**Appendix B – Stage 2 Marina Trinity Point –** **Secretary's Environmental Assessment Requirements (SEARs) Assessment**

| **SEAR 1378 – Stage 2 Marina and Associated Works including 94 Berths** | | |
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| **Item** | **Requirement** | **Council comment** |
| **General requirements** | The Environmental Impact Statement (EIS) must meet the minimum form and content requirements in clauses 6 and 7 of Schedule 2 of the *Environmental* *Planning and Assessment Regulation 2000.* | Since the applicant obtained the SEARs the *Environmental Planning and Assessment Regulation 2000* has been repealed. The new *Environmental Planning and Assessment Regulation 2021* commenced 1 March 2022.  Clauses 6 and 7 (now Clause 190 and 192) have been satisfactorily addressed. |
| **Key issues** | The EIS must include an assessment of all potential impacts of the proposed development on the existing environment (including cumulative impacts if necessary) and develop appropriate measures to avoid, minimise, mitigate and/or manage these potential impacts. As part of the EIS assessment, the following matters must also be addressed: | |
| **Strategic context** | - a detailed justification for the proposal and suitability of the site for the development  - a demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCPs), or justification for any inconsistencies  - a demonstration that the proposal is consistent with the terms of approval of Concept Plan MP06\_0309, its subsequent modifications and the conditions of approval set out in Parts B and C of Schedule 2  − a list of any approvals that must be obtained under any other Act or law before the development may lawfully be carried out  − a description of how the proposed expansion integrates with existing onsite operations  − a description of any additional licence(s) or approval(s) required to carry out the proposed development. | * Section 10.0 of the EIS has provided a satisfactory justification for the proposal and suitability of the site for the development. * Section 5.5 and 5.8 of the EIS has satisfactorily addressed how the proposal is consistent with the relevant planning strategies. Section 5.6 and 5.7 of the EIS has satisfactorily addressed how the proposal is consistent with the relevant environmental planning instruments and development control plans. * The applicant has not provided a table assessment against the Concept Approval terms however has addressed the relevant terms of the approval throughout the EIS and submitted appendices. An assessment of the proposal against the Concept Approval terms has been carried out by Council and found to be consistent. * Section 8.0 of the EIS satisfactorily addresses the list of approvals required to be obtained. * The submitted EIS makes reference to a significant effort being made in the design and development of the proposal to ensure stage 2 of the marina integrates with stage 1. Council are satisfied due consideration has been made to integrate stage 2 with stage 1. This is evident throughout the EIS and assessment against relevant Concept Approval terms. * Section 8.0 of the EIS satisfactorily addresses the list of approvals required to be obtained.   Council are satisfied that strategic context considerations have been suitably addressed. |
| **Community and stakeholder engagement** | - a detailed community and stakeholder participation strategy which identifies who in the community has been consulted and a justification for their selection, other stakeholders consulted and the form(s) of the consultation, including a justification for this approach  - a report on the results of the implementation of the strategy including issues raised by the community and surrounding occupiers and landowners that may be impacted by the proposal  - details of how issues raised during community and stakeholder consultation have been addressed and whether they have resulted in changes to the proposal  - details of the proposed approach to future community and stakeholder engagement based on the results of the consultation. | Section 6.0 of the EIS satisfactorily addresses consultation and identification of issues.  A Community and Agency Engagement Report prepared by SECNewgate Engage dated February 2022 has been submitted which details the various community consultation methods undertaken and associated dates.  The submitted Community and Agency Engagement Report satisfactorily demonstrates community consultation has been undertaken in accordance with this requirement. |
| **Marine safety and navigation** | − an assessment of the impacts on water-based traffic and the existing users of Lake Macquarie in the vicinity of the proposed marina expansion  − details of private boat moorings surrounding the site and an assessment of the impact of the construction and operation of the marina on these moorings. | Section 7.2 and Appendix I of the EIS satisfactorily address the impacts on water-based traffic and existing users of Lake Macquarie.  Section 7.2 and Appendix I of the EIS satisfactorily address details of private boat moorings and provides assessment of impact on these moorings. |
