 12 month period.

All future development consents must include a condition which restricts the use of all short stay tourist accommodation units and prohibits the use of these units as permanent residential accommodation.

All future development applications for the residential and tourist accommodation must provide a detailed Management Plan outlining all operational and design measures that will be implemented to minimise potential conflict between permanent resident and tourist user groups. In addition, where tourism and residential accommodation is proposed within a single building envelope, the Proponent must demonstrate how the tourism and residential land uses will be physically separated to ensure an adequate level of amenity for future residents.

A condition of consent is recommended to reflect this Term.

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

### **Term C6 – Management Statement**

The proposal is for a hotel that, by definition, is tourism accommodation. Nonetheless a condition of consent if used, may seek to limit the use of the hotel as envisaged by Term C5, complying with this Term and Term C6.

## Term C7 – Traffic and Parking

1. The developer shall enter into an agreement with Roads and Maritime Services to pay a contribution of \$769,494 (inclusive of GST) towards the cost of the future upgrade of the Fishery Point Road/Macquarie Street intersection. The agreement is to be executed prior to the issue of the first Occupation Certificate (interim or final) for residential apartments and/or short stay accommodation on-site. The agreement must incorporate details of staged payment of the contribution that will be linked to the staged development of the residential apartments and short stay accommodation. The total agreed contribution of \$769,494 (inclusive of GST) must be indexed quarterly in accordance with the *NSW Road and Bridge Construction Index*.
2. Future development application/s must demonstrate compliance with Principle 10 – Roads, Vehicular Access & Parking in the Revised UDG, prepared by Johnson Property Group, dated June 2015. This is to include the provision of a roundabout at the intersection of Trinity Point Drive and the site entrance for the land based development.
3. Parking numbers are to be provided in accordance with the relevant *Lake Macquarie Development Control Plan* and AS 3962-2001 (*Guidelines for the Design of Marinas*).
4. A Parking Management Strategy should be provided to manage parking on the site including during peak events within the northern and southern precincts.

With regard to 1, a condition of consent, if issued, is recommended. With regard to 2, the application complies with Principle 10. With regard to 3 and 4, provision and management of parking on the site has been assessed and agreed between the applicant and Council, in accordance with the Term.

## Term C8 – Sustainability

The application successfully addresses sustainability requirements in compliance with this Term.

## Term C9 – Vegetation Management Plan – Marina and Foreshore Area

All future development applications must be consistent with:

- a) the requirements of Council's *Plan of Management for Community Land 2011*, as amended or replaced from time to time;
- b) the *Vegetation Management Plan Proposed Marina and Mixed Use Development on 71 Trinity Point Road, Morisset Park*, prepared by RPS and dated September 2014; and
- c) the recommendations for the management of Aboriginal and archaeological items outlined in the *Trinity Point Marina Mixed Use Development Morisset Peninsula, NSW Archaeological Assessment* prepared by Insite Heritage Pty Ltd and dated 30 October 2008, as amended or replaced from time to time.

A VMP was been lodged and approved under DA/1503/2015, in accordance with this Term.

## Term C9A – Vegetation Management Plan – Whole of Site Plan

A whole of site Vegetation Management Plan (VMP) shall be submitted to and approved by Council the first development application for a tourist, hospitality, or accommodation building, whichever occurs first. The VMP must be:

- a) prepared by a suitably qualified person;
- b) be kept consistent with and updated in response to the Council's *Plan of Management for Community Land 2011*, as amended or replaced from time to time;
- c) be consistent with the *Vegetation Management Plan Proposed Marina and Mixed Use Development on 71 Trinity Point Road, Morisset Park*, prepared by RPS and dated September 2014;
- d) comply with the requirements of the *Guidelines for Vegetation Management Plans on Waterfront Land* (2012), as amended or replaced from time to time;
- e) consistent with the recommendations for the management of Aboriginal and historic archaeological items outlined in the *Trinity Point Marina Mixed Use Development Morisset Peninsula, NSW Archaeological Assessment* prepared by Insite Heritage Pty Ltd and dated 30 October 2008, as amended or replaced from time to time; and
- f) be consistent with principles 4, 8 and 9 of the Revised UDG.

The Proponent must implement the requirements of the approved VMP for all future development applications..



A Whole of Site VMP has been lodged with Council. The review of this document indicates that it complies with the provisions of Term C9A. The approval process is achieved through this DA recommendation and conditions of consent, complying with this Term.

### **Term C10 – Landscape Plan**

#### **C10 Landscape Plan**

A detailed Landscape Plan for the Tourism and Hospitality and Tourism and Residential Precincts shall be submitted to and approved by Council with the first development each development application for a tourist, hospitality, or accommodation building within the Concept Plan area, whichever occurs first.

The Landscape Plan must be prepared in accordance with Principle 9 – Landscape of the Revised Urban Design Guidelines, as outlined in Term C3. It must provide details of the staging of the landscape treatment of the site with the intention of implementing the landscaping on site as soon as possible. The Landscape Plan must provide information regarding:

- (a) a detailed species list appropriate to the site and the circumstances;
- (b) details of landscaping around the outdoor pool;
- (c) surface areas for all pedestrian pathways, boardwalk and public access areas;
- (d) fencing and any other works in the public domain;
- (e) details of landscape treatments and planting for parking areas;
- (f) the landscape interface between the private and public domain, including street setback areas adjoining the Trinity Point Drive road reserve;
- (g) the landscape interface between the Proponent's land and the foreshore land owned by Council; and
- (h) retention of cultural landscape plantings including figs, palms and Norfolk Island Pines located near Bluff Point.

A detailed whole of site landscape plan has been lodged with the application. A review of this document indicates that it complies with the provisions of Terms C10. The approval process is achieved through this DA recommendation and conditions of consent, complying with the Term.

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

### **Term C12 – Final Marina Design**

### **Term C13 – Stages 1a and 1b – Marina Environmental Performance Monitoring**

Addressed as part of the approved Marina development DA/1503/2015.

### **Term C14 – Stages 2a, 2b and 2c – Marina**

To be addressed in future application(s) for the Marina.

### **Term C15 – Responsible Boating Practice Manual**

Addressed as part of the approved Marina development DA/1503/2015.

### **Terms C16 – Boat Lift Facility**

Deleted by Mod 2.

### **Term C17 – Bushfire Protection**

The consent authority must include a condition in any development consent permitting the construction of tourist or visitor accommodation requiring the Proponent to obtain a Bushfire Safety Authority in accordance with section 100B of the *Rural Fires Act 1997*.

In addition, all landscaping on-site must comply with the principles of Appendix 5 of *Planning for Bushfire Protection 2006*. The enhancement of the foreshore vegetation must not increase the bushfire risk on site.

A condition is recommend to comply with this Term, and the proposed landscaping is considered to be consistent with this Term.



## **Term C18 – Implementation of the Vegetation Management Plan**

A detailed works plan prepared by a qualified bush regenerator or landscape contractor is to be approved as part of the first development application for a tourism, hospitality, or accommodation building within the Concept Plan area, whichever occurs first. The works plan must identify the actions and tasks required to implement the VMP approved under Term C9A.

A Whole of Site VMP lodged with Council addresses this Term. The review of this document indicates that it complies with the provisions of Term C18. The approval process is achieved through this DA recommendation and conditions of consent, complying with this Term.

## **Term C19 – Stormwater Management – Marina Development**

Addressed as part of the approved Marina development DA/1503/2015.

### **Term C19A – Stormwater Management**

Future development application/s shall include a detailed Stormwater Management Plan (SMP) for each relevant stage which addresses Site Principle 11 – Water Management in the Revised UDG, prepared by Johnson Property Group, dated June 2015, and the *Stormwater and Flooding Management Plan* prepared by AdW Johnson and dated April 2015.

The SMP shall include details of the proposed stormwater management system and shall be consistent with the SMP required by Term C19 of this approval and include all matters where relevant listed in Term C19. The SMP must be approved by the consent authority as part of the development application for the first stage of the land based development.

A detailed stormwater management plan has been lodged with the application. A review of this document indicates that it complies with the provisions of Terms C19A. The approval process is achieved through this DA recommendation and conditions of consent, complying with the Term.

## **Term C20 – Groundwater**

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

In addition, the Proponent shall ensure that each development application proposing excavation is accompanied by a report which includes:

- (a) an estimate of the volume of groundwater that is likely to be intercepted during construction works; and
- (b) an estimate of the volume of groundwater that is likely to be intercepted following completion of the construction works.

Should groundwater extraction volumes exceed 3 ML/year, a licence under Part 5 of the *Water Act 1912* must be obtained prior to the commencement of construction works.

Information contained in the application, in addition to previously approved information in DA/1503/2015 is consistent with this Term. The intent of the Term is achieved through this DA recommendation and conditions of consent.

## **Term C21 – Flooding**

Future application/s for development on flood prone land shall address sea level rise adaption measures and strategies; and include evacuation plans and suitable flood levels having regard to climate change for each relevant stage. In that regard the future design and strategies should be:

- (a) prepared by a qualified engineer; and
- (b) consistent with Council's *Lake Macquarie Waterway Flood Risk Management Study and Plan*, dated June 2012, as amended or replaced from time to time.

The information contained in the application satisfies this Term.

## **Term C22 – Aboriginal Historic Archaeology**

All future development applications must demonstrate compliance with the requirements of the *Trinity Point Marina and Mixed Use Development Cultural Heritage Management Plan*, prepared by Insite Heritage and dated 29 May 2015 and the *Heritage Interpretation Policy Trinity Point Marina and Mixed Use Development, Trinity Point, Morisset Peninsula NSW* prepared by Insite Heritage and dated 29 May 2015.

All future development applications must also demonstrate that the following requirements regarding Historic Cultural Heritage have been satisfied for each relevant stage of the development:

- (a) retain and conserve built heritage items including the sundial and grotto adjoining the foreshore lands;
- (b) significant built heritage items are to be retained and are to be adequately protected during the works from potential damage. Protection systems must ensure that historic fabric is not damaged or removed;
- (c) retain cultural landscape plantings including figs, palms and Norfolk Island Pines located near Bluff Point; and
- (d) and archival photographic record of the historic areas of the site in accordance with the *NSW Heritage Council Guidelines for Photographic Archival recording in a Digital Capture Format* prior to the commencement of any works on-site. The recording shall be referenced to a survey plan identifying the locations of all of the images. A hard copy of the recording shall be lodged with the Heritage Branch of the OEH and the Council.

The plans and documentation are consistent with this Term. Items (a), (b) and (c) will be relevant for later stages of the project. Item (d) has been complied with. This Term is considered to have been satisfied.

## **Term C22A – Aboriginal and Historic Heritage Interpretation Plan**

A whole of site Aboriginal and Historic Heritage Interpretation Plan shall be submitted to the Heritage Branch and the Regional Operations Group of the OEH for endorsement prior to the determination of the first development application for a tourist, hospitality, or accommodation building within the Concept Plan area, whichever occurs first.

The Plan must:

- (a) be prepared in accordance with the consultation requirements outlined in the *Trinity Point Marina and Mixed Use Development Cultural Heritage Management Plan*;
- (b) provide appropriate measures to ensure that the Aboriginal cultural heritage values and the Historic heritage values of each phase of development are interpreted; and
- (c) specify the mechanisms and requirements for on-going agency and community consultation.

The Aboriginal and Historic Heritage Interpretation Plan *Trinity Point Marina and Mixed Use Development Cultural Heritage Management Plan, Heritage Interpretation Policy Trinity Point Marina and Mixed Use Development, Trinity Point, Morisset Peninsula NSW* must be reviewed every five years to ensure that the interpretive measures are consistent with current best practice, and consider any relevant interpretation measures recommended in any State Commission of Inquiry or Commonwealth Royal Commission reports. The finding and recommendations of each review for the Plan must be submitted to and endorsed by the Heritage Branch and the Regional Operations Group of the OEH.

The required Aboriginal and Historic Heritage Interpretation Plan has been endorsed by the Heritage Branch (18 February 2016) and OEH (4 February 2016), complying with this Term.

## **Term C22B – Installation of Aboriginal and Historic Cultural Heritage Interpretation Devices**

All interpretation devices must be installed in accordance with the requirement of the Aboriginal and Historic Heritage Interpretation Plan endorsed by the Heritage Branch and the Regional Operations Group of the OEH prior to the issue of any relevant Occupation Certificate for buildings or landscaping on land where an interpretive device is identified within the Plan.

This Term is able to be included as a condition of consent, if issued.

### **Term C23 – Erosion and Sedimentation Control**

A Soil and Water Management Plan has been included in the application. This information is consistent with this Term.

### **Term C24 – Construction Management Plan**

A Construction Management Plan is lodged with the application in compliance with this Term.

### **Term C25 – Acoustic**

A detailed acoustic assessment addressing the terms of the Concept Plan and associated modifications to minimise noise in the surrounding area shall be provided for each relevant stage of the development. This is to include a Construction Noise and Vibration Management Plan, Road Traffic Noise Plan and Operational Noise Management Plan. The proposal must comply with Principle 16 – Acoustics in the Revised UDG, prepared by Johnson Property Group, dated June 2015.

An Acoustic Report is lodged with the application in compliance with this Term.

### **Term C26 – Public Access**

The future applications must demonstrate compliance with Principle 4 – Public Access & Open Space in the Revised UDG, prepared by Johnson Property Group, dated June 2015.

The design should maximise access opportunities through the site and ensure a high level of amenity and safety for pedestrians. Future applications must provide:

- (a) appropriate building setbacks to the foreshore reserve (as nominated in Principle 2 – Building Setbacks of the Revised UDG and Term C2);
- (b) an appropriate setback from south-eastern corner of the site to create a publicly accessible open space at Bluff Point on the elevated part of the site (as nominated in Principle 2 – Building Setbacks of the Revised UDG and Term C2);
- (c) a publicly accessible pathway around the southern and eastern edge of the development;
- (d) a network of east-west publicly accessible pathways from Trinity Point Drive to the lake;
- (e) all pedestrian through-site links, perimeter pathways and nominated open space areas are to be made publicly accessible. Future development applications are to incorporate an appropriate legal mechanism for creating a right of public access to those areas. The future development applications are also to incorporate appropriate measures to ensure those areas are managed and maintained to a high standard by future owners;
- (f) public access along the landward floating boardwalk parallel to the foreshore and its connections to the foreshore, in accordance with drawing number 8A0379-MA\_LB031, revision B dated 4 August 2014;
- (g) public access to the northern part of the site, access is not to be impeded by the marina;

The plans and documentation demonstrate compliance with Principle 4. Building setbacks, publicly accessible pathways, links and boardwalks are included in the application in compliance with this Term. A condition of consent is recommended to ensure continuing compliance with the Term.

### **Term C27 – Mine Subsidence**

The Mine Subsidence parameters as contained in Term C26 shall be included as a condition of development consent, if issued.

**Term C28 – Staging**  
**Term C29 – Recreational Boating Impacts**  
**Term C30 – Marina Car Park**  
**Term C31 – Marina Safety**

Addressed as part of the approved Marina development DA/1503/2015.

**Term 32 – Section 94 Contributions**

Future development applications shall be required to pay developer contributions to the Council in accordance with the requirements of the section 94 Contribution Plan current at the time of determination.

A recommended condition of consent, if issued, addresses this Term.

**Summary**

It is confirmed that the development application, and accompanying plans, documentation, appendices and amended information complies with the provisions of the Concept Approval 06\_0309, and where necessary reinforced by recommended conditions of consent.



## PART 2 – DEVELOPMENT ASSESSMENT

### Proposed Development

This Development Application DA/1731/2014 for Tourism and Hospitality was lodged with Council on 23 October 2014. The development is regional development as the Capital Investment Value is above \$20 million (\$24,615,000). The Hunter and Central Coast Joint Regional Planning Panel is the consent authority.

This development application applies to the tourism and hospitality component of the development, and seeks consent for:

- Basement (143), at grade (14) and port cochere (10) car park for a total of 167 vehicles;
- Temporary at grade carpark for 23 vehicles;
- 11 motorcycle and 12 bicycle parks
- Erection of 65 room, four storey hotel including day spa, retail and commercial uses;
- Erection of a 200 seat restaurant and bar, 40 seat café and bar;
- Temporary marquee and lawn area for 100 patrons;
- Outdoor seating for 115 patrons and waterfront pool; and
- Erection of a 300 seat function centre.



2 PERSPECTIVE LOOKING NORTH-WEST FROM FORESHORE  
scale: NTS @ A1



**Figure 3 - Restaurant and Function Centre Elevations**

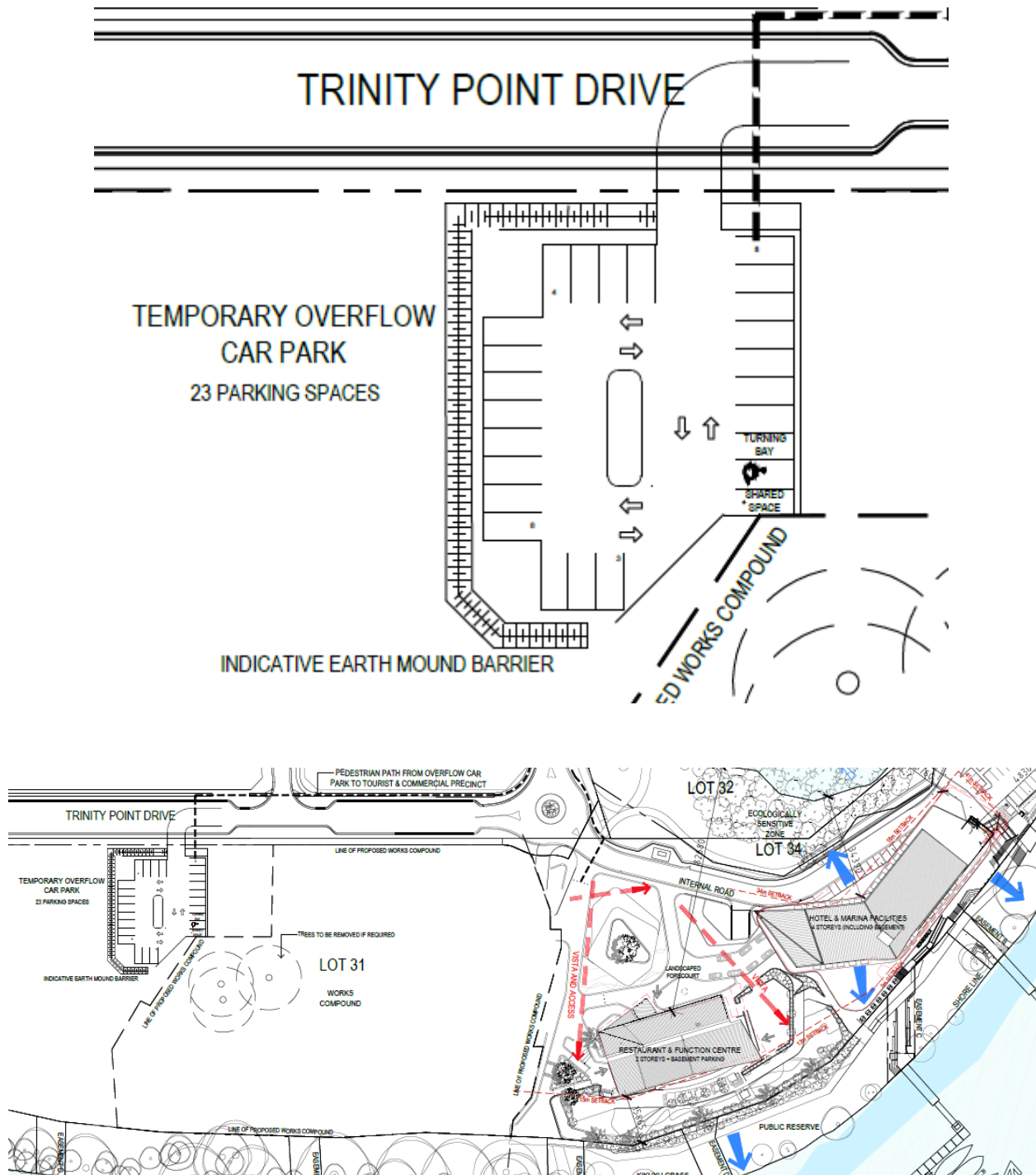


**Figure 4 – Hotel Elevation**



**Figure 5 – Indicative Landscape Setting**





**Figure 6 – Temporary carpark site and location plan**

## Development Summary

### Basement Level

Vehicle parking – 167 car spaces total:

