



16 December 2022

NSW DEPARTMENT OF PLANNING & ENVIRONMENT
PO Box 1226
NEWCASTLE NSW 2300

Dear Sir/Madam

Subject: Trinity Point Mixed Use Development (SSD-27028161)
69C, 81 & 85 Trinity Point Drive, Morisset Park

Thank you for the opportunity to comment on the proposed Trinity Point Mixed Use Development.

In reviewing the Environmental Impact Statement (EIS) and supporting documentation, Council are generally supportive of the proposed concept subject to consideration of several items as outlined below.

Department of Planning and Environment (the Department) is requested to give due consideration to the following matters in the assessment and determination of the concept development application.

State Environmental Planning Policy No. 65

Any future application for a residential flat building will be subject to the consent authority's Design Review Panel and will require detailed assessment of the Apartment Design Guide (ADG) pursuant to *State Environmental Planning Policy No. 65*. Any approval issued for the concept should include conditions relating to any future development applications for residential flat buildings being substantially the same to the built form envelope under any concept approval issued. Substantially the same is to be determined by the consent authority. This is to ensure the detailed assessments of residential flat buildings can be undertaken and minor tweaks made should it be required to ensure amenity outcomes can be achieved.

Planning Proposal

A Planning Proposal has been lodged with Lake Macquarie City Council (Council) which seeks to align the *Lake Macquarie Local Environmental Plan 2014* (LMLEP 2014) with what is being proposed under this State Significant Development (SSD) concept development application.

Council recognise that consent for SSD applications may be granted despite the development being partly prohibited by an environmental planning instrument. Notwithstanding, the concept approval sought under Division 4.4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) will be subject to separate development applications. Should the concept approval be granted prior to the Planning Proposal being adopted, it is encouraged that the proponent withhold lodgement of a development application until such a time the Planning Proposal is adopted.

Essential Services

The proposed concept plan differs from the original concept plan approved for Trinity Point, seeking to further intensify use of the area. Consideration in this early planning stage