| **Biodiversity** | - accurate predictions of any vegetation clearing, including marine vegetation  - a detailed assessment of the potential impacts on any critical habitats, protected species, threatened species, populations, endangered ecological communities or their habitats  - a biodiversity assessment in accordance with the former Office of Environment and Heritage guidelines  - an aquatic habitat assessment in accordance with Department of Primary Industries guidelines  - a detailed description of the measures to avoid, minimise, mitigate and offset biodiversity impacts. | The submitted Marina Ecology Assessment Report in Appendix J recognises the five points under biodiversity to be addressed for the SEARs and provides the following:   * No marine vegetation is required to be disturbed by stage 2 of the marina; and * The assessment builds on a substantial body of aquatic ecology studies previously undertaken by Marine Pollution Research including:   + Aquatic Ecology Investigations Report September 2014 (prepared as part of the Stage 1 marina EIS); and   + Marine ecology monitoring programs to meet Concept Approval conditions (C13 and C14) and Stage 1 (DA/1503/2014/D) approval conditions (46 and 50), titled Construction Aquatic Ecology Report and Stage 1 Operational Phase, Aquatic Ecology Monitoring Report (MPR 2021a, b).   The final surveys for the stage 1 operational phase report were undertaken in May 2021. Following this, the applicant requested MPR undertake an additional survey of the marine ecology of the site in November 2021 to update the status of the present marine ecology for consideration in the stage 2 marina EIS (this is outlined in Section 4.6 of this EIS).  Section 7.3 of the EIS demonstrates each of the staged works under stage 2 of the marina and the subsequent considerations made towards potential impacts to habitats and seagrass beds.  It is considered the points under biodiversity have been suitably addressed as noted above and the submitted Marina Ecology Assessment Report in Appendix J. |
| **Water resources** | - details of any licensing requirements or other approvals under the *Water Act 1912* and/or *Water Management Act 2000*  - an assessment of potential impacts on floodplain and stormwater management and any impact to flooding in the catchment  - a description of the measures proposed to ensure the development operate in accordance with the requirements of any relevant Water Sharing Plan or water source embargo. | The submitted Impact Assessment for Soil and Water, Flooding and Coastal Erosion in Appendix K of the EIS recognises and addressed the points listed under this SEAR.  The submitted impact assessment has noted licensing requirements or other approvals under the *Water Act 1912* and/or *Water Management Act 2000* are not relevant as the development does not propose to draw on or impact any existing water resources.  The submitted impact assessment notes the proposed development has been assessed against flood constraints in the Stormwater and Flood Risk Management Plan. The assessment finds that as the marina is a floating structure, it is not envisaged there will be any changes to the flooding outcomes from stage 2 of the marina. The recommendation for flood mitigation measures are identical to those specified for stage 1 of the marina being pile cap level design life.  It is considered that the points under water resources have been suitably addressed. |
| **Contamination** | - a detailed assessment of the extent and nature of any contamination of the soil, groundwater and marine sediments. | Section 4.9.2 of the EIS confirms a contamination assessment, audit and validation was completed with the Concept Approval. A further geotechnical review completed at Appendix R confirms no further contamination assessment (in relation to soil) is necessary for stage 2.  Section 4.8.3 of the EIS notes groundwater was encountered at depths as shallow as 0.4m within the land based portion of the site. There are no proposed excavations works within the land based component.  Section 7.4.3 of the EIS addresses marine sediment for the construction stage and operational stage. In relation to the construction stage, it was noted sediments may be mobilised by the proposed piling operation, and re-distribution on the lake bed. While there is some evidence of minor sediment disturbance during piling, sediment monitoring from stage 1 did not show any evidence of lake bed sediment contamination. During the construction phase there is also opportunity for oil and fuel spills in and around the marina due to construction plant operating from a barge. Monitoring as part of stage 1 also confirmed there was no indication of oil and fuel contamination.  Operational potential impacts relate to oil and fuel spills, production of oily waste, bilge waste and sewage, as well as copper paint on boat hulls.  The following mitigation measures to the abovementioned marina sediment contamination is as follows:  *• No anthropogenic material or waste shall be disposed of into Lake Macquarie;*  *• All waste shall be taken to a suitable land-based waste disposal facility; and*  *• As per the Concept Approval (06-0309) Condition C13, a monitoring program was implemented for Stage 1 to analyse the contaminant levels in the bed sediments of the proposed Marina. A further sediment quality monitoring program is recommended to be developed and implemented prior to construction and operation of the Stage 2 development.*  It is considered contamination has been suitably addressed. The recommendations for mitigation measures are included in draft conditions. |
| **Noise and vibration** | - a description of all potential noise and vibration sources during construction and operation, including road traffic noise  - a noise and vibration assessment in accordance with the relevant Environment Protection Authority guidelines  - a description and appraisal of noise and vibration mitigation and monitoring measures. | A Noise and Vibration Impact Assessment has been submitted under Appendix L of the EIS. The assessment notes there will be no significant land-based noise emissions. The only potential for noise from stage 2 comes from the pile-driving during construction.  A suitable noise and vibration assessment has been provided within Appendix L of the EIS. Similarly to the Construction Environmental Management Plan undertaken with stage 1, stage 2 will implement very similar content and methodology. A condition of consent requiring an updated Construction Environmental Management Plan, including construction noise management, prior to Construction Certificate is included in draft conditions of consent.  Suitable appraisal of noise and vibration mitigation and monitoring measures have been provided within Appendix L of the EIS. The same mitigation measures applied through the Construction Environmental Management Plan for dtage 1 of the marina will also apply to stage 2. Additional requirements for consideration and mitigation measures will be conditioned to be included within a revised Construction Environmental Management Plan. |