- 14 at grade valet parking spaces
- 143 basement car spaces for hotel/function centre patrons, including:
  - 50 tandem spaces including 3 small car spaces
  - 9 small car spaces
  - 10 accessible spaces
- 11 motorcycle spaces
- 12 bicycle spaces

Restaurant and Function Centre Uses:

- Storage
- Garbage Room
- Foyer and goods lifts
- Back of House, Plant

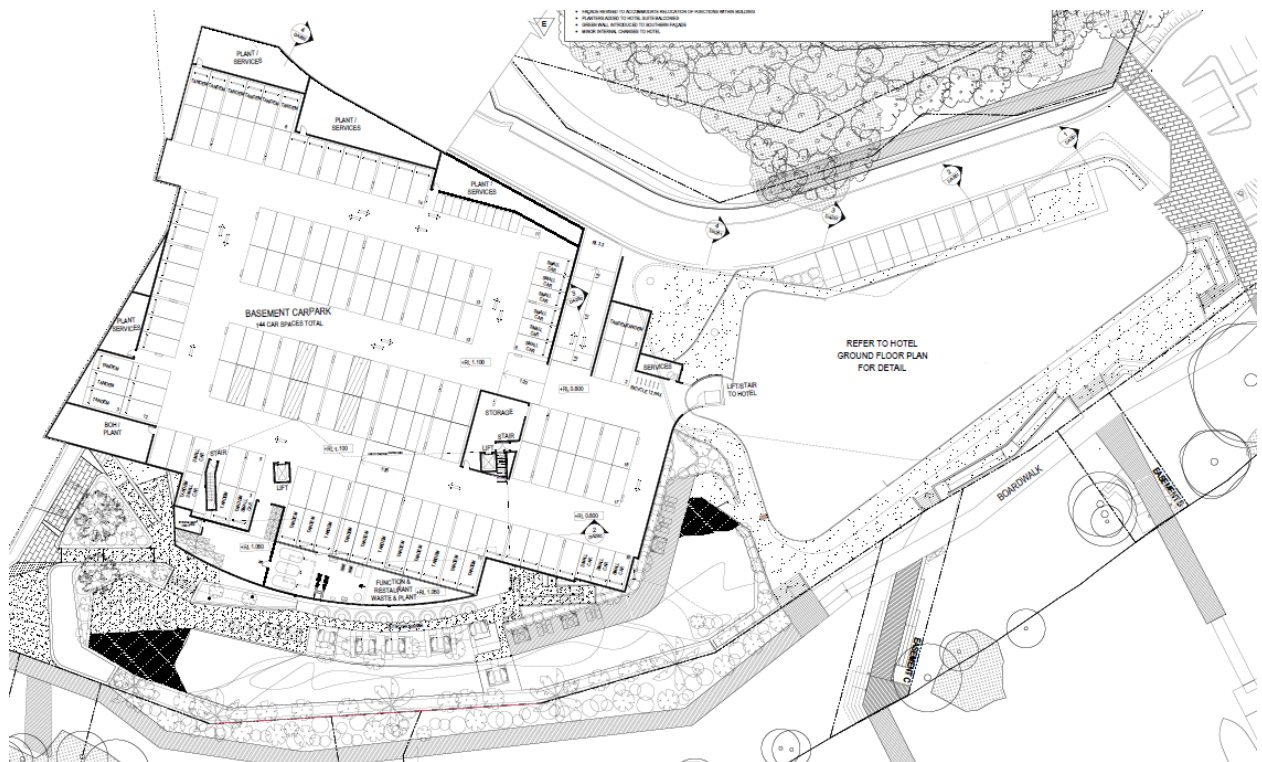


Figure 7 – Basement Floor Plan - DA121 Issue E

## Ground Floor Level

### Hotel Uses

- Hotel Porte Cochere, Foyer, Lounge, Bar/Café, Office and Administration
- 10 port cochere car parking spaces
- Two Retail outlets

### Marina Office, Emergency Shed, Loading and Store

### At grade 23 space temporary carpark

### Restaurant and Function Uses

- Arrival forecourt, water features, entry lobby and Maitre D
- 200 seat indoor restaurant, bar, kitchen, back of house
- 40 seat indoor café
- Lawn with temporary marquee for 100 patrons
- Outdoor pool and sand edge
- Pool side seating for 115 patrons
- Foreshore boardwalk, lookout deck, public pathways and linkages

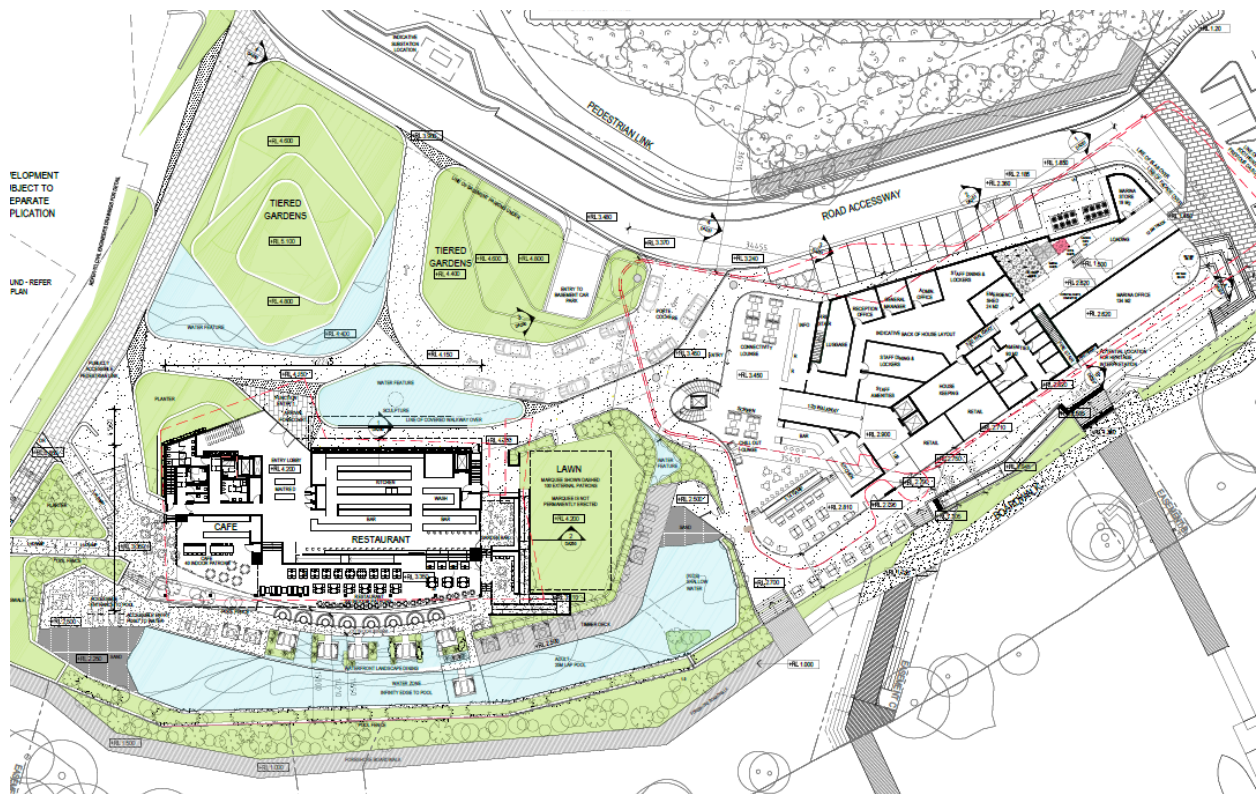


Figure 8 – Ground Floor Plan DA130 Issue D



## First Floor Level

### Hotel Uses

- Day spa
- Gymnasium
- Business centre/executive lounge
- Seven hotel rooms including one accessible room
- Outdoor deck area

### Function / Entertainment Uses

- 300 seat indoor function room
- Bridal room
- Bar, Kitchen, back of house

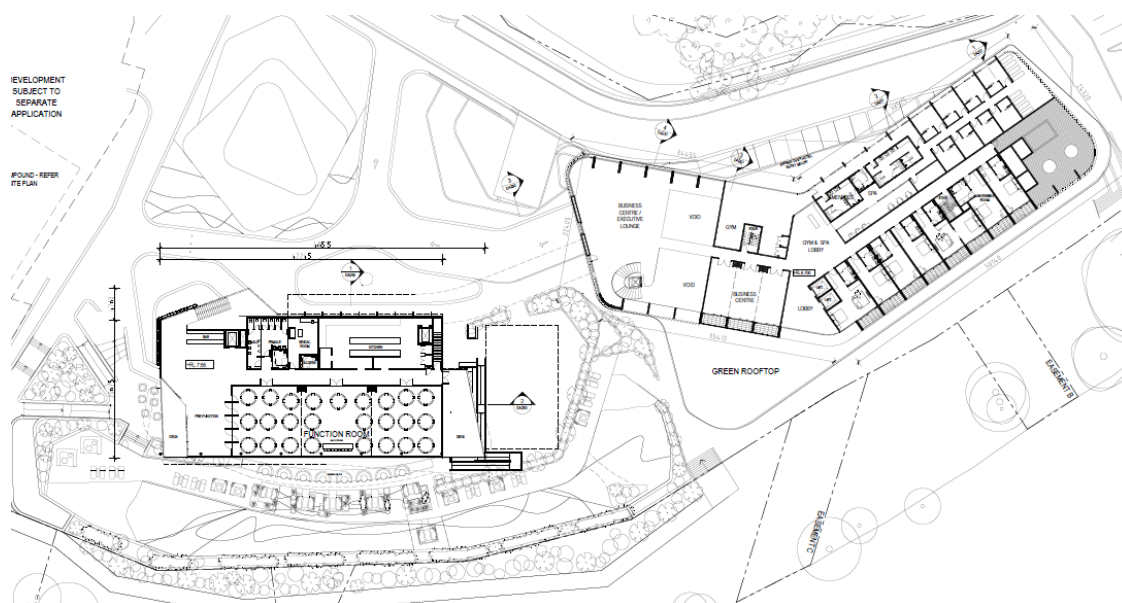


Figure 9 – First Floor Plan DA140 Issue C

## Second Floor Level

- 32 hotel rooms including two accessible rooms

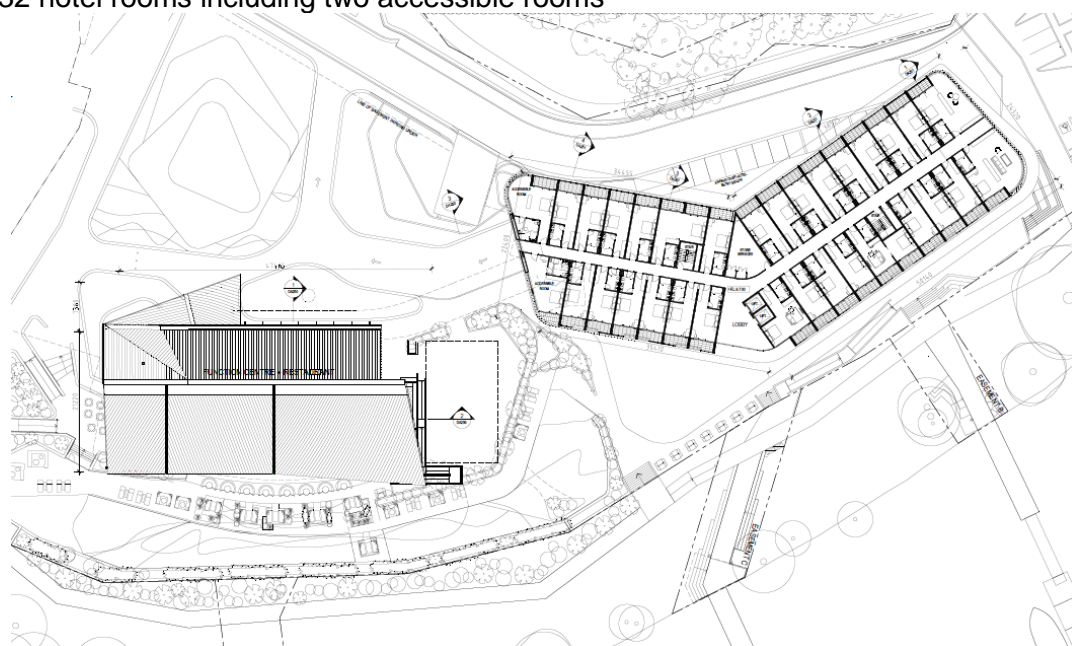


Figure 10 – Second Floor Plan DA150 Issue B

### Third Floor Level

- 26 hotel rooms including one accessible room

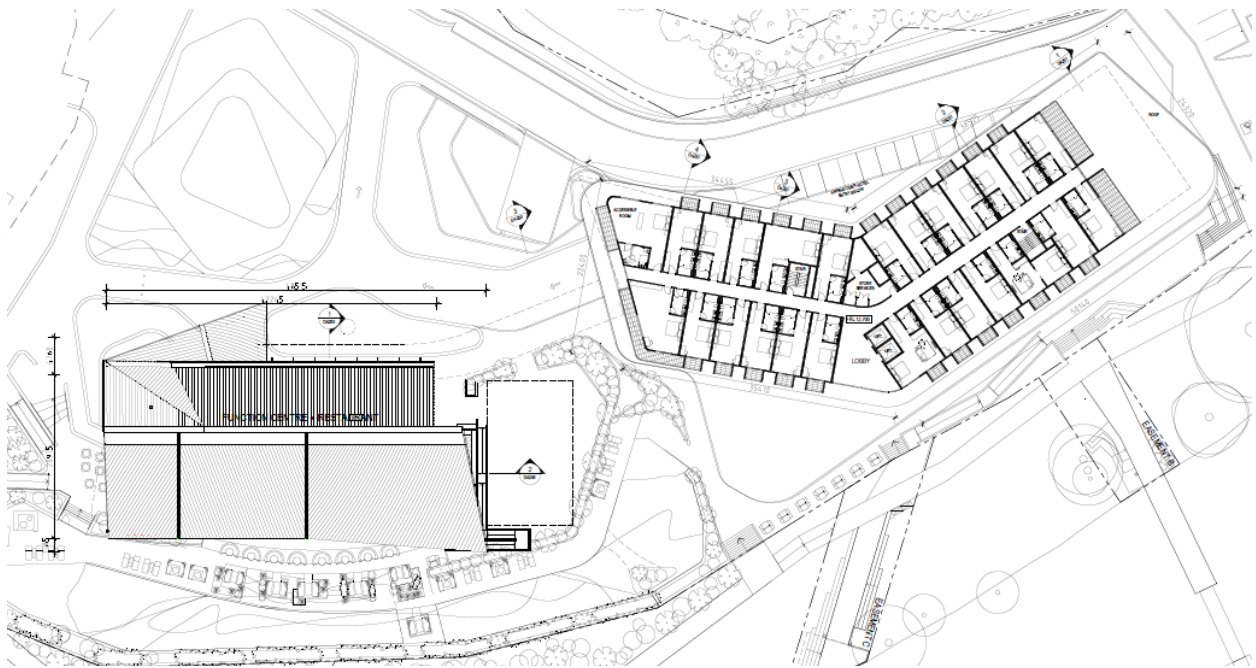


Figure 11 – Third Floor Plan DA160 Issue B

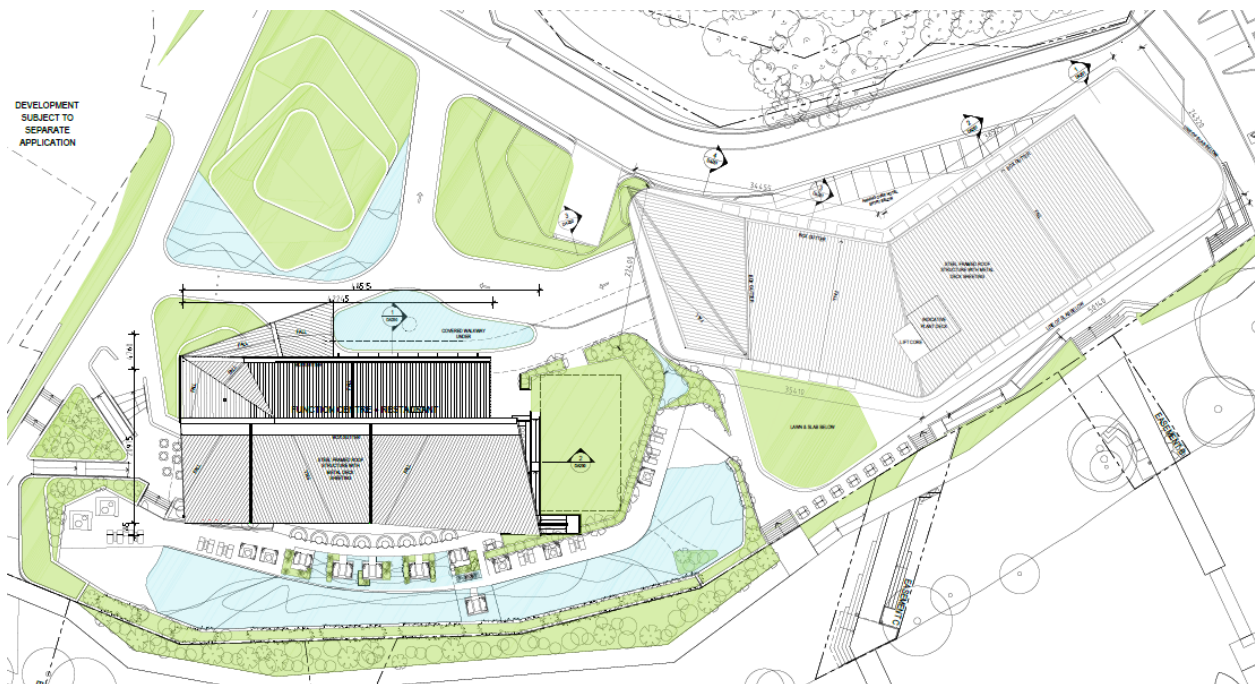


Figure 12 – Roof Plan DA170 Issue A

## Hotel Building - Elevations





## Restaurant and Function Building – Elevations



NORTH-EAST ELEVATION



NORTH-WEST ELEVATION



SOUTH-EAST ELEVATION



SOUTH-WEST ELEVATION

## ***Environmental Planning and Assessment Act 1979***

<b>CLASSIFICATION OF DEVELOPMENT</b>		<b>Y/N</b>
Is the development proposal Local Development?		N
Is the development Regional Development?		Y
Is notification necessary?		Y
Have all adjoining and affected owners been notified?		Y
Is the development proposal State Significant Development?		N
Is the development proposal Advertised Development?		N

<b>DESIGNATED DEVELOPMENT</b>		<b>Y/N</b>
Is the development proposal Designated Development?		N

<b>INTEGRATED DEVELOPMENT</b>	
The proposal is not Integrated Development.	

<b>INTERNAL REFERRAL ASSESSMENT</b>			
Building		Developer Contributions	
Required?	Y	Required?	Y
Received?	Y	Received?	Y
Community Planning – Social Impact		Sustainability	
Required?	Y	Required?	Y
Received?	Y	Received?	Y
Community Planning – Community Land		Community Planning – Disabled Access	
Required?	Y	Required?	Y
Received?	Y	Received?	Y
Community Planning - CPTED		Landscape Architect	
Required?	Y	Required?	Y
Received?	Y	Received?	Y
Environmental Management		Subdivision Engineers	
Required?	Y	Required?	Y
Received?	Y	Received?	y
		Asset Management	
Required?	Y	Required?	Y

<b>INTERNAL REFERRAL ASSESSMENT</b>			
Received?	Y	Received?	Y
Integrated Planning		Flora and Fauna	
Required?	Y	Required?	Y
Received?	Y	Received?	Y
Have all issues raised from the internal referrals been resolved?			Y*
<p><i>Summary:</i></p> <p>All internal officers provide conditions and/or advice that the proposal meets the requirements of Council and is supported.</p>			

<b>SECTION 5A CONSIDERATIONS</b>	<b>Y/N</b>
Having regard for Section 5A of the Environmental Planning and Assessment Act, do any of the following issues require further consideration?	
Whether the life cycle of a threatened species will be disrupted.	N
Whether the life cycle of an endangered population will be disrupted.	N
Whether the habitat of a threatened species or ecological community will be modified.	N
Whether habitat will become isolated from other areas of interconnecting or proximate habitat.	N
Whether critical habitat will be affected.	N
Whether a threatened species, ecological community or habitat are represented in the region's conservation reserves.	N
Whether the development is recognised as a threatening process.	N
Whether any threatened species or ecological community is at the limit of its known distribution.	N

<b>SECTION 79C(1) EP&amp;A ACT 1979 – POTENTIAL MATTERS FOR CONSIDERATION</b>
<b>(a)(i) the provisions of any environmental planning instrument (EPI)</b>
<b>State Environmental Planning Policies</b>
<p><b>State Environmental Planning Policy (State and Regional Development) 2011</b></p> <p>The development is Regional Development pursuant to Schedule 4A of the Act, and the provisions of Part 4 of the SEPP apply. The Hunter and Central Coast JRPP is the consent authority.</p>

## **State Environmental Planning Policy (Infrastructure) 2007**

The application was referred to the RMS on 31 October 2014 as it fell within the Traffic Generating Development category under Schedule 3 of the SEPP.

A response was received from the RMS on 20 May 2015 stating:

Roads and Maritime's primary interest regarding the Trinity Point development is the impact of the traffic generated by the development on the road safety and operational efficiency of the Macquarie Street / Fishery Point Road intersection. This intersection is the primary link between the classified (State) road network and the Morisset Peninsula.

Roads and Maritime's letters to the DPE dated 3 February 2015 and 18 May 2015 (Cc'd to Council) outlined its contention that the Trinity Point development should make an appropriate monetary contribution towards the cost of upgrading the Macquarie Street / Fishery Point Road intersection to a signal controlled intersection with associated civil works.

Roads and Maritime has no objection to the subject development application provided the following requirement is included in Council's conditions of development consent:

- The developer shall enter into an agreement with Roads and Maritime to pay a contribution of \$769,494 towards the cost of the future upgrade of the Fishery Point Road / Macquarie Street intersection prior to the issuing of an occupation certificate (interim or final) for the short stay accommodation and / or the residential apartments.

### **Advice to Council**

The following advice is provided for Council to take into account in considering the subject development application:

- Roads and Maritime has no proposal that requires any part of the property.
- All matters relating to upgrades works on the local road network, vehicular access into and out of the development and internal arrangements on-site such as car parking, traffic / pedestrian management, manoeuvring of service vehicles and provision for people with disabilities are matters for Council to determine.
- Council should ensure the developer has appropriate traffic management measures in place, designed to minimise the impacts of construction traffic on the road network during the construction phase of the development.

The comments from the RMS are noted and it is agreed that a condition of consent shall be imposed as requested. The applicant has indicated awareness and acceptance of the contribution.



### **State Environmental Planning Policy 19 – Bushland in Urban Areas**

Clause 6 of this SEPP provides that on land adjoining bushland or zoned for reservation purposes, a public authority shall not grant the approval or development consent unless it has taken into account:

- (c) the need to retain any bushland on the land,*
- (d) the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

The proposal has been assessed by both Council's Flora and Fauna Officer and Landscape Architect including consideration of the impact of the development on the reserve land from an ecological perspective.

It is concluded that the proposal, through the provisions of the Vegetation Management Plan and recommended conditions of consent, is consistent with the provisions of the SEPP and is supported in this regard.

### **State Environmental Planning Policy 65 – Design Quality of Residential Flat Development**

Although it is not a residential flat building by definition, comments were sought from the Lake Macquarie SEPP 65 Design Review Panel on Wednesday 9 July 2014, 12 November 2014, 10 December 2014 and 10 February 2016 (SEPP65/9/2014).

The minutes of the relevant Panel meetings are included below. As can be seen from a chronological review of the minutes, the process of design has been evolving over time. Where concerns were raised by the Panel, the designer then sought to remedy the issue and present an updated design to the Panel at a later date. Council is in support of this process.

It is important to note that the Panel meetings were undertaken with regard to two separate Development Applications – this Tourism and Hospitality DA/1731/2014 and a Serviced Apartments and Residential Apartments DA/496/2015. The comments relating to the Tourism and Hospitality application are the only ones relevant to this application.

The latest meeting of 10 December 2014 confirmed that the design response is appropriate in its context and is supported. Additional comment was informally sought of the Panel due to an amendment to the plans, on 10 February 2016. The Panel acknowledged the amendments and the reasons for the changes. The Panel remained supportive of the DAs and advised that no formal comments were required with regard to the amendments.

It is confirmed that Council is in agreement with the Panel.

## **1 Context**

**9.07.2014**

The Panel acknowledged that the site benefits from a Part 3a Concept approval that establishes the general planning, form and functional requirements for the site.

The site is unique in the context of the lake and surrounding area. The Panel noted that the approved scheme was for a form of development different to the general form of development in this part of Lake Macquarie. In this regard, it is noted that the applicant seeks to change the approved scheme including changes to the building forms and layout, an overall increase in building heights and an increase in population density.

In order to justify such a different form of development the Panel requires considerably more detailed analysis of the site in this context with particular emphasis on views from the public domain, including the lake.

One of the most important elements of the context of this site is the public foreshore corridor that surrounds the proposal. The interface between this public foreshore space and the site requires considerable attention. Public access through the site to the foreshore is an important issue to be resolved.

**12.11.2014**

The panel remains unconvinced that the proposal presented, adequately takes into account its broad context, particularly in relation to the future residential area to the south west as well as the foreshore landscape context and the relationship of the site with its broader setting of Lake Macquarie and its foreshores.

Both the scale of the proposal and the orientation of built form within the site represent a considerable departure from the concept approval. Substantially greater justification is required to demonstrate how a development of the proposed scale can be integrated satisfactorily within the current and likely future context and thereby provide a similar or better outcome to the approved concept.

**10.12.2014**

The panel received a package of documentation in support of the application which comprehensively addresses the issues raised at the Panel's November meeting. In response to the detailed analysis undertaken, a number of modifications have been made to the siting of the buildings, the building envelopes and the internal road, which collectively address some of the fundamental concerns previously raised by the panel.

The architect also advised that he has been engaged to prepare plans for the Terrace style housing which is proposed to be 3 storeys in height immediately opposite the proposed tourist development on the western side of Trinity Point Drive.

In the light of the additional information provided and the changes and refinements proposed to the design, the panel is of the view that the proposal is an improvement over the previously approved design and now represents an appropriate response to its context.

## **2 Scale**

**9.07.2014**

The appropriate scale for the site will be determined by the more detailed site analysis as it will provide the basis for the appropriate scale and relationship of proposed building forms with consideration of the site, its locality and capacity to absorb this form of development.

The foreshore tree canopy should remain the dominant characteristic of the site and buildings should sit comfortably within this tree line.

**12.11.2014**

The current proposal has not appropriately demonstrated that the dominant characteristic of the site will remain the tree canopy. The photo montages raised questions over what would eventually form a horizon line when viewed from the water. This aspect requires further detailed analysis of trees being retained and those to be removed, both on the site and adjacent to it. A crucial consideration is whether buildings will remain beneath the canopy line, to ensure that built form remains located within an appropriate landscape setting that reflects the unique qualities of the site.

**10.12.2014**

The additional information provided, including the 3D fly through of the site and the sectional analysis of the site, provided justification for the proposed increases in height above those previously approved. It is noted that a reduction in building footprint over that provided in the previous approval had been achieved, as had an increase in soft landscaping area.

Crucially, survey certified photographs modeling the development as viewed from key viewing points confirmed that the development will be viewed largely below the upper section of the tree canopy.

The panel is therefore of the view that the proposed scale is acceptable.

### **3 Density**

**9.07.2014**

The Panel notes that this proposal is seeking a significant increase in density to that currently approved. Traffic and parking analysis, acceptability of built form and scale and the landscape setting will determine the appropriateness of this density.

**12.11.2014**

The panel does not consider there is sufficient justification in the current proposal to support any change in the approved density.

**10.12.2014**

The panel believes that the density appears appropriate based on the information provided by the applicant (via the schedule on page 14 of the tabled material). However, the panel notes that this information is indicative at this stage and requires further confirmation. Also the appropriate density will need to be confirmed through detailed traffic and parking analysis undertaken for the application.

### **4 Built Form**

**9.07.2014**

#### **Tourist Residential**

The Panel acknowledges that the residential component of the development is at very early stages of design.

The Panel generally supports in principle the reorientation of the buildings in a less formal urban form. This orientation has potential to permit a maximization of the north-eastern aspect, a response to vistas and better achievement of cross ventilation and sunlight access to apartments.

Further visual analysis and examination of view corridors is required to determine building separations and precise orientation. It may be preferable to not have buildings with axes parallel - but rather widening separation distance between buildings at the waterfront side.

The Panel considers that the site's visual significance and landscape setting demands a built form response that provides greater separation to that what would normally be seen in an

urban residential flat building design. The current built form has too much of an urban response and for heights greater than two or three storeys the building separations should be more than the minimum requirements.

The built form will be a reflection of the decision of whether this is a tourist facility where some residents may live permanently or whether there are two components i.e. permanent residential and a separate tourist facility.

### **Hotel, Restaurant and Function Centre**

The Panel is supportive of the change from an urban plaza approach to a built form that has a better interrelationship with the lake and an improved landscape outcome.

The Panel understands that the design is still at an early stage of development and one of the critical aspects of the development will be how the buildings sit within the broader visual catchment. The comments regarding visual analysis and designing a building that reflects the unique characteristics particularly apply to the hotel and function centre given their greater exposure to the lake in this part of the site.

### **Ground Plane Interface**

For both development typologies, the ground level interface of the built form with the natural ground levels is a crucial consideration. The impact of basement and lower floor parking on this interface is therefore a very important consideration, and at this stage of design development no useful sections were available to the Panel to inform the consideration of this aspect. At the next submission stage, multiple sections at various points will need to be provided in support of the developed design.

**12.11.2014**

The panel confirms that these issues have not been adequately responded to. In particular, the broad concepts outlined in Figure 17 (P27) have been seriously compromised by the intrusion of built form into open space, setbacks and view corridors.

**10.12.2014**

As indicated above, the panel is generally comfortable with the design development of the amended built form as illustrated in the fly-through. It is noted that the architect indicated that there is to be an increase in the setback between buildings E & H which the panel supports.

## **5 Resource, Energy and Water Efficiency**

**9.07.2014**

Subject to further design development.

**12.11.2014**

No further comment.

**10.12.2014**

No further comment at this stage.

## **6 Landscape**

**9.07.2014**

The landscape and the lake setting of this locality is a unique attribute of the site. These attributes need to be reinforced in any architectural and landscape response. It is important that design cues be derived from the place - as opposed to imposing unrelated urban approaches and generic resort theming to the site.

Public access to the foreshore through and around the site needs to be incorporated in any



design response. The differentiation between public and private spaces also needs to be resolved and made evident.

**12.11.2014**

The proposal fails to respond to and reinforce the natural context of the site.

This scheme has failed to demonstrate clear delineation of public and private space and the setbacks required from this space for building envelopes and footprints.

The panel is of the view that there should be no encroachment of built form in the “*foreshore path and landscape zone, fully publicly accessible area*” designated under the concept approval.

This should be illustrated with overlays that identify the blocked forms approved under the concept approval and new configuration/location of building footprints in the landscape.

**10.12.2014**

The better definition of public and semipublic space and the more appropriate orientation of the buildings is accepted as being a reasonable offset for the protrusion of the eastern end of the blocks into the area designated as setback under the previous approval.

However, the panel would not support any further encroachment into this setback.

While good progress has been made in the process of delineating between public space and private open space. It was noted that as residential designs are developed it would be necessary to clearly define private open space attached to each dwelling.

The panel remains of the view that the landscape scheme should be reflective of local landscape character. In this regard, the use of sub temperate species typical of the locality is considered appropriate. The panel considers that tropical planting is not appropriate for this site.

It is suggested that opportunities be explored for set-downs in the slab to accommodate larger trees between the buildings where possible.

## **7 Amenity**

**9.07.2014**

Subject to further design development.

**12.11.2014**

No further comment.

**10.12.2014**

The orientation of the residential blocks provides an opportunity for good solar access and pleasant outlook to dwellings. At this stage internal apartment layouts have not been finalized to allow a detailed assessment of residential amenity.

## **8 Safety and Security**

**9.07.2014**

Subject to further design development.

**12.11.2014**

In the absence of the use of fences and walls to define private open space, a range of clear cues need to be developed that clearly define a distinction between public and private space.

**10.12.2014**

Good progress has been made towards defining the transition between public open space and private open space and it is anticipated that this will be refined as part of the design development process.

The revised layout of vehicular access to the carparks by way of provision of an internal access road now provides a better physical environment for casual surveillance.

## **9 Social dimensions**

**9.07.2014**

Where public access is provided, these areas should be designed to be readily legible and inviting for public use.

The needs of permanent residents are different from those of short-term visitors and holiday unit owners in a number of respects and need to be reflected in design of the buildings and landscaping. The design of residential buildings in their landscape context needs to support community building and casual interaction between residents.

**12.11.2014**

The above comment still applies.

**10.12.2014**

The needs of permanent residents are different from those of short-term visitors and holiday unit owners in a number of respects and need to be reflected in design of the buildings and landscaping.

As part of the design development process, consideration should be given to the design of residential buildings in their landscape context as a means of supporting community building and casual interaction between residents.

## **10 Aesthetics**

**9.07.2014**

Subject to further design development.

**12.11.2014**

No further comment.

**10.12.2014**

Building details are still fairly diagrammatic, but the general direction as illustrated by the flythrough is considered appropriate.

## **State Environmental Planning Policy No. 71 – Coastal Protection**

The application has been assessed having regard to the aims of the SEPP and the information contained in the SEE lodged with the application. It is not expected that the proposed development will have adverse impact on achieving the aims of the SEPP.

In addition, the application has had regard to the matters for consideration in Clause 8 of the SEPP, as follows:

- (a) the aims of this Policy set out in clause 2,*
- (b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,*
- (c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,*
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,*
- (e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,*
- (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,*
- (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995 ) and plants (within the meaning of that Act), and their habitats,*
- (h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994 ) and marine vegetation (within the meaning of that Part), and their habitats*
- (i) existing wildlife corridors and the impact of development on these corridors,*
- (j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,*
- (k) measures to reduce the potential for conflict between land-based and water-based coastal activities,*
- (l) measures to protect the cultural places, values, customs, beliefs and traditional knowledge of Aboriginals,*
- (m) likely impacts of development on the water quality of coastal waterbodies,*
- (n) the conservation and preservation of items of heritage, archaeological or historic significance,*
- (o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,*
- (p) only in cases in which a development application in relation to proposed development is determined:*
  - (i) the cumulative impacts of the proposed development on the environment, and*
  - (ii) measures to ensure that water and energy usage by the proposed development is efficient.*

The application has been assessed against these matters for consideration. The application will generally comply with the aims of the SEPP and the other matters for consideration under Clause 8 of the SEPP.

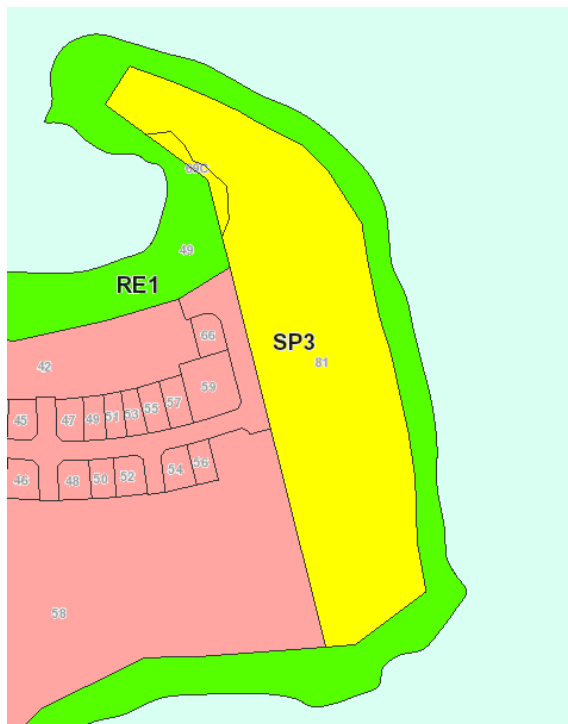
## Lake Macquarie Local Environmental Plan 2014

### Part 1 - Preliminary

1.9A	Suspension of covenants, agreements or instruments	Not Applicable.
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### Part 2 – Permitted or Prohibited Development

What is the land zoned?	The land is zoned SP3 Tourist and RE1 Public Recreation pursuant to the LMLEP 2014.
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What is the proposal for?	The proposal is for a mixed use development providing tourist and visitor accommodation (hotel), business premises, retail premises, restaurant, café, and function centre, with associated car parking, landscaping and stormwater management.
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Is this permissible within the zone?	Yes
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Does it meet the objectives of the zone?	Yes
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2.4 – 2.8	Unzoned Land	Not applicable.
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### Part 3 – Exempt and Complying development


Not applicable.