| **Waste management** | - details of waste handling including, transport, identification, receipt, stockpiling and quality control including off-site reuse and disposal  - the measures that would be implemented to ensure that the proposed development is consistent with the aims, objectives and guidelines in the *NSW Waste Avoidance and Resource Recovery Strategy 2014-21.* | Suitable information has been provided during the assessment of the application to confirm waste handling arrangements are satisfactory for stage 2 of the marina, both operationally and during construction. |
| **Air quality** | - a description of all potential sources of air and odour emissions  - an air quality impact assessment in accordance with relevant Environment Protection Authority guidelines  - a description and appraisal of air quality impact mitigation and monitoring measures. | An Air Quality and Odour Assessment has been prepared by SLR Consulting and attached at Appendix N of the EIS. The assessment has suitably addressed all potential sources of air and odour emissions for the construction phase and operational phase.  Potential sources during construction includesfugitive dust emissions and products of combustion. Potential sources during operation include emissions of products of combustion from operational road traffic, vessels entering and leaving the marina, emission of Volatile Organic Compounds (VOCs) from fuel delivery, storage and dispensing and emission of odour from the operation of sewage pump-out facilities. Further details of the potential sources are provided under Section 7.7 of the EIS.  A suitable air quality impact assessment against the potential sources listed in the above section has been provided in Section 7.7 and Appendix N of the EIS.  Table 12 under Section 7.1.5 of the air quality assessment lists recommended mitigation measures for the following activities:   * Communications * Site management * Monitoring * Preparing and maintaining the site * Operating vehicle/machinery and sustainable travel * Operations * Waste management * Construction * Trackout.   Council consider the points under air quality have been suitably addressed. |
| **Traffic and transport** | - details of road transport routes and access to the site  - road traffic predictions for the development during construction and operation  - an assessment of impacts to the safety and function of the road network and the details of any road upgrades required for the development. | Access to the site is provided from Trinity Point Drive, which by extension of Morisset Park Road and Fishery Point Road, adjoins Macquarie Street in Morisset.  Section 4.1 of the Traffic Impact Assessment submitted under Appendix O of the EIS notes trip generation survey data of comparable marina sites has been used to estimate the number of vehicle trips expected to be associated with the stage 2 of the marina development. The estimates have been taken from Port Macquarie Marina and Soldiers Point Marina. Stage 1 of the marina was unable to be surveyed due to COVID-19 lockdowns. Key findings are as follows:   * Peak operational days typically occur Friday, Saturday and Sunday. * Trip variance over the survey period indicates Saturday is the busiest period. * Data indicates the morning and afternoon peak periods for marina differ from typical commuter road network peak periods. Marina peak periods are as indicated in the below extract:     Road network peaks have been identified as:   * AM peak period: 8:15am to 9:15am * PM peak period: 3.00pm to 4.00pm.   The additional 94 berths in stage 2 are expected to generate around 11 vehicle trips per hour and 6 vehicle trips per hour in the AM and PM road network peak periods, respectively. On average, this equates to one vehicle trip every five minutes across the peak hour. On the weekends, the development is expected to generate in the order of 24-26 trips per hour. Equivalently, this would result in one vehicle trip every 2-3 minutes.  The above assessment relates to operational traffic impacts only. Construction impacts are minimal as the construction compound will be located at Rathmines Park with transport of materials to occur by use of a barge on the water.  Based on the above assessment for operational traffic, the proposal would result in a negligible impact on the surrounding road network safety and performance. No road upgrades will be required as part of stage 2.  Council consider the points under traffic and transport have been suitably addressed. |
| **Visual** | * including an impact assessment at private receptors and public vantage points. | A Visual Impact Assessment has been submitted under Appendix P of the EIS. The assessment has been undertaken from the below list of private receptors and public points:    An aerial map with corresponding legend for the above points is provided under Section 6 of the submitted Visual Impact Assessment.  A detailed assessment of view impacts and evaluation criteria from each of the abovementioned viewpoints has been satisfactorily addressed within the assessment.  Council consider the points under visual impact has been suitably addressed. |