### Part 4- Principal Development Standards

4.1 – 4.2B	Not applicable.
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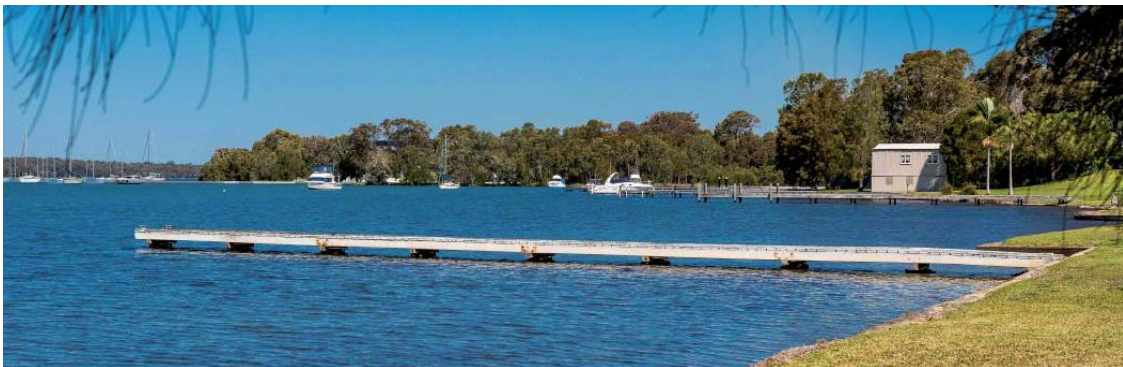
4.3	Height of buildings: The building height map indicates a height of 16 metres:
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	 <p>The development complies with this height limit. The tallest four storey Hotel building is approximately 15.75 metres above natural ground level.</p>
4.4-4.6	Not applicable.
<b>Part 5 – Miscellaneous provisions</b>	
5.1 – 5.4	Not applicable.
5.5	<p>Development within the coastal zone</p> <p>The provisions of SEPP 71 as they relate to development within the Coastal Zone have been addressed in the SEE and assessed at SEPP 71 section of this report.</p> <p>The development maintains consistency with both SEPP 71 and LMLEP 2014 with regard to development within the Coastal Zone.</p>
5.6 – 5.8	Not applicable.
5.9 – 5.9AA	Not applicable.
5.10	<p>Heritage conservation</p> <p>Council's Development Planner - Heritage Focus has reviewed the plans and documentation including the endorsed Aboriginal Heritage and Historic Interpretation Plan and Cultural Heritage Management Plan.</p> <p>The proposal is supported from a heritage conservation viewpoint.</p>
5.11	<p>Bush fire hazard reduction</p> <p>No objections are raised to the development from a bushfire planning perspective. Consistent with the Concept Approval, a condition of consent is recommended, requiring that the applicant obtain a Bushfire Safety Authority from the RFS for any tourism associated uses on the site, prior to the issue of a Construction Certificate.</p>
5.12 – 5.13	Not applicable.
<b>Part 6 – Urban release areas</b>	
6.1 – 6.5	The land does not form part of an Urban Release Area.
<b>Part 7 – Additional local provisions</b>	
7.1	Acid sulfate soils.


	<p>An acid sulphate soils management plan was considered and endorsed as part of DA/1503/2014 for the marina component of the development. This plan was lodged with this DA/1731/2014 pursuant to clause 7.1 of the LEP.</p> <p>A condition of consent is recommended, requiring that a revised plan be lodged with and approved by Council for the land base component of the development.</p>
7.2	<p>Earthworks</p> <p>Council's Chief Subdivision Engineer has assessed the proposal against the provisions of Clause 7.2(3).</p> <p>Excavation and filling on the site is recognised and the information contained in the SEE addresses this clause of the LEP.</p> <p>The excavation and filling is further managed through a standard condition as recommended.</p>
7.3 and 7.4	<p>Flood planning and Coastal Risk Planning</p> <p>Council's Senior Sustainability Officer - Natural Disaster advises that the proposal meets floor level requirements and development controls to manage the risk from current and future lake flooding and tidal inundation.</p> <p>Measures are also required to ensure the safety of people in the case of over-topping or failure of these barriers.</p> <p>The flood planning levels identified on the plans, in combination with the protection measures for the basement carpark required by a condition of consent, are satisfactory and comply with the LEP, in particular clauses 7.3(3) and 7.4(3).</p>
7.5	<p>Terrestrial biodiversity</p> <p>Council's Development Planner – Fauna and Flora advises that the application has been assessed for compliance with ecological requirements and recommendations detailed in the LMLEP 2014, DCP 2014, TSC Act 1995, Native Vegetation Act 2003, Lake Macquarie Flora and Fauna Survey Guideline (2012), Vegetation Management Plan Guideline (2012), Squirrel Glider Planning and Management Guidelines (2015), <i>Tetratheca juncea</i> Planning and Management Guidelines (2014), Interim Lake Macquarie Large Forest Owl Planning and Management Guidelines (2014), Interim Lake Macquarie <i>Grevillea parviflora</i> subsp. <i>parviflora</i> Planning and Management Guidelines (2013), Lake Macquarie Wetlands Management Study, Lake Macquarie Coastal Management Plan, SEPPs 14, 19, 26 and 44, FM Act 1994 and EPBC Act 1999.</p> <p>The whole of site Vegetation Management Plan (VMP) identifies five vegetation management areas, three of which have been nominated as 'natural areas' and two as deferred areas for future 'park' use in the Plan of Management currently being prepared. The VMP and accompanying Bush Regeneration Works Plan refers to and includes relevant information within the Lake Macquarie Vegetation Management Plan Guideline, and incorporates previous Council requests relating to site-specific compensatory planting and the extent and nature of revegetation works suitable for the natural areas.</p> <p>To satisfy Condition 9A of MP 06_0309, the eastern and south-eastern Vegetation Management Areas maintenance period shall be extended to five years (as approved for the northern VMA), in order to <i>'be consistent with the Vegetation Management Plan Proposed Marina and Mixed Use Development on 71 Trinity Point Road, Morisset Park, prepared by RPS and dated September 2014'</i>.</p> <p>The submitted whole of site VMP currently includes a five year maintenance period for the northern VMA, but only a two year maintenance period for the</p>

	<p>eastern and south-eastern VMA. In order to satisfy Condition 18C of MP 06_0309, the accompanying Bush Regeneration Works Plan shall also be extended to five years.</p> <p>Condition C20 requires that future development involving excavation is to provide details of how the water table and groundwater will be managed during and after construction. Particular details shall be provided with regard to the impacts to any EECs (eg saltmarsh community) that relies on this water table and groundwater.</p> <p>Whilst the Aquatic Ecology Investigation Report (September 2014) states that there are no surface expressed groundwater dependent ecosystems, confirmation is sought if there are any other groundwater dependant ecosystem EECs (including for instance facultative GDEs) which may be opportunistically drawing on the shallow groundwater table at the site, and if so, details provided as to any anticipated impacts.</p> <p>A condition of consent as recommended is able to address the above issues. The application has been assessed against the provisions of clauses 7.5(3) and 7.5(4) the LEP and in combination with the recommended conditions of consent, the applicant is consistent with these provisions.</p>	
7.6	Limited development on foreshore area	The land is not affected by a foreshore building line, and therefore not within a foreshore area.
7.7	<p>Development on sensitive Aboriginal landscape areas</p> <p>Aboriginal Heritage Impact has been considered as part of the overall site heritage impact assessment. The endorsed Aboriginal Heritage and Historic Interpretation Plan satisfies the LEP in this regard.</p>	
7.8 – 7.15	Not applicable.	
7.16	<p>Development on certain land at Trinity Point, Morisset Park</p> <p>This clause applies to the land. The applicant advises that the Concept Approval MP06_0309 provides permissibility and effectively means that the additional use clause 7.16 is not relevant. Notwithstanding, the development is generally consistent with the clause in providing commercial premises below 550m<sup>2</sup>, aboriginal heritage interpretation (although not an education centre), and a 6 metre setback to Lot 32 DP1117408 (the Foreshore Reserve).</p> <p>The provisions of clause 7.16(3) in terms of urban design, built form, setbacks, transition, view sharing, building height and aboriginal heritage protection are all satisfied through the Concept Approval and lodged development plans.</p>	
7.17 – 7.20	Not applicable.	
7.21	Essential Services	The land is able to be serviced with all relevant essential services.
7.22-7.23	Not applicable.	
<b>(a)(ii) the provisions of any draft environmental planning instrument (EPI)</b>		
Not applicable.		

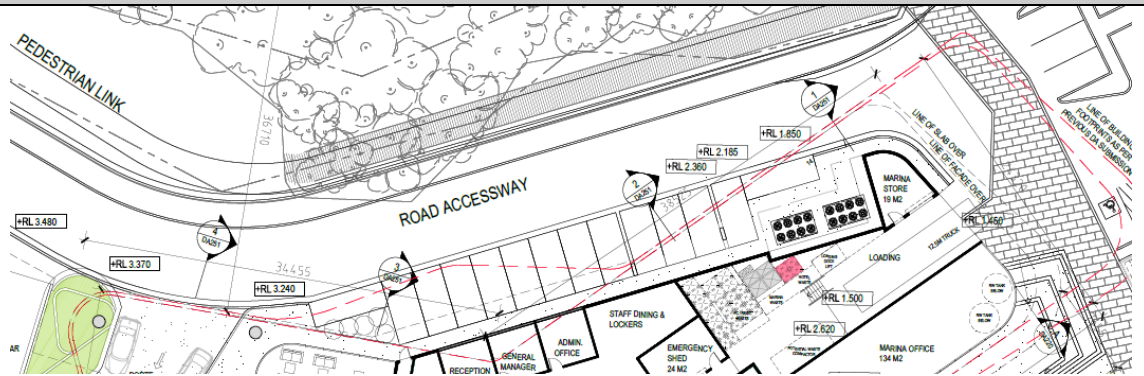
<b>(a)(iii) any development control plan</b>		
<b>Development Control Plan 2014</b>		
<b>Part 1 – Introduction</b>		
<b>Section 1.15 – Development Notification Requirements</b>		
Does the application require notification?		Y
Have all adjoining and affected properties been properly notified?		Y
Has the application being subject to an extended notification period under Cl. 1.15.5?		N
<b>Parts 2-5</b>		
Not applicable.		
<b>Part 6 – Development in Recreation and Tourist Zones</b>		
<b>Section 2 – Context &amp; Setting</b>		
2.1	Site Analysis	The site analysis plan lodged with the application adequately identifies the context and setting of the site.
2.2	<p>Scenic Values</p> <p>A Visual Impact Analysis and Visual Impact Review (Amended Plans) by Richard Lamb and Associates was reviewed by Council's Landscape Architect.</p>  <p><i>View to the site from the east</i></p>  <p><i>View to the site from the north</i></p> <p>It is agreed that the site is able to absorb an amount of development and is buffered from the Lake by the foreshore reserve which is moderately to heavily vegetated.</p> <p>The development is consistent with the approved Concept Plan under which the urban</p>	

<b>(a)(iii) any development control plan</b>		
	<p>design guidelines were informed by among other things, visual impact.</p> <p>The VLA and revised document by Richard Lamb and Associates concludes that the visual impact of the development and in particular the most prominent four storey building is mitigated to an acceptable level by the vegetation on the reserve and the architectural treatment of materials that assist in reducing the visual bulk and scale of the building.</p> <p>The development has also been considered in conjunction with the approved 188 berth marina on the lake, which is situated between the buildings and prominent on-lake and foreshore views to the site. The marina itself provides a foreground view that lowers the prominence of the buildings on the land.</p> <p>The reliance on foreshore vegetation to mitigate visual impact is supported, but this approach will only be successful through the proposed Vegetation Management Plan and public land Plan of Management being implemented, existing vegetation being maintained, and proposed vegetation being suitably managed to maintain the shielding effect. The management of vegetation on the site and reserve is addressed in the application to a level, and when combined with recommended conditions of consent, will enable the successful mitigation of visual impact.</p> <p>The proposal's visual impact is consistent with the Concept Plan approval and is acceptable in this regard.</p>	
2.3	Geotechnical	The geotechnical report lodged with the application is assessed by Council's Chief Subdivision Engineer as consistent with the provisions of the DCP and is supported in this regard.
2.4	Cut and Fill	The extent of cut and fill on the site has been assessed by Council's Chief Subdivision Engineer as consistent with the provisions of the DCP and is supported in this regard
2.5	Mine Subsidence	The Mine Subsidence Board provides a condition that shall be placed on any consent issued.
2.6	Contaminated Land	The land has been investigated for contamination. Council's Principal Environmental Officer advises that the site does not require any further remediation and that the site is suitable for its intended use.
2.7	Acid Sulphate Soils	Please refer to assessment at LEP clause 7.1 above.
2.8	Stormwater Management	The proposed stormwater management provides appropriated treatment of stormwater on and off the site and is supported.
2.9	Catchment Flood Management	Please refer to assessment at LEP clause 7.4 above.
2.10	Lake Flooding & Tidal Inundation	Please refer to assessment at LEP clause 7.4 above
2.11	Natural Water Systems	<p>The development occurs on land adjacent to and in close proximity to Lake Macquarie.</p> <p>The Vegetation Management Plan has been assessed and the impacts on the lake and vegetation as a result of the development are considered to be acceptable, with minor</p>



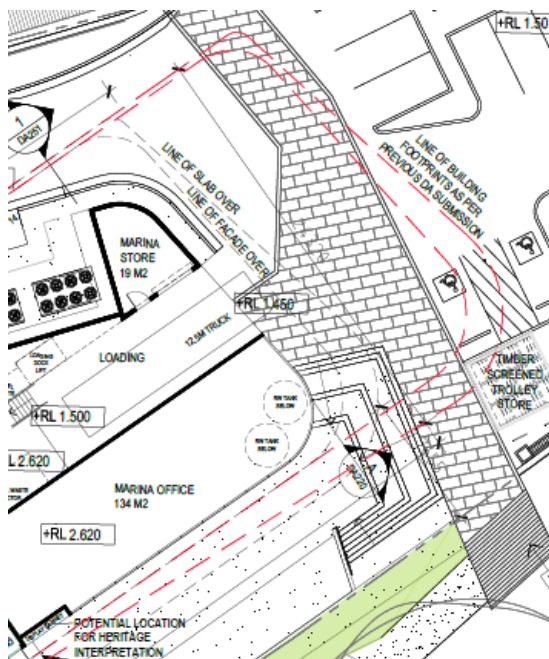
<b>(a)(iii) any development control plan</b>		
		changes to the lodged VMP, which are able to be included as conditions of consent, if issued.
2.12	Bushfire	A required condition of consent shall be imposed per the Concept Approval MP06_0309.
2.13 - 2.14	Flora & Fauna and Preservation of Trees & Vegetation	The flora and fauna impacts of the development have been assessed by Council's Development Planner - Flora and Fauna and Tree Protection Officer. The measures proposed to mitigate the impact of the development on flora and fauna through the Vegetation Management Plan and individual tree protection measures are considered to be adequate and are supported.
2.15 – 2.16 and 2.17	European Heritage, Aboriginal Heritage and Natural Heritage	The Aboriginal and Heritage and Historic Heritage Interpretation Plan has been endorsed by the OEH. Council is in support of the background research, consultation and recommendations for the ongoing management and interpretation of items of heritage significance on the site.
2.18	Social Impact	Council's Coordinator Social and Community Planning advises that the social impacts of the development are acceptable and recommends a condition of consent to include a social impact management plan to further ensure and measure the impacts of the development on the local community. Such condition is recommended, should consent be issued.
2.19	Economic Impact	The Concept Approval 06_0309 is indicative of the acceptance of the economic impact (positive or adverse) of the development. As the plans are generally the same in this application as in the Concept Approval it is considered that the economic impacts do not need revisiting and that the scale and type of development is able to proceed in accordance with the Concept Approval.
<b>Section 3 – Development Design</b>		
3.1 – 3.8	<p><b>Building Siting and Design</b></p> <p>The hotel and restaurant / function centre building represent a contemporary approach to the built form on the site.</p> <p>Whilst conforming with the height limits and boundary setbacks of both the Concept Approval and LEP an analysis of the buildings is made:</p> <p><b>Edge Treatments</b></p> <p><i>Hotel Building</i></p> <p>The southern elevation of the hotel fronts the marina car park driveway and sensitive ecological community on the edge of the unnamed bay:</p> 	

(a)(iii) any development control plan



The siting of the building along this edge is at an appropriate setback complying with Concept Plan requirements. The introduction of the boardwalk/pathway pedestrian link on the western side of the driveway, and the driveway itself, assist in mitigating the impact of a large building adjacent to the sensitive ecological area.

The western elevation of the hotel building fronts the marina car park.

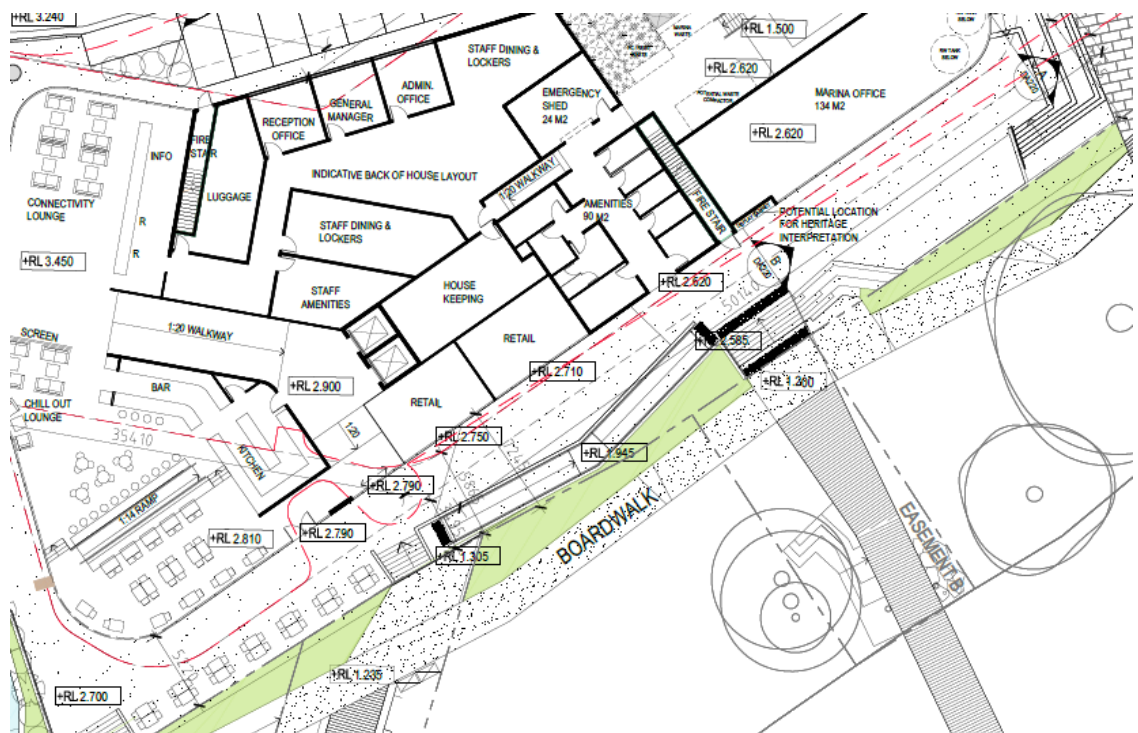


The area at the ground floor provides vehicle access to back of house marina

**(a)(iii) any development control plan**

operations and access from the car park to the marina itself. The separation and setback of this elevation of the hotel reduces the visual impact of the building and is supported.

The northern elevation of the hotel building faces the Lake and approved marina:

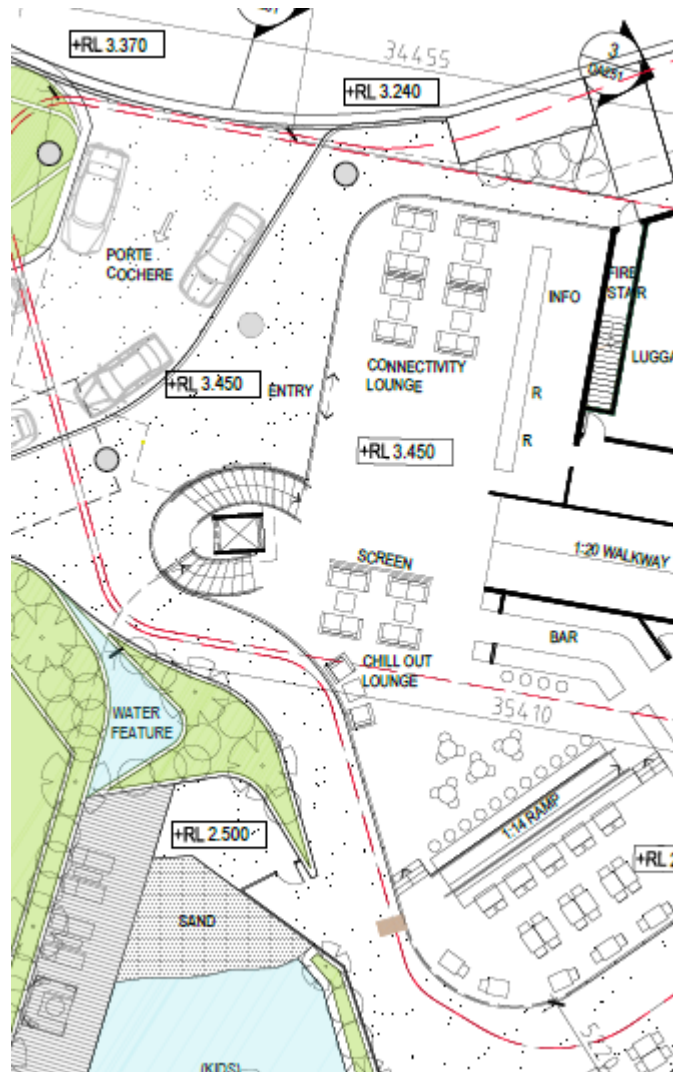


The northern elevation at ground level is an active retail, marina and hotel precinct with access from and to the foreshore reserve and boat mooring area beyond. The setback of the building in this location complies with the Concept Approval. The combination of stair and ramp access through an intensively landscaped setting is successful in creating a transition between the development and the lake.

The eastern elevation of the hotel building will be visible when one approaches the site and addresses the second, smaller restaurant and function centre building further to the south.



(a)(iii) any development control plan

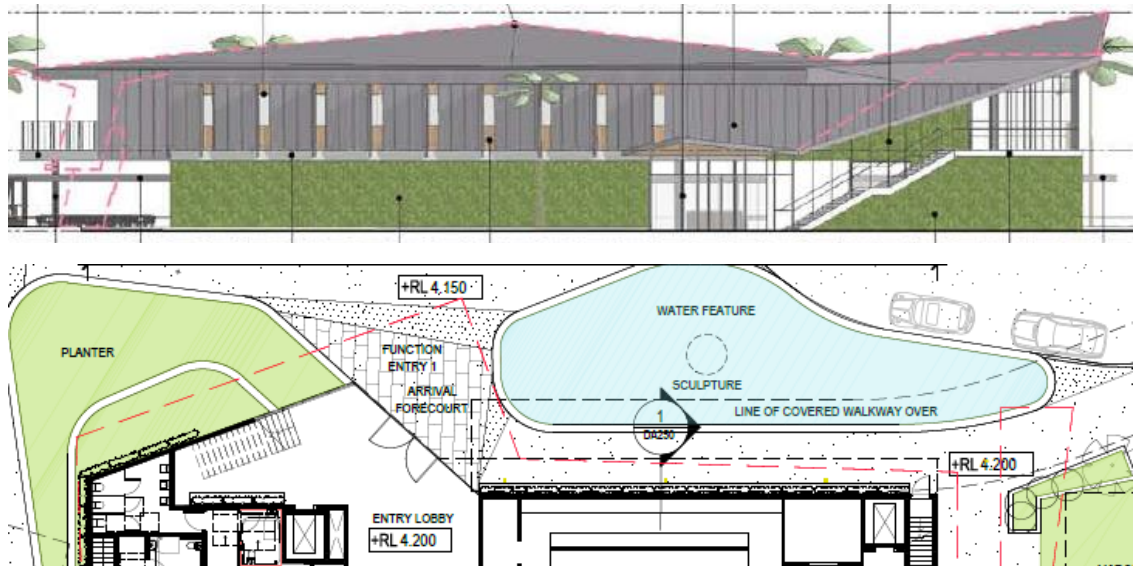


This elevation provides an active, low scale café, lobby, lounge and porte cochere and connectivity between the hotel and function centre and restaurant. The integration of water in the landscape theme is successful and this edge treatment is supported.

**(a)(iii) any development control plan**

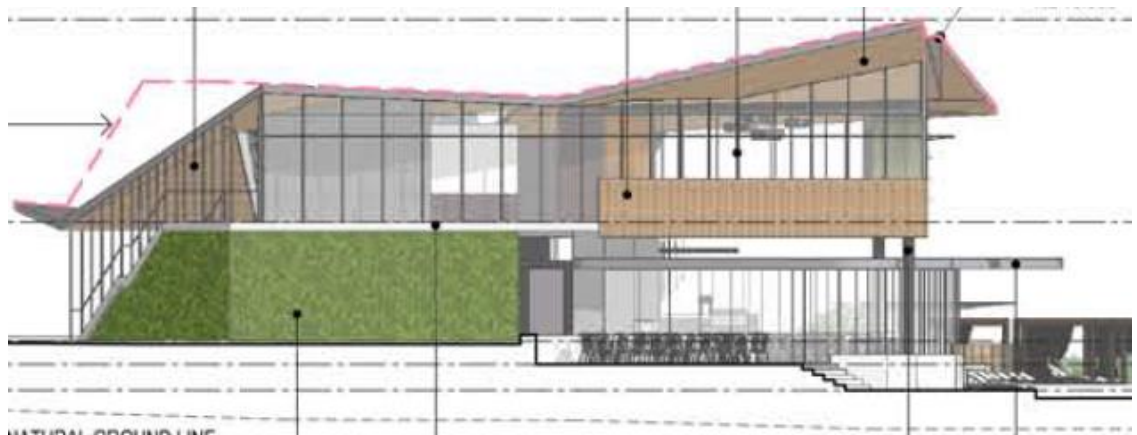
*Entertainment Building*

The southern elevation of the entertainment building addresses the main arrival and activity precinct for functions and dining purposes.



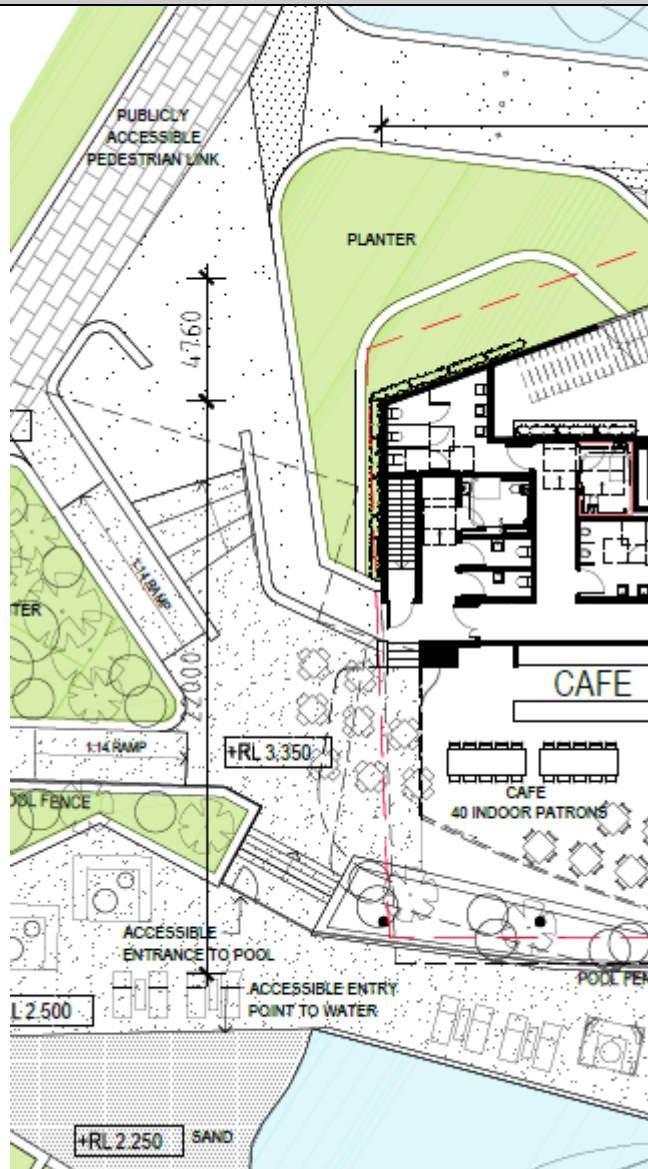
The building is sited within a landscaped approach including water features and arrival forecourt. Although the uses within are essentially back of house kitchen functional areas, the treatment of the façade with green walls and contemporary materials and fenestration does not detract from the arrival experience and is supported.

The southern elevation of the entertainment building is perhaps the most important from a pedestrian, public visitor and view sharing perspective. This elevation faces the active pedestrian area that provides access from the public road through the site to the marina, viewing platform and lake itself. The building's scale and design in this location successfully integrates access points with formal landscaped pathways to welcome visitors to the building, but also allows a choice for the public to continue to the lake without feeling obliged to enter the building.





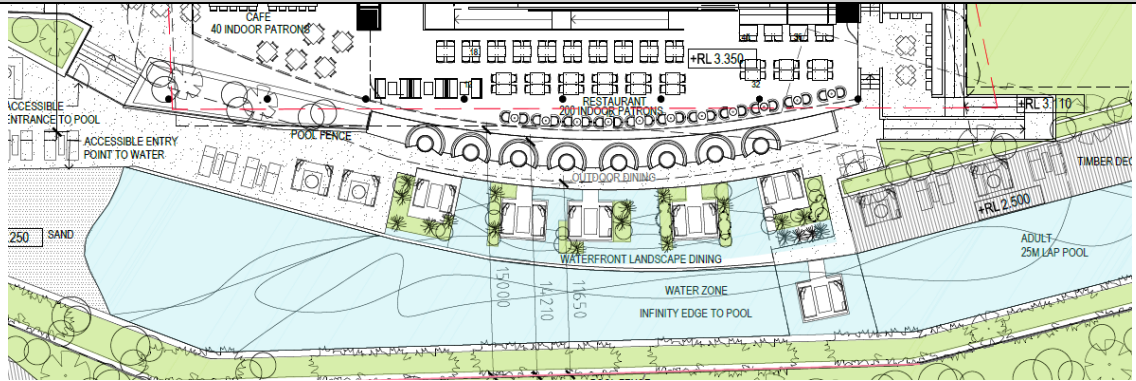
(a)(iii) any development control plan



The northern elevation of the entertainment building is the most active precinct of the proposal. It provides lower and upper level interface between the restaurant and function centre, to the marina and lake beyond. Forming a transition within this area is the swimming pool.



(a)(iii) any development control plan



The elevation allows direct access for patrons between the active functions of the building and the outdoor areas including seating and pool. The scale and design of the building is consistent with the Concept Approval and is supported in this regard.

### Materials

The contemporary palette of materials and colours is provided for both in the architectural and landscape design components of the development. The palette is appropriate for the type and sale of development proposed, is consistent with the Concept Approval, and is supported.

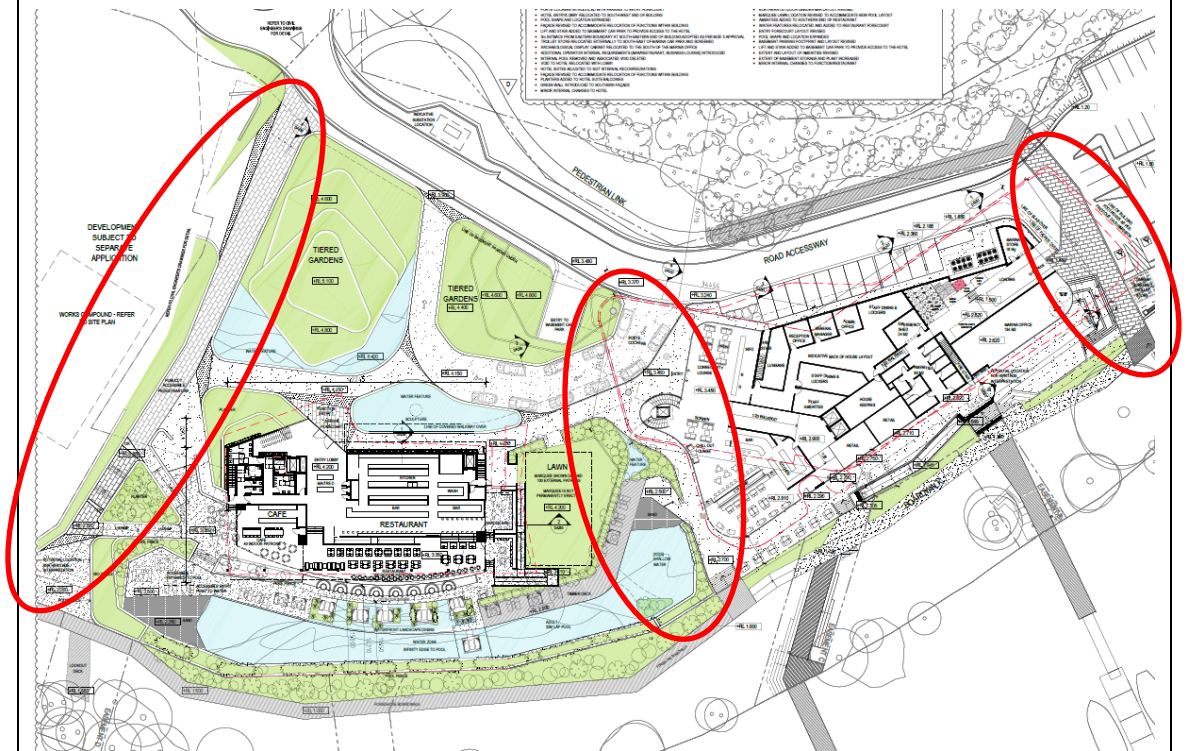


Walls  
A. Sandstone feature wall with heritage elements  
B. Sandstone feature walls  
C. Concrete retaining walls

Paving Legend  
1. Grey concrete with light grit blast finish  
2. Exposed aggregate concrete in warm tones  
3. Feature brick paving in cool tones  
4. Feature paving element  
5. Custom stormwater grille  
6. Wood pathway on grade

**(a)(iii) any development control plan**

**Public Linkages**



Pedestrian linkages through the site are provided as indicated above. A condition of consent is recommended to ensure that the public is able to access these areas unimpeded. The level of permeability through the site is acceptable and supported.

3.9	Views	Please refer to assessment at section 2.2, Part 6 of this report.
3.10	Solar Access & Orientation	The facility has been sited to the north east and takes advantage of solar access.
3.11	Energy Efficiency & Generation	The design of the facility including the lodged Basix report indicates that the facility will meet required levels of energy efficiency, for the land use proposed.
3.12 – 3.13	Not applicable	
3.14	<p><b>Landscape Design</b></p> <p>Council's Landscape Architect has reviewed the original and revised landscape plans. Whilst concentration is made upon the impact of the development from a visual perspective and the importance of landscaping to mitigate this impact, the landscaping design principles and landscape design report as contained in the Terras documentation is generally supported.</p>	



(a)(iii) any development control plan



3.15	Landscape and Tree Planting in Car Parks	Not applicable.
3.16	<p>Traffic and Transport</p> <p>The impacts of the development on local traffic networks have been assessed by Council's Asset Management Section which advises as follows:</p> <p><i>Public Transport</i></p> <p>The main access into the site is via Morisset Park Road and Trinity Point Drive.</p> <p>Bus route 279 currently travels in a clockwise loop around the peninsula along</p>	

<b>(a)(iii) any development control plan</b>		
	<p>Lakeview Road with a right turn into Trinity Point Drive, and a counter-clockwise route along Trinity Point Drive with a left turn into Lakeview Road.</p> <p>It is anticipated that the bus route will be amended to enter the Trinity Point estate to service the future residential and tourism development.</p> <p>Road widening and traffic improvements are required for this route, in addition to the provision of bus stops and shelters.</p> <p>Such infrastructure shall be included as a condition of consent.</p> <p><i>Local Traffic Network</i></p> <p>Council's Asset Management Section advises that the local traffic network is of a capacity to cater for the proposed development, with required upgrades to infrastructure as noted above, and developer contributions to both the RMS and Council.</p>	
3.17	Design of Parking & Service Areas	The basement and at grade parking areas appear to conform to the relevant standard in design and are supported in this regard.
3.18 – 3.19	<p>Bike Parking and Facilities and Motorbike Parking</p> <p>These facilities are deemed adequate and compliant with DCP provisions.</p>	
3.20	<p>Car Parking Rates</p> <p>Car parking on the site has been the subject of detailed assessment and liaison between the applicant's traffic consultant and Council's Traffic and Transportation Coordinator.</p> <p>The challenge for this application is the cross-over land uses of entertainment, hotel accommodation and tourist accommodation within DA/496/2015.</p> <p>The provision of 190 parking spaces is broken down as follows:</p> <ul style="list-style-type: none"> <li>- Basement (143);</li> <li>- At grade (14);</li> <li>- Port cochere (10); and</li> <li>- Temporary at grade carpark (23).</li> </ul> <p>The provision of car parking in the manner proposed is consistent with the requirements of Council and is supported.</p>	
3.21	Non-Discriminatory Access	The lodged and reviewed access audit is supported. To assist in assuring that non-discriminatory access is maintained to the development a condition of consent shall be imposed requiring an audit of the built structure, conforming to the report's requirements.
3.22	Safety & Security	Council's Crime Prevention Officer advises that the recommendations of the CPTED report lodged with the application are appropriate. Such recommendations are included as recommended conditions of consent.