| **Environmental Planning Instruments and other policies** | The EIS must assess the proposal against the relevant environmental planning instruments, including but not limited to:  • *State Environmental Planning Policy (Infrastructure) 2007*  *• State Environmental Planning Policy (Coastal Management) 2018*  *• State Environmental Planning Policy No 19–Bushland in Urban Areas*  *• State Environmental Planning Policy No 33–Hazardous and Offensive Development*  *• State Environmental Planning Policy No 55–Remediation of Land*  *• Lake Macquarie Local Environmental Plan 2014*  • relevant development control plans and section 7.11 plans. | New consolidated SEPPs commenced March 1 2022 with no saving provisions applied to the SEPPs required to be addressed. The consolidated SEPPs result in the following applicable SEPPs:  *State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously State Environmental Planning Policy No 19 – Bushland in Urban Areas)*  This SEPP is not considered applicable as all works are water-based. No land-based works where tree removal is required is being proposed.  *State Environmental Planning Policy (Resilience and Hazards) 2021 (previously State Environmental Planning Policy (Coastal Management) 2018, State Environmental Planning Policy 33 – Hazardous and Offensive Development, State Environmental Planning Policy 55 – Remediation of Land)*  A detailed assessment against the previous Coastal Management SEPP and SEPP No. 33 have been provided within the EIS. The EIS states stage 2 of the marina will not result in adverse impacts relating to the coastal values of the subject site and surrounding area. It is considered this is supported by the environmental/aquatic monitoring undertaker as part of stage 1 construction and ongoing operation. The EIS also states a revised SEPP No. 33 report is not required given the nature of the works retaining the existing underground fuel tanks and reorientating the wharf with fuel facilities. The EIS notes prior to construction activity to reorient the fuel wharf, a work method statement will be prepared. This will include procedures to drain and cap fuel lines prior to disconnecting and re-orientation of the fuel pontoon.  The EIS also notes management measures from stage 1 that will be applied to stage 2. The requirement for a work method statement and management measures are included in draft conditions of consent.  *State Environmental Planning Policy (Transport and Infrastructure) 2021 (previously State Environmental Planning Policy (Infrastructure) 2007)*  The proposal does not trigger traffic generating development. There are no other applicable items under this SEPP. |
| **Guidelines** | During the preparation of the EIS you should consult the Department’s Register of Development Assessment Guidelines which is available on the Department’s website at planning.nsw.gov.au under Development Proposals/Register of Development Assessment Guidelines. Whilst not exhaustive, this Register contains some of the guidelines, policies, and plans that must be taken into account in the environmental assessment of the proposed development. | This EIS has been prepared with consideration given to the Department’s Guideline for Marinas and Related Facilities. |
| **Consultation** | During the preparation of the EIS, you must consult the relevant local, State and Commonwealth government authorities, service providers and community groups, and address any issues they may raise in the EIS. In particular, you should consult with the:  • Environment Protection Authority  • Transport - Roads and Maritime Services  • Department of Planning, Environment and Industry – Biodiversity and Conservation Division (former Office of Environment and Heritage)  • Department of Primary Industries  • WaterNSW  • Rural Fire Service  • Lake Macquarie Council  • the surrounding landowners and occupiers that are likely to be impacted by the proposal.  Details of the consultation carried out and issues raised must be included in the EIS. | The applicant has provided sufficient evidence within the Community and Agency Engagement Report submitted under Appendix Q of the EIS that consultation has been undertaken in accordance with the SEARs.  Details of the listed agency stakeholders requirements for consideration are provided below.   * Transport – Roads and Maritime Services – condition to comply with requirements * NSW Environmental Protection Agency – condition to comply with requirements * NSW Department of Primary Industries – condition to comply with requirements * Department of Planning, Industry & Environment – condition to comply with requirements * NSW Rural Fire Services - no requirements * Water NSW/NRAR - no requirements.   In relation to community consultation, it is understood that the following members of the community were consulted with:    The methods of communication to all stakeholders included a community newsletter (distributed to 4,340 mailboxes in the adjoining suburbs according to the submitted report), website link with a frequently asked questions page and contact details, community correspondence to close neighbours, phone calls to the neighbouring groups, door knocking, hosting a community information morning, hosting a marina information evening and direct correspondence with the Morisset Park District Action Group.  Council consider that sufficient evidence surrounding community and agency stakeholder consultation has been provided within the Community and Agency Engagement Report. |
| **Further consultation after 2 Years** | If you do not lodge an application under Section 4.12(8) of the *Environmental Planning and Assessment Act 1979* within 2 years of the issue date of these SEARs,you must consult with the Planning Secretary in relation to any further requirementsfor lodgement. | The submitted revised SEARs (1378) was granted 7 July 2021, within the 2 year timeframe. |