<b>(a)(iii) any development control plan</b>	
<b>Section 4 – Operational Requirements</b>	
4.1-4.6	The operation management provisions contained in the SEE and noted on the plans for the development are satisfactory.
4.7	<p>Noise and Vibration</p> <p>Council's Principal Environmental Officer advises that the hours of operation, land use and level of noise mitigation measures indicate that the hotel and function facility may operate in compliance with the relevant standards and the Industrial Noise Policy. A condition of consent addressing hours of operation and acoustic auditing requirements and limits will assist in mitigating acoustic impact of the development.</p>

<b>Part 7 – Development in Environment Protection Zones</b>
<p>This part of the DCP is applicable to the development occurring with Council owner's consent on the Reserve land zoned RE1 situated between the development site and the Lake. The types of development on this land include public pathways, viewing platform and stormwater infrastructure, much of which is to be undertaken within existing easements for that purpose.</p> <p>The main issue that is successfully addressed in the application is the vegetation management of the public lands, through the Vegetation Management Plan for the whole of site and individual areas within the VMP. Council's Development Planner - Flora and Fauna advises that the VMP, when combined with recommended changes, will ensure the appropriate future use of the RE1 land. This is further supported by a recommended condition of consent that the management of the Council land be undertaken in accordance with an approved Plan of Management. This POM has yet to be endorsed.</p> <p>The development impacts have been assessed against the provisions of Part 7 as they also would relate to those items under Part 6 above and is satisfactory in this regard.</p>
<b>Part 8 – Subdivision</b>

<b>Part 9 – Specific Land Uses</b>
<b>9.1 – 9.17</b>
Not applicable.
<b>9.18 Tourist and Visitor Accommodation</b>
<p>Tourist and Visitor Accommodation</p> <p>The proposal is consistent with the objectives of the DCP for Tourist and Visitor Accommodation which are:</p> <ol style="list-style-type: none"> <li>To promote tourism within Lake Macquarie Local Government Area, and to facilitate growth in the local tourism economy.</li> <li>To ensure that tourist and visitor accommodation is established with consideration of the surrounding environment, landscape and land uses, and to mitigate potential land use conflict.</li> <li>Tourist Accommodation and Tourist Resorts are designed, constructed and operated on the basis of sustainable practices, including building materials, energy efficiency, and self-sufficient water supply and waste disposal.</li> </ol>

<b>Parts 10 - 12</b>
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Not applicable.			
<b>(a)(iia) - any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F</b>			
There is no planning agreement that has been entered into under section 93F, and no draft planning agreement that a developer has offered to enter into under section 93F of the Act that relates to this development.			
<b>(a)(iv) – any matters prescribed by the regulations</b>			
Primary Matters		Specific Considerations	
Clause 92 EP&A Regulation:  Government Coastal Policy		The provisions of Clause 92 have been considered. The development remains consistent with the NSW Coastal Government Policy as it relates to the land, and in consideration of the Concept Approval applying to the site.	
<b>(b) – the likely impacts of the development</b>			
The assessment matters of <i>Context &amp; Setting, Access, Transport &amp; Traffic, Public Domain, Utilities, Heritage, Other Land Resources, Water, Soils, Air &amp; Microclimate, Flora &amp; Fauna, Waste, Energy, Noise &amp; Vibration, Natural Hazards, Technological Hazards, Safety, Security &amp; Crime Prevention, Social Impact on the Locality, Economic Impact on the Locality, Site Design &amp; Internal Design, Construction, and Cumulative Impacts</i> have been considered in this assessment report.			
<b>(c) – the suitability of the site for the development</b>			
Does the proposal fit the locality?			
The assessment of the impacts of the development, particularly in terms of visual impact and impact on flora and fauna, reveal that the development, in combination with mitigation measures, is suited to the locality and consistent with the land use zoning and envisaged scale of tourism development under LMLEP 2014 and Concept Approval MP06_0309.			
Are the site attributes conducive to development?		The site attributes of a relatively flat, accessible lake side location are conducive to the tourist based proposal.	
<b>(d) –any submissions made in accordance with this Act or the regulations</b>			
Public submissions	How many submissions received?	100 against including a number of 'form' letters	6 for, including petition with 45 signatures
	Issues Raised		
	Sections of the community are concerned with regard to the impact the proposal will have on the existing amenity of Lake Macquarie in the locality.  Of particular concern with the majority of objectors to the development is the process of planning approvals to date and the low level of transparency and high level of complexity of the system; the impact a tourist resort will have on the local community in terms of traffic and noise, the impact on the natural environment, built form (overdevelopment) and general mistrust of the intentions and outcomes of the proposal.  The planning process through the original Part 3A Concept Approval		

	<p>(with modifications including determination by the Planning Assessment Commission) and Development Consent (determination of the marina by the Joint Regional Planning Panel) has proven to be complex and difficult for the majority of the public to navigate. The applicant is held to be accountable for this complexity by some in the community, however the assessment process is a factor of the NSW legislation and not the applicant. The correct planning assessment pathways have been undertaken.</p> <p>The environmental impacts of the development as raised by the objectors are acknowledged and addressed in this report. It is concluded that the development is consistent with the Concept Approval and that the impacts of the development are able to be mitigated to acceptable levels through detailed design and management of the hotel and restaurant / function centre, and conditions of consent.</p>
Submissions from public authorities	<p>The Mine Subsidence Board, Rural Fire Service and Roads and Maritime Services all provide support for the development through recommended conditions of consent.</p> <p>The Office of Environment and Heritage has endorsed the Aboriginal Heritage and Historic Interpretation Plan.</p>
<b>(e) –the public interest</b>	
Federal, State And Local Government Interests And Community Interests	The development seeks to achieve the objective of the zoning of the land to provide for a tourist resort on Lake Macquarie.

<b>SECTION 80A CONSIDERATIONS</b>	<b>Y/N</b>
Having regard to the matters for consideration detailed in Section 79C of the Environmental Planning and Assessment Act, do any of the following issues require further assessment?	N
Whether any consent/right should be modified/amended?	
Whether any development should be modified or ceased?	
Whether the period of the development should be limited?	
Whether any building/works should be removed after period?	
Whether any works should be carried out regarding S79C?	
Whether any application details should be modified?	

<b>SECTION 94 - CONTRIBUTIONS</b>	<b>Y/N</b>
Is contributions required for the provision, extension or augmentation of public amenities and public services?	Y
<p>Council's Coordinator Developer Contributions has reviewed the development and advises that developer contributions are applicable and calculated on the number of Peak Vehicle Trips (PVTs).</p> <p>The PVTs for this application are dependent upon DA/496/2015. As there is no certainty that both DAs will proceed, each is levied in their own right. Because a discount on DA/1731/2014 can be given if DA/496/2015 is completed, Council's approach is a note in</p>	

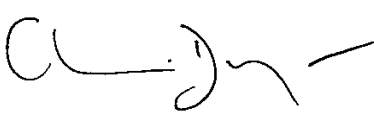
<b>SECTION 94 - CONTRIBUTIONS</b>	<b>Y/N</b>
<p>the s94 condition in DA/1731/2014 as follows:</p> <p><i>Note: If section 94 contributions for DA/496/2015 have been paid in full to Council, the local roads levy "M13 – Roads – Capital – R004 &amp; R-005 – CPI" as detailed in the Contributions Schedule can be reduced by \$28,786.59, indexed in accordance with the indexation provisions detailed in (b) below, which is equivalent to 20 vehicle trips.</i></p> <p>The developer contributions are recommend as a condition of consent in accordance with the Council Development Contributions Plan.</p>	

<b>SECTION 106 – EXISTING USE RIGHTS</b>	<b>Y/N</b>
Is the proposal prohibited under an environmental planning instrument in force?	N

<b>ECOLOGICALLY SUSTAINABLE DEVELOPMENT</b>	<b>Y/N</b>
Having regards for the principles of ecologically sustainable development, do any of the following issues require further consideration?	N
Precautionary principle?	
Intergenerational equity?	
Conservation of biological diversity and ecological equity?	
Improved valuation, pricing and incentive mechanisms?	

<b>RECOMMENDATION:</b>
It is recommended that the application be approved, subject to the conditions contained in Appendix A to this report.

<b>DETERMINATION</b>	
At what level should the application be determined?	Hunter and Central Coast Joint Regional Planning Panel

<b>ENDORSEMENT</b>
<p>The staff responsible for the preparation of the report, recommendation or advice to any person with delegated authority to determine the application has no pecuniary interest to disclose in respect of the application.</p>  <p>Chris Dwyer Principal Development Planner Lake Macquarie City Council</p>

## Appendix A – Draft Conditions of Consent

### 1. Prescribed Conditions

- (a) The work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - a. the name and licence number of the principal contractor, and
    - b. the name of the insurer by which the work is insured under Part 6 of that Act,
  - (ii) in the case of work to be done by an owner-builder:
    - a. the name of the owner-builder, and
    - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

### 2. Approved Documentation

The development consent DA/1731/2014 incorporates this schedule of conditions and the plans and documents referenced and stamped as follows:

- (a) Plans Reference:

Architectural Plans prepared by Squillace Architects Job Number JPG1402			
Name of Plan	Drawing Number	Issue	Date



Location Plan and Photomontage	DA001	B	29.01.16
Overall Site Plan and Site Analysis	DA101	F	29.01.16
Site Analysis Plan at Ground Floor	DA106	C	29.01.16
Basement Floor Plan	DA121	E	29.01.16
Site and Ground Floor Plan	DA130	D	29.01.16
First Floor Plan	DA140	C	29.01.16
Second Floor Plan	DA150	B	29.01.16
Third Floor Plan	DA160	B	29.01.16
Roof Plan	DA170	A	29.01.16
Accommodation Elevations	DA200	B	29.01.16
Function Centre Elevations	DA210	B	29.01.16
Sections	DA250	B	29.01.16
Sections	DA251	B	29.01.16
Gross Floor Area	DA300	B	29.01.16
Shadow Diagrams Site Principles	DA301	B	29.01.16
Viewing Platforms	-	-	-

Landscape Architectural Plans prepared by Terras Landscape Architects Job Number 10367.5-DA-TH			
Name of Plan	Drawing Number	Revision	Date
Site Analysis	02	H	Jan 2016
Landscape Design Report	03	H	Jan 2016
Landscape Design Report	04	H	Jan 2016
Landscape Design Principles	05	H	Jan 2016
Landscape Concept Plan	06	H	Jan 2016
Landscape Concept Detail	07	H	Jan 2016
Landscape Section A	08	H	Jan 2016
Landscape Section B	09	H	Jan 2016
Landscape Materials	10	H	Jan 2016
Planting – Internal Site Area	11	H	Jan 2016
Planting – Internal Site Area	12	H	Jan 2016
Planting – Internal Site Area	13	H	Jan 2016

Planting – Native Planting Areas	14	H	Jan 2016
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Stormwater, Cut and Fill, Erosion and Sedimentation Control and Engineering Plans prepared by ADW Johnson Ref 37429(2)E-DA2			
Name of Plan	Drawing Number	Version	Date
Stormwater Report (Plan)	SWRPT_001(B)	B	24/02/2016
Overall Site Plan	002(A)	A	01/02/2016
Detail Plan	101(A)	A	01/02/2016
Roundabout Detail Plan	102(A)	A	01/02/2016
Site Sections	151(A)	A	01/02/2016
Vehicle Turning Movements – Sheet 1	251(A)	A	01/02/2016
Vehicle Turning Movements – Sheet 2	252(A)	A	01/02/2016
Vehicle Turning Movements – Sheet 3	253(A)	A	01/02/2016
Stormwater Detail Plan	401(B)	B	24/02/2016
Stormwater Details	402(A)	A	01/02/2016
Cut and Fill Plan	701(A)	A	01/02/2016
Erosion and Sedimentation Control Plan – Sheet 1	801(A)	A	01/02/2016
Erosion and Sedimentation Control Plan – Sheet 2	802(A)	A	01/02/2016
Erosion and Sedimentation Control Details	803(A)	A	01/02/2016
Erosion and Sedimentation Control Notes	804(A)	A	01/02/2016
Flood Immunity and Evacuation Plan	901(A)	A	01/02/2016

(b) Document Reference:

Document	Reference	Author	Date
Statement of Environmental Effects – Volumes 1 and 2	Issue B	ADW Johnson Pty Limited	22/10/2014
Traffic Impact Assessment	P0233 Trinity Point Tourist & Hospitality DA TIA Ver02	Seca Solution	October 2014
Additional Information and Amendment	-	Johnson Property Group	31 July 2015

Additional Information – Peak Vehicle Trips and Contributions	-	Johnson Property Group	19 August 2015
Additional Information and Amendment	-	Johnson Property Group	8 October 2015
Additional Information and Amendment including revised and DoPE approved Urban Design Guidelines November 2015	-	Johnson Property Group	1 February 2016
Additional Information and Amendment including “ <i>Whole of Site Vegetation Management Plan</i> ” prepared by RPS (V7) dated 10 February 2016 and “ <i>Bush Regeneration Works Plan</i> ” prepared by Tooligooa Rev 1.1 dated 11 February 2016	-	Johnson Property Group	11 February 2016
Additional Information and Amendment – including “ <i>Heritage Interpretation Plan for the Trinity Point Marina and Mixed Use Development</i> ” prepared by Terras Landscape Architects in collaboration with Insite Heritage Pty Ltd Revision B dated 20 February 2016	-	Johnson Property Group	22 February 2016
Additional Information and Amendment – “ <i>Whole of Site Landscape Concept Plan</i> ” prepared by Terras Landscape Architects Rev A dated February 2016	-	Johnson Property Group	26 February 2016
Additional Information – Amended Stormwater Management Report	-	Johnson Property Group	4 March 2016

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) Any amendments made by Council on the approved plans or documents;
- (ii) Any notes, markings, or stamps on approved plans or documents; and
- (iii) Any conditions contained in this consent.

### 3. Construction Certificate

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

**Note:** If the Construction Certificate is issued by a Principal Certifying Authority that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) EPA Regulation 2000).

#### **4. Occupation Certificate**

The development shall not be occupied or used prior to the issuing of a Final Occupation Certificate or Interim Occupation Certificate by the Principal Certifying Authority. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

#### **5. Stormwater Disposal and Harvesting**

The Stormwater Disposal and Harvesting system submitted with any Construction Certificate shall be generally in accordance with the amended Stormwater Management Report prepared by ADW Johnson Rev D dated 24 February 2016, and shall comply with the following:

- (a) Stormwater shall be disposed of through a piped system designed in accordance with Australian Standard AS 3500 by a suitably qualified professional. Qualifications shall be in accordance with Part DQS.06 of Council's Engineering Guidelines.
- (b) Stormwater harvesting measures shall be constructed and maintained in accordance with clause 2.5.4 of DCP 1 (and supporting guidelines). Stormwater drainage plans shall include details of the harvesting system (eg rainwater tank and pump details plus reticulation diagrams).

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first:

- (c) All drainage works shall be carried out generally in accordance with the approved Construction Certificate plans.
- (d) A Works As Executed Plan shall be submitted to the Principal Certifying Authority that shows any changes (in different colour) to the approved Construction Certificate plans and endorsed by a registered surveyor.
- (e) Certification by the engineer shall be submitted to the Principal Certifying Authority that any changes comply with the requirements (a) and (b) as shown above. Note: This may be shown on the Works As Executed Plan.

#### **6. Erosion and Sediment Control Plan**

Prior to the release of the first Construction Certificate or any works commencing onsite (including, but not limited to, demolition or vegetation clearing), the final Erosion and Sediment Control Plan (ESCP)/Soil and Water Management Plan (SWMP) shall be submitted to, and approved by, Council's Erosion and Sediment Control Officer. It shall comply with the following:

- (a) All information required for area of disturbance associated with the development in accordance with Council's DCP;
- (b) Show locations of erosion and sediment control measures for each stage including temporary and permanent controls, prior to demolition, during construction, prior to revegetation, landscaping or building, and the order in which they will be installed for the development and each stage to suit the activity occurring onsite at that time;
- (c) Assessment of the onsite soil type(s) including distribution, sediment type, erosion hazard,
- (d) Calculations for the sizing of any sediment traps (including excavated basins and temporary traps);

- (e) Details of the treatment of sediment-laden water captured in any sediment traps prior to its release from the site to meet Council's nominated water quality criteria for turbidity of less than 50mg/L, including proposed flocculants/coagulants and rates;
- (f) All erosion and sediment control measures shall be appropriate for the Sediment Type onsite;
- (g) Prior to the release offsite of any water (including, but not limited to, ground water, overland flow or rain water) captured onsite, the water shall be tested to ensure its Total Suspended Solids (TSS) level is less than or equal to 50mg/L. A sample of the water shall be retained onsite for inspection by Council or the Private Certifier. The sample shall be at least 250ml and kept in a clean, clear, plastic container. The date and time the sample was taken shall be recorded on the container.
- (h) Aluminium based flocculent products are not permitted to be used without prior written approval from an appropriate LMCC officer.
- (i) Captured water may be removed from site using other methods including, but not limited to, directly into a holding tank on a vacuum or sucker truck. It shall be deposited at an approved waste management facility.
- (j) Clear separation of clean and dirty water;
- (k) Temporary and permanent dust suppression measures on disturbed areas;
- (l) Inspection, maintenance and removal schedules for all erosion and sediment control measures; and
- (m) The applicant shall submit with the Plan, a Statement of Compliance, stating that:
  - The Plan has been developed by an appropriately qualified and experienced professional in erosion and sediment control;
  - The Plan complies with the requirements for the area of disturbance as per DCP 2014 and points (a) to (l) above;
  - The Plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of Total Suspended Solids (TSS); and
  - All erosion and sediment control measures are in accordance with Council's DCP 2014.

## **7. Geotechnical Report Compliance**

The recommendations of the Geotechnical Report No. CGS2221-003.0 prepared by Cardno Geotech Solutions dated February 2015 shall be complied with. Any works undertaken in relation to the development shall embody all the relevant recommendations of the Geotechnical Report.

Where the geotechnical report requires inspections, a geotechnical engineer shall inspect the works at the stages as specified in that report.

Prior to the issue of the first Construction Certificate, all construction and engineering plans shall be certified as being designed in accordance with the approved Geotechnical Report by a suitably qualified structural / civil engineer.

## **8. Fix Damage Caused by Construction Works**

Any damage or injury caused to a public road or associated structures including footpaths, drains, kerb and gutter and utility services caused as a consequence of the construction works shall be made good at the cost of the person with the benefit of the consent.



Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards to match finished adjoining kerb and gutter. All replacement works are to be completed to the satisfaction of Council prior to the issue of an Occupation Certificate at the cost of the person with the benefit of the consent.

## **9. Retention of Trees and Native Vegetation**

All native vegetation on the site shall be retained and protected unless it has been identified for removal on the approved plans or documentation.

All reasonable measures shall be undertaken to protect all other native vegetation on the site and on adjoining lands from damage during construction. Such measures shall include but not be limited to:

- (a) installing exclusion fencing around vegetation that adjoins the construction area to minimise damage to vegetation that is to be retained. Exclusion fencing shall be installed prior to the commencement of works and maintained in good working order for the duration of works. The person having the benefit of the consent shall notify Council's Development Planner Flora and Fauna when exclusion fencing has been installed;
- (b) keeping all vehicles, construction materials and refuse within areas approved for buildings, structures, access ways and car parks;
- (c) limiting the number of access points;
- (d) salvaging useable trees and shrubs which are felled for re-use, either in log form, or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps may only be disposed of at an approved site;
- (e) notifying all contractors, sub-contractors, and personnel of vegetation protection requirements of this condition.

## **10. Vegetation Management Plan and Implementation**

Pursuant to Term C9A of Concept Approval MP06\_0309 Mod 6, the whole of site Vegetation Management Plan (VMP) (v7 RPS February 2016) shall be implemented in stages across five (5) Vegetation Management Areas (VMA) over the course of the whole of site development under Concept Approval MP06\_0309 Mod 6.

The eastern and south-eastern Vegetation Management Areas (applicable to future development stages only) maintenance period identified in the whole of site VMP shall be extended to five years (as approved for the northern Vegetation Management Area), in order to *'be consistent with the Vegetation Management Plan Proposed Marina and Mixed Use Development on 71 Trinity Point Road, Morisset Park, prepared by RPS and dated September 2014'*.

Pursuant to Term C18 of Concept Approval MP06\_0309 Mod 6, the Bush Regeneration Works Plan shall also be extended to five years.

Implementation of the VMP in VMA stages applied across the whole of site development, shall be carried out in accordance with the VMP approved schedule of works. Annual Monitoring statements shall be provided to Council verifying compliance with the application stages of the VMP. Implementation of each VMA within the VMP may cease once outcomes of the VMP for that VMA have been met, the works schedule completed and approval for the completion of works has been obtained from Council.

### *Deferred Vegetation Management Area Actions*

A person qualified in natural vegetation management, ecology or bush regeneration shall update the VMP outlining vegetation management actions relating to Deferred Areas 1 and 2. The VMP shall be submitted to and approved by Council within six months of the

adoption of a site specific Plan of Management that applies to deferred areas 1 and 2. The works identified at that time by the VMP within deferred area 1 are to be implemented.

#### **11. Groundwater Dependent Ecosystems**

Prior to any works commencing the applicant shall confirm if there are groundwater dependant ecosystems (including for instance facultative groundwater dependant ecosystems) which may be opportunistically drawing on the shallow groundwater table at the site. If it is confirmed that there are groundwater dependant ecosystems at the site, then future development involving excavation is to provide details of how the water table and groundwater will be managed during and after construction. Particular details shall be provided regarding impacts to any endangered ecological communities (eg saltmarsh community) that rely on this water table and groundwater.

#### **12. Arboriculture and Tree Protection**

An appropriately qualified arborist (AQF Level 5) shall compile an arboricultural audit and tree protection plan. The audit and plan shall be lodged with and approved by Lake Macquarie City Council prior to any works commencing (including tree removal or vegetation disturbance) on the site.

All trees in close proximity (within ten metres) to any construction activity shall be identified on a site analysis plan, individually numbered (or as clump/grouping), and accompanied by a correlating tree schedule that shows species, trunk diameter, and approximate canopy spread (as a minimum).

#### **13. Management of Site - Erosion Prevention and Sediment Control**

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with DCP 2014 Guidelines – Erosion Prevention and Sediment Control Guidelines as soon as practical, and no later than the timeframes specified in Managing Urban Stormwater: Soils and Construction “The Blue Book” 4<sup>th</sup> Edition, Landcom, 2004.

#### **14. Topsoil and Stockpiles of Materials**

Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

Stockpiles of topsoil, sand, aggregate, spoil or other material stored on the site that is capable of being moved by running water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface. Suitable sediment and erosion control devices shall be installed prior to the stockpile being created. The stockpile shall be treated so its surface is erosion resistant to wind and water action. No stockpiles of topsoil, sand, aggregate, spoil or other material shall be located on the public footpath or road reserve.

#### **15. Acid Sulphate Management Plan**

The applicant shall arrange for the preparation by a geotechnical engineer of an Acid Sulphate Management Plan. The Plan shall be submitted to Council for approval prior to the issue of the first Construction Certificate. All works on site shall be undertaken in compliance with the recommendations of the approved Acid Sulphate Management Plan.

#### **16. Parking Areas and Access Ways**

All parking areas and access ways shall be designed, constructed, sealed and drained in accordance with the standards nominated in Council’s Development Control Plan 2014, Volume 1 and 2 Engineering Guidelines and the Australian Standard 2890. All parking areas and access ways, line marking and signage shall be completed prior to the issue of an Occupation Certificate for building containing and/or relying upon the relevant carparking and associated access ways.

## **17. Building Waste**

Prior to any construction work commencing, containment of building waste materials shall be provided within the boundaries of the building site, above natural or excavated ground level, by a screened area of silt stop fabric or shade cloth, having minimum dimensions of 2.4 x 2.4 x 1.2 metres high or equivalent size waste disposal bin.

The enclosure or bin shall be maintained for the term of the construction to the completion of the development.

The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the site.

Appropriate provision is to be made to prevent wind blown rubbish escaping from the containment.

## **18. Site Amenities**

Toilet facilities shall be available or provided at the work site before works begin and shall be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an approved on-site effluent disposal system under the Local Government Act 1993, or
- (c) be a temporary chemical closet.

## **19. Swimming Pool**

The pool safety barrier shall comply and be constructed in accordance with the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulation 2008* and Australian Standard AS-1926-2012.

A switchboard shall not be installed within or above the swimming pool zone or spa pool zone nor within a sauna, pursuant to AS 3000 - 2007 - Electrical Installations.

Swimming pool waste water shall be disposed to comply with the following:

### **Sewered Area**

Backwashing systems, emptying and waste water from vacuuming systems, shall discharge into the sewerage system in accordance with the Hunter Water Corporation requirements.

### **Unsewered Area**

A waste water management plan approved by the Principal Certifying Authority.

The swimming pool/spa water recirculation and filtration system installation shall comply with AS 1926.3-2003 Swimming pool safety - Water recirculation systems.

## **20. Noise - Construction Sites**

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the Department of Environment and Climate Change publication "Interim Construction Noise Guideline" July 2009.

### **Approved Construction Times**

The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

No construction work shall take place on Sundays or Public Holidays.

### **Construction Periods in Excess of 26 Weeks**

If the construction period is in excess of 26 weeks, a Noise Management Plan (NMP) shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area. The NMP shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

Operational times may be amended with the written advice of Council's General Manager or delegate.

### **21. Swimming Pool/Spa Motor and Pump**

All swimming pool plant shall be sited and/or sound insulated so as to minimise emission of noise to adjoining properties. No offensive noise (as defined by the *Protection of the Environment Operations Act 1997*) shall be emitted by swimming pool plant.

#### **Note:**

Under the provisions of the *Protection of the Environment Operations (Noise Control) Regulations 2000*, a person must not cause or permit a swimming pool or spa pump to be used on residential premises if noise is audible within a habitable room of any other residential premises regardless of whether any door or window to that room is open:

- (a) before 8am or after 8pm on any Sunday or public holiday;
- (b) before 7am or after 8pm on any other day.

### **22. Removal, Management and Transportation of Fill**

All excavated fill material that is to be removed from the site shall only be distributed to:

- (a) A NSW Office of Environment and Heritage licensed waste disposal facility. A copy of the receipts from the waste disposal facility shall be kept and shall be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer of Council upon request; or
- (b) A site which has a current development consent for the importation of fill material. A copy of the current development consent for the site to which the material is proposed to be distributed must be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer upon request.

All removed excavated material shall be transported and disposed of in accordance with the NSW Office of Environment and Heritage guidelines applicable at the time of removal.

### **23. Dust Suppression**

During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment.

Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Principal Certifying Authority.

#### **24. Dial Before You Dig**

Prior to commencement of work, the free national community service “Dial Before You Dig” shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.



#### **25. Noise – Entertainment**

The operating noise level of the functions and entertainment provided on the premises shall comply with the following:

- (a) The LA10 noise level emitted from the premises shall not exceed the LA90 background noise level in any octave band frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and midnight at the boundary of any affected residential premises external to the site.
- (b) The LA10 noise level emitted from the premises shall not exceed the LA90 background noise level in any octave band frequency (31.5Hz - 8kHz inclusive) between midnight and 7:00am at the boundary of any affected residential premises.

Notwithstanding compliance with the above, the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of midnight and 7:00am.

For the purpose of this condition, the LA10 is taken as the average maximum deflection of the noise emission from the premises.

A 5dB penalty shall be provided for any noise with a low frequency component between 31.5Hz and 250Hz.

#### **26. Noise – Ongoing Operation of Machinery, Plant and Equipment**

The Laeq (15 minute) operating noise level of machinery, plant and equipment when measured at the boundary of the nearest residential premises shall comply with either the amenity or intrusiveness criteria calculated in accordance with the Industrial Noise Policy published by the EPA. For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, certification from a suitably qualified acoustic consultant shall be submitted to the Principal Certifying Authority, demonstrating compliance with the above.

#### **27. Noise- entertainment in outdoor areas**

Amplified music or the use of amplified equipment in outdoor areas including marquees is not permitted at any time.

Formal use of the lawn area/ marquee on lawn area is limited to 7am to 6pm on all days.



## **28. Acoustic Certification**

The recommendations contained in the acoustic report prepared by The Acoustic Group dated 22 August 2014 shall be incorporated into the design and construction of the development.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure compliance with any acoustic conditions.

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, a certificate shall be provided to the Principal Certifying Authority from a suitably qualified acoustic consultant certifying that the works have been completed in accordance with their requirements and the development or proposed use is capable of operating in accordance with the design criteria.

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify that the development is operating, at that time, in accordance with the approved acoustic report.

## **29. Construction Site Vibration**

Vibration on surrounding land from construction site operations shall comply with the Department of Environment and Conservation publication "Assessing Vibration: a technical guideline" February 2006.

## **30. Bunded Spillage Areas**

Chemicals stored in bulk form, or work areas where spillages are likely to occur, shall be bunded in accordance with the *NSW Office of Environment and Heritage Protection Manual – "Bunding and Spill Management."*

## **31. Construction and Fit-out of Food Premises**

### **(a) General Construction**

The fit-out of areas used for food preparation, storage or display, shall comply with the requirements of the *Food Act 2003*, *Food Regulation 2010*, and *Australian Standard AS4674 "Design, construction and fit-out of food premises"*.

Note: Particular attention should be paid to:

- Routing of plumbing & electrical conduit
- Installation of hand wash basins and cleaners sinks
- Construction of floors, walls and ceilings
- Finishes of floors, walls and ceilings
- Cool room construction
- Installation of fixtures fittings and equipment
- Toilet facilities and airlocks
- Installation of light fittings
- Installation of floor wastes
- Ventilation and exhaust systems

### **(b) Plans and Specifications**

Any application for the first construction certificate shall be accompanied by plans and specification demonstrating compliance with the Food Act and Regulations, and relevant Australian Standards.

### **(c) Mechanical Ventilation**

Installation of any mechanical ventilation system(s) shall comply with the provisions of Part 2 of the Australian Standard AS1668.

**(d) Partition Wall Construction**

Any partition wall (that do not extend to the ceiling), sills or other ledges located within food preparation areas shall be splayed on top at an angle of 45 degrees to prevent storage of articles and reveal build-up of food waste, dirt, grease or other visible matter.

**(e) Waste Traps**

Any bucket traps, grease traps and associated sewer connections shall be installed in accordance with the requirements of Hunter Water Corporation.

**32. Certification of Food Premises Fit-out**

Prior to the issue of any Occupation Certificate the food premises shall be inspected by an appropriately qualified person who shall certify that the premises, including the construction and installation of all equipment, fixtures, fittings and finishes therein, complies with the *Food Act 2003*, *Food Regulation 2010*, and *Australian Standard AS 4674 "Design, construction and fit-out of food premises"*.

**33. Construction and Operation**

Any premises used for the purpose of skin penetration activities is to be constructed and operated in accordance with the "Guidelines for the Construction and Operation of Hairdressing, Beauty Therapy and Skin Penetration Premises" prepared by the Hunter Regional Health Education Committee, 2007.

**Roads And Drainage Construction Works**

**34. Roadways and Drainage Works Standards**

The Applicant shall arrange for all works within a public road reserve to be designed and constructed in accordance with the following publications (as amended or updated), as applicable:-

- a. Australian Rainfall and Runoff, 1987.
- b. AUSTROADS Guide To Traffic Engineering Practice.
- c. Council's DCP and supporting guidelines.
- d. Roads and Traffic Authority Road Design Guide.
- e. Roads and Traffic Authority Interim Guide To Signs and Markings.
- f. Managing Urban Stormwater documents (2004) by Landcom.
- g. The Constructed Wetlands Manual - Department of Land and Water Conservation, 1998.
- h. WSUD Technical Design Guidelines for South East Queensland
- i. Healthy Waterways – Water by Design Guidelines
- j. Subdivision Code
- k. Australian Standards including, but not limited to:-
  - AS1428 - Design for Access and Mobility, Part 1 General Requirements for Access and Part 4 Tactile Indicators,
  - AS2890 - Off Street Parking

Where any inconsistency exists between these documents the Applicant shall verify in writing with Council, the relevant standard to be adopted.

### **35. Details Required Prior to Commencement of Works in a Public Road**

Construction works in a Public Road in accordance with this development consent shall not commence until:-

- (a) detailed engineering plans and specifications (including a Design Certification Report and Checklists in accordance with the Lake Macquarie City Council Engineering Guidelines) relating to the work have been endorsed with a **Construction Certificate** by :-
  - (i) Council, or
  - (ii) an appropriately Accredited certifier accredited in accordance with the Building Professionals Board Accreditation Scheme, and
- (b) the person having the benefit of the development consent:-
  - (i) has appointed a Principal Certifying Authority, and
  - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment, and
- (c) the person having the benefit of the development consent has given at least two (2) days notice to Council of the intention to commence works.

In accordance with Council's authority under Section 138 of The Roads Act 1993, a Private Certifier shall not issue a Construction Certificate for any works within an existing public road unless Lake Macquarie City Council has issued an approval for the works under section 138 of the Roads Act 1993.

A fee for applications for Construction Certificates will be required to be paid in accordance with Council's fees and charges for Construction Certificates.

### **36. Construction of Kerb and Gutter and Associated Works**

The Applicant shall construct a new local roundabout in Trinity Point Drive, including kerb and gutter and associated road pavement, road shoulders and footpaving including drainage and adjustment to existing constructions in accordance with the provisions of the publications and standards identified in this consent.

Any land required to accommodate the roundabout and road verges shall be dedicated to Council at no cost, prior to the issue of the first Occupation Certificate.

No works shall commence on site prior to the issue of a **Construction Certificate**.

### **37. Pavement Standards**

Residential road pavements shall be designed in accordance with "A Guide To The Design Of New Pavements For Light Traffic" - AUSTRROADS 1998. Main and Industrial road pavements are to be designed in accordance with "Pavement Design, A Guide to the Structural Design of Road Pavements" - AUSTRROADS 1992. Designs for road pavements shall be submitted to and approved by the Council or a Private Certifier prior to road pavements being constructed. Where work is to be undertaken within a classified Main Road the pavement design shall also be submitted to the Roads and Traffic Authority for its approval prior to the commencement of works.

### **38. Traffic Control Standards**

For the duration of work being carried out as part of this development, the Applicant shall ensure that traffic control is undertaken in accordance with the requirements of Australian Standards AS 1742 - Manual Uniform Traffic Control Services – Parts 1, 2 and 3.

### 39. Notification to Neighbours

Written notification shall be given by the Applicant to landowners and residents who live adjacent to the proposed development or who may be affected by the proposed works. The notification should include the expected date of commencement of works and a brief description of the works.

### 40. Haulage Routes

The Applicant shall submit to Council, in writing, details of the proposed haulage routes to be used during construction works. These details must be submitted a minimum of seven days before the commencement of haulage operations. No haulage operations shall take place prior to the approval of the routes by Council. The haulage routes shall not be varied without the approval of Council.

The Applicant shall maintain and restore the haulage route roads, as near as possible, to their original condition.

### 41. Notice of Commencement of Works

Construction works shall not commence until a meeting between the contractor and a representative of the Principal Certifying Authority (PCA) has taken place on site.

In accordance with Section 81A(4) the PCA must be given at least two days notice in writing prior to such meeting taking place.

The notice shall also include the names of the contractor undertaking construction and the developer's supervising officer.

### 42. Works as Executed Plan

An electronic copy of the Works as Executed Plans, certified by the Consulting Civil Engineer supervising the works or the Registered Surveyor in charge and certified by the Principal Certifying Authority, shall be supplied to the Council. Where applicable a Registered Surveyor's Certificate certifying that all pipes have been laid within the easements shown on the Final Plan of Subdivision shall also be submitted. The Works as Executed Plan shall, in addition to construction details, show limits and depths of filling, locations of service conduits and street names.

Note that a works as executed plan plotted on film will only be accepted where the original engineering design was hand drawn and not drafted using CAD software.

### 43. Compliance Certificate for Works

The Applicant shall obtain and submit a **Compliance Certificate/s** to certify that all construction works and associated development have been constructed in accordance with this Development Consent, the **Construction Certificate** and all other standards specified in this consent.

An application for the Compliance Certificate and associated application fees shall be submitted prior to the commencement of works identified on the respective Construction Certificate.

**Where Council is the Principal Certifying Authority for a subdivision an application for a Compliance Certificate can only be made to Lake Macquarie City Council.**

### 44. Application Fees for Required Certificates

The Applicant shall obtain any certificates as required to satisfy the conditions of this Consent.

For Council to process applications for these certificates the following fees would be payable:

**Construction Certificate**      **\$ 1,400.00**   Plus **\$50** Archival Fee      (inc GST)

**Compliance Certificate**      **\$ 1,600.00**   Plus **\$50** Archival Fee      (inc GST)

Applications for these certificates should be lodged on the approved application form and accompanied by the appropriate fee.

Where the development includes construction works valued at \$25,000.00 or more, the applicant must pay the Long Service Levy, as detailed in the Building and Construction Industry Long Service Payments Scheme. The Levy must be paid prior to the issue of the Construction Certificate. The Levy may be paid directly to the Long Service Payments Corporation or to Council as agent for the Corporation. The Levy rate is 0.35% of the cost of building and construction works.

**The above application fees are subject to change each financial year without notice and confirmation should be obtained from Council prior to the lodgement of any application.**

#### **45. Social Impact Management Plan**

Prior to the issue of the first Occupation Certificate, a Social Impact Management Plan shall be lodged with and approved by Lake Macquarie City Council. The management plan shall address, but not be limited to:

- Opportunities for social linkages between the development and the existing community;
- Measures to encourage interaction of the residents within the Concept Approved development in order to assist with building a sense of community and social capital; and
- Mechanisms by which either residents of the Concept Approved development, or other residents/local community/tourists are able to raise concerns, and how these will be addressed.

#### **46. Tactile Indicators**

The development shall have tactile indicators installed in accordance with AS 1428.4.

**Note:** The areas of the development to have tactile indicators installed are varied and include kerb ramps and footpaths along the street frontage; carpark pedestrian crossings (street frontage and internal); lifts; stairways and ramps.

#### **47. Crime Prevention Through Environmental Design**

The recommendations of the Crime Prevention Report by Harris Crime Prevention Services dated September 2014 as lodged with the development application shall be observed and implemented.

#### **48. Aboriginal and Historic Heritage Interpretation Devices**

Pursuant to term C22B of Concept Approval MP06\_0309 Mod 6, interpretation devices as referenced in the endorsed AHHIP known as "*Heritage Interpretation Plan for the Trinity Point Marina and Mixed Use Development*" prepared by Terras Landscape Architects in collaboration with Insite Heritage Pty Ltd Revision B dated 20 February 2016 shall be installed prior to the issue of any relevant Occupation Certificate for buildings or landscaping on land where an interpretive device is identified within the Plan.

#### **49. Disability Access Requirements**

The building shall be erected in accordance with the Accessibility Audit Report prepared by City Plan Services dated January 2016.



Prior to the issue of the first Construction Certificate documentation shall be lodged with and approved by the Principal Certifying Authority demonstrating the following:

- Access for people with disabilities will be provided from the building(s) to kerb ramps and footpaths along the street frontage, by means of a continuous path of travel in accordance with Australian Standard AS 1428.1.
- The four designated accessible hotel rooms will comply with AS 4299 in terms of circulation space and doorway widths.
- A continuous path of travel from the entry to car park and building entry will be compliant with AS1428.1.
- Designated accessible parking bays will comply with AS 2890.6.
- Unisex accessible toilet and shower facilities located in the public areas will comply with AS 1428.1
- A continuous path of travel to the pool side will be provided in accordance with AS 1428.1. In addition, under the Access to Premises- Building Standards accessible pool entry will be provided for pools with a perimeter of more than 70 metres.
- Consideration has been given to a range of seating in the pool area for older people and people with a disability.

**Note:** Additional legislation exists to promote the provision of services, which enable people with a disability to maximise their potential, further their integration in the community and achieve positive outcomes.

The following legislation may be relevant:

- The NSW Disability Services Act 1993
- The Commonwealth Disability Discrimination Act 1992
- NSW Anti Discrimination Act 1977.

For further information please consult:

- Human Rights and Equal Opportunity Commission
- NSW Anti Discrimination Board.

## **50. Disability Access Design Audit**

A disability access design audit which has been certified by an accredited access consultant shall be submitted, certifying the development's compliance with the Building Code of Australia and the Disability Discrimination Act 1992 in relation to the provision of equity in access for disabled persons.

This certification shall be submitted to the Principal Certifying Authority with the application for a Construction Certificate.

### **Note:**

- (a) Compliance with the Building Code of Australia only, can still leave a building professional or building owner in contravention of the Disability Discrimination Act 1992.
- (b) The Association of Consultants in Access Aust Inc at [www.access.asn.au](http://www.access.asn.au) may be able to provide further information.

## **51. Bus Route and Public Transport Infrastructure**

Following the completion of Trinity Point Drive at Henry Road, Bus Route 279 will be able to be amended subject to final approval from the Ministry of Transport.

The bus route is to follow the routes outlined below, and bus stops are to be provided in the following locations:

Bus route:

- From Lakeview Road, turn left into Trinity Point Drive, continue to Henry Road, Charles Avenue, and return to Morisset Park Road.
- From Morisset Park Road, turn right into Charles Avenue, continue into Henry Road, Trinity Point Drive and return to Lakeview Road.

The kerb extensions on Trinity Point Drive at the intersection of Lakeview Street for a left turning bus (from Lakeview Street into Trinity Point Drive) may require alteration to allow a bus as part of the bus route to turn left from Lakeview Road into Trinity Point Drive.

The trees and tree-guards located in Trinity Point Drive between Lakeview Road and Edgewater Drive are required to be altered to allow a 6.2 metre wide road carriageway with 2.3 metre wide parking lane on each side. It is recommended that the tree-guards on the southern side of the road be narrowed, and on the northern side of the road either be narrowed or have the trees installed in the footpath area.

Bus stops:

Bus stops are to be provided at a maximum distance of 400 metres. The following locations, shown in the plan below are recommended and subject to design and consultation by the applicant:

- Trinity Point Drive west of Edgewater Drive, and opposite – provide concrete pad and Tactile Ground Surface Indicators (TGSI's).
- Trinity Point Drive at the proposed bus bay at the Marina access roundabout, and on the northern approach of Trinity Point Drive adjacent to the Marina access roundabout – provide concrete pad, bus seat and Tactile Ground Surface Indicators (TGSI's).
- Trinity Point Drive at the south-eastern bend, on both sides of the road – provide concrete pad and Tactile Ground Surface Indicators (TGSI's).
- Trinity Point Drive at Sundial Drive / Henry Road intersection – provide concrete pad and Tactile Ground Surface Indicators (TGSI's).
- Charles Avenue south of Morisset Park Road / Trinity Point Drive intersection and opposite – provide concrete Bus Shelter pads installed in accordance with LMCC Standard Drawing EGSD-801.



All bus infrastructure is to be provided in consultation with Council's Asset Management section.

An approval under s138 of the Roads Act 1993 shall be obtained from Council prior to the issue of any Subdivision Construction Certificate for these works.

## **52. Public Access**

Pursuant to Term C26 of Concept Approval 06\_0309 Mod 6, all pedestrian through-site links, perimeter pathways and nominated open space areas shall be made publicly accessible.

Prior to the issue of any interim or final Occupation Certificate, the creation of a legal right of access for the public over the above areas, and ensuring those areas are managed and maintained to a high standard by future owners, shall be lodged with and approved by Council.

## **53. Aboriginal Heritage Impact Permits (AHIPs)**

Aboriginal Heritage Impact Permits (AHIPs) shall be obtained and supported by the approved Cultural Heritage Management Plan. The AHIP application shall be consistent with the Cultural Heritage Management Plan and the Heritage Interpretation Policy for the entire site.

Required AHIPs shall be obtained prior to the commencement of any works.

## **54. Excavation – Non Indigenous Relics**

Should any relics be suspected or discovered then all excavations or disturbance to the area shall cease immediately and the Heritage Council of NSW shall be notified in accordance with Section 146 of the *Heritage Act 1977*.

All necessary approvals shall be obtained from the Heritage Council of NSW and copies provided to Council prior to works recommencing.

## **55. Excavation – Aboriginal Relics**

Should any Aboriginal relics be discovered then all excavations or disturbance to the area shall cease immediately and the NSW Office of Environment and Heritage shall be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*.

All necessary approvals from the NSW Office of Environment and Heritage shall be obtained and a copy provided to Council prior to works recommencing.

## **56. Noise Control Management Plan**

An Noise Control Management Plan shall be prepared by a qualified acoustic consultant for the marquee/ lawn area and all entertainment areas for this development. Such Plan shall address noise control measures to limit impacts of acoustic disturbance from the marquee and entertainment areas of the development on residential land uses both on the site and any existing residential land uses remote from the site.

The Noise Management Plan shall be submitted to and approved by Lake Macquarie City Council prior to the issue of the first Occupation Certificate relating to those areas.

## **57. Roads and Maritime Services**

Pursuant to Term C7 of Concept Approval MP06\_0309 and advice from the Roads and Maritime Services dated 20 May 2015, the developer/applicant shall enter into an agreement with Roads and Maritime Services to pay a contribution of \$764,494 (inclusive of GST) towards the cost of the future upgrade of the Fishery Point Road / Macquarie Street intersection.

Such agreement shall be executed prior to the issue of the first Occupation Certificate (interim or final) for tourist / short stay accommodation on the site.

Such agreement shall incorporate details of staged payment of the contribution that will be linked to the staged development of the residential apartments and short stay accommodation.

The contribution shall be indexed quarterly in accordance with the *NSW Road and Bridge Construction Index*.

## **58. Hours of Operation**

Following commencement of occupation, the premises shall operate or trade only between the times stated as follows:

### **Hotel**

No restriction

### **Day Spa**

No restriction

### **Commercial Premises**

No restriction

### **Shops**

No restriction

### **Café**

Mondays to Sundays 7:00am to 10:00pm

### **Restaurant, Bar and Function Centre**

Mondays to Sundays 7:00am to midnight (limit of entertainment and sale of liquor) with all patrons leaving by 1:00am

### **Marquee and Adjacent Lawn Area**

Mondays to Sunday 7:00am to 6:00pm

### **Loading and unloading**

Notwithstanding the above hours of operation, the servicing of the site by trucks, vans or other service vehicles with items and services such as garbage collection, laundry, food and drink, etc, shall only be undertaken between the hours of 7:00am to 6:00pm Monday to Sunday.

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

## **59. Use of Accommodation for Tourist Purposes**

Pursuant to Term C4 of Concept Approval MP06\_0309 Mod 6, the use of the tourist accommodation units shall be for short stay tourist accommodation purposes only.

No tourist accommodation rooms or units shall be occupied by the same person for more than 42 consecutive days, or in aggregate no more than 150 days in any 12 month period.

All identified tourist accommodation shall not be used for permanent residential occupation.

## 60. Lighting

Any lighting shall be installed to ensure minimal glare and light spill onto adjoining properties, reserves, roadways or Lake Macquarie itself. Lighting shall comply with Australian Standard AS4282-1997.

## 61. Landscaping

Landscaping shall be implemented/installed in accordance with the approved landscape plans and documentation.

All landscape works shall be carried out by members of Landscape NSW & ACT Master Landscapers Association and implemented under the supervision of an appropriately qualified landscape contractor until the Landscape Compliance Report is received by the Principal Certifying Authority (see below).

Landscaping shall conform to landscaping and typical minimum planting densities 'once mature' comprising shrubs at a minimum 1 plant/m<sup>2</sup> and groundcovers/low planting at a minimum 2 plants/m<sup>2</sup> pending species selected within all nominated open areas dedicated to planting.

Nominated Street Trees addressing the street or public road reserve shall be planted at minimum 75L pot size.

Prior to the issue of any interim or final Occupation Certificate and at the completion of landscape works, the landscape consultant who prepared the documentation shall submit to the Principal Certifying Authority a Landscape Compliance Report that establishes satisfactory completion of the landscaping works approved by this consent.

All landscaping shall be permanently maintained in good condition in accordance with the adopted DCP 2014 Guidelines – Landscape Design Guidelines.

## 62. Car Parking and Allocation of Spaces

A total of 187 car parking spaces shall be constructed on the site in accordance with the minimum requirements of the Australian Standard AS/NZS 2890 as current at the time of construction, and maintained on the land in accordance with the approved plans inclusive of a temporary overflow parking area of 23 spaces.

The spaces shall be allocated in the following proportions:

Use	Number of spaces
Hotel	65
Hotel Staff	6
Shops	8
Commercial	1
Dining including café	22
Function Centre	85
<b>Total</b>	<b>187</b>

The car parking spaces shall be identified on-site by line marking and shall be numbered (other than for temporary overflow parking area and porte cochere). The car parking provided shall only be used in conjunction with the uses contained within the development and except as provided for in these conditions and shall not be used other than by an occupant or tenant of the development.

The required disabled car parking spaces (minimum 4 of the 187 spaces) shall be clearly marked and signposted for the sole use by disabled persons.



All car parking spaces, line marking and signage shall be completed prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first.

**Note:** The provision of parking and allocation for the dining and function centre may be reduced where separate development consents provide for additional on site parking provision.

### **63. Mine Subsidence Board**

The development shall be erected and maintained in accordance with the provisions of a permit obtained and issued by the Mine Subsidence Board. In this regard:

- 1 Prior to the commencement of detailed design, the Proponent must submit a Mine Subsidence Impact Statement (MSIS) to the satisfaction of the Mine Subsidence Board (MSB), which demonstrates how the impact of mine subsidence will be managed. The MSIS shall identify:
  - (a) mine subsidence design parameters adopted;
  - (b) the main building elements and finishes
  - (c) the outcomes of a mine subsidence risk assessment of building elements;
  - (d) mine subsidence mitigation measures proposed for each building element; and
  - (e) comment on the sensitivity of the design to greater levels of mine subsidence.
- 2 The Proponent shall ensure that on the completion of any structural works, certification by a qualified structural engineer is forwarded to the MSB, that all improvements have been constructed in accordance with plans approved by the MSB.
- 3 Development shall be designed for the following mine subsidence parameters:
  - (a) Development on land below RL 2.0 AHD:
    - (i) maximum vertical subsidence = 50 mm;
    - (ii) maximum ground strains = +/- 1 mm/m;
    - (iii) maximum tilt = 1 mm/m; and
    - (iv) maximum radius of curvature – 10 km
  - (b) Development on land above RL 2.0 AHD:
    - (i) maximum vertical subsidence = 150 mm;
    - (ii) maximum ground strains = +/- 2 mm/m;
    - (iii) maximum tilt = 2 mm/m; and
    - (iv) maximum radius of curvature – 5 km
  - (c) Development over the water including the marina:
    - (i) maximum vertical subsidence = 400 mm;
    - (ii) maximum ground strains = +/- 4 mm/m;
    - (iii) maximum tilt = 7 mm/m; and
    - (iv) maximum radius of curvature – 2.5 km.

#### **64. Flood Mitigation – Basement**

- a. The development shall include provision for emergency egress from the basement carpark in case of flooding including emergency lighting and directional signs;
- b. The development shall include pump-out provisions for the basement car park that can operate under conditions of total submersion such as sump and pump and/or infrastructure and access to support portable pump(s);
- c. All plant, electrical circuits, switching, etc in the basement carpark shall be sealed to prevent water entry. Any plant necessary to maintain essential functions such as building access, lighting, fire control systems, and emergency warning systems should be located above 2.36m AHD or sealed against flood water up to a level of 2.36m AHD.

#### **65. Planning for Bushfire Protection**

The development shall be erected and maintained in accordance with the provisions of Planning for Bushfire Protection 2006.

Specific regard shall be undertaken with the design of the building in accordance with AS3959-2009 'Construction of Buildings within Bushfire Prone Areas'.

#### **66. Landscaping Construction and Public Land/Domain Certification**

The applicant shall submit a separate Public Domain Construction Certificate for all landscape works within the public domain at each stage as applicable, for both road reserve or public reserve lands. This Construction Certificate application for public works shall be designed accordance with the following:

- It shall be in accordance with the approved plans and documentation and fully integrated with civil, traffic and stormwater engineering requirements.
- It shall be prepared and produced by a consultant that meets the requirements of the Lake Macquarie Development Control Plan 2014.
- It shall specify the standard set of hold/witness points to be arranged with Council during the construction period for all public works. These are:

##### **Associated Witness & Hold Points**

##### Street Trees

- Set out of tree pits (witness point).
- Excavation of tree pits with root barrier and sub-surface drainage installed in accordance with LMCC's *Landscape Standard Drawings – Street Tree Details* (hold point).
- Evidence of certification of all associated imported topsoil for street tree planting in accordance with AS4419 – 2003 to be provided to Councils Project Management Coordinator (hold point).
- Tree delivery prior to installation and certification to comply with AS2303-2015 '*Tree Stock for Landscape Use*' (hold point).
- Commencement of tree planting (witness point).
- Completion of tree planting, including installation of any guards, feature panels / grates in accordance with LMCC's *Landscape Standard Drawings* (witness point).
- Installation of each layer/horizon of growing medium (witness point).

##### Hardscape Works

- Clarification on site of setout points and any trenching for services (hold point)
- Form work inspection (hold point)

- Pre pour inspections for pavement and pathways (hold point)
- Completion of works and installation of furniture and TGSI's as approved (witness point)
- Review of works as executed with LMCC's Project Management Coordinator prior to completion report sign off (hold point).

The Landscape Consultant that prepared the Landscape Construction Plans and Specification shall submit two *Landscape Maintenance Reports* to LMCC at 26 weeks and 52 weeks after practical completion, that certify that at 26 and 52 weeks after practical completion, the approved public domain works are being satisfactorily maintained.

Landscape works shall conform to planting densities comprising shrubs at nominated spacings in all open areas dedicated to planting. A hard garden retaining edge to all planting areas adjoining lawn surfaces shall be implemented and all planted areas covered with minimum 100mm mulch to aid plant establishment.

Prior to the issue of any interim or final Occupation Certificate and at the completion of landscape works, the landscape consultant who prepared the documentation shall submit to Council a Landscape Compliance Report that establishes satisfactory completion of the landscaping works approved by this consent. Such Landscape Compliance report shall be approved by Council prior to the issue of any interim or final Occupation Certificate.

All landscaping shall be permanently maintained in good condition in accordance with the adopted DCP 2014 Guidelines – Landscape Design Guidelines

#### **67. Operation of Marquee**

The marquee and adjacent lawn area shall be operated as a temporary use only and shall not be permanently erected on the site.

Amplified music or the use of amplified equipment in the marquee is not permitted at any time.

Formal use of the lawn area/ marquee on lawn area is limited to 7:00am to 6:00pm on all days.

The marquee shall be erected no earlier than midday on the day before it's intended use.

The marquee shall be dismantled and removed from the site no later than midday on the day after it's use.

#### **68. Bushfire Risk Management**

Prior to the release of the first construction certificate for any tourist or visitor accommodation, a Bushfire Safety Authority, where relevant, shall be obtained for those works in accordance with Section 100B of the Rural Fires Act 1997.

All building and landscaping on the site shall comply with the Principles of Appendix 5 of *Planning for Bushfire Protection 2006*.

#### **69. Parking Management Strategy**

Prior to the issue of the first interim or final Occupation Certificate, a Parking Management Strategy shall be provided to Council in accordance with Term C7 of Concept Approval 06\_0309 MOD 6.

Such Parking Management Strategy shall address the full operation of the approved development during peak periods of use, for all land uses on the site including the marina, tourism hospitality, serviced apartments and residential apartments.

## **70. Public Access**

Pursuant to Term C26 of Concept Approval 06\_0309, all pedestrian through-site links, perimeter pathways and nominated open space areas shall be made publicly accessible.

Prior to the issue of any interim or final Occupation Certificate, the creation of a legal right of access for the public over the above areas, and ensuring those areas are managed and maintained to a high standard by future owners, shall be lodged with and approved by Council.

## **71. Public Reserve Management**

The development and management of public land to which this consent relates shall not be inconsistent with the Plan of Management applying to that public land.

## **72. Contribution to Provision of Public Amenities and Services (Sec. 94)**

- (a) In accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and the Lake Macquarie City Council Development Contributions Plan 2012 - Morisset Contributions Catchment, the monetary contributions in the attached Contributions Schedule must be paid to Council for the purposes identified in that Schedule.

Note: If section 94 contributions for DA/496/2015 have been paid in full to Council, the local roads levy "M13 – Roads – Capital – R004 & R-005 – CPI" as detailed in the Contributions Schedule can be reduced by \$28,786.59, indexed in accordance with the indexation provisions detailed in (b) below, which is equivalent to 20 vehicle trips.

- (b) From the date this determination is made until payment, the amounts of the contributions payable under the preceding clause will be indexed and adjusted at the close of business on:

14 August,  
14 November,  
14 February, and  
14 May;

in each year in accordance with indexation provisions within the Contributions Plan. The first date for indexation will occur on the first abovementioned date after the Notice of Determination becomes effective.

- (c) The contributions payable will be the amounts last indexed and adjusted in accordance with Clause (b) above. However, if no amount has been indexed and adjusted because the first date for indexation and adjustment has not arrived, the contributions payable shall be those in clause (a) above.
- (d) The contributions shall be paid to Council as follows:
- Development Applications involving subdivision – prior to the release of the Subdivision Certificate;
  - Development Applications involving building work – prior to the release of the first Construction Certificate;
  - Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first;
  - Development Applications where no Construction Certificate or Subdivision Certificate is required – prior to the commencement of any construction work or prior to any occupation, whichever occurs first;

- Complying Development Certificates - prior to any work authorised by the application or certificate commencing.

**It is the professional responsibility of the Principle Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above provisions.**

Please note that payments made by cheque or electronic transfer - the release of any documentation will be subject to the clearing of those funds.

Indexation details are available from Council's Community Planning Department.

A copy of the Lake Macquarie City Council Development Contributions Plan 2012 - Morisset Contributions Catchment may be viewed on Council's website, or a copy is available for inspection at the Council's Administrative Building during Council's ordinary office hours at 126-138 Main Road, Speers Point, NSW.

## **CONTRIBUTION FEE SCHEDULE**

<b>DESCRIPTION</b>	<b>FEE AMOUNT</b>
M13-Open Space & Recreation Facilities-Capital-CPI	\$271,884.81
M13-Open Space & Recreation Facilities-Land-LVI	\$59,195.06
M13-Roads-Capital-R004 & R005-CPI	\$257,471.53
M13-Public Transport Facilities-CPI	\$5,468.71
M13-Plan Preparation & Administration-CPI	\$20,993.10
	<b>TOTAL \$615,013.21</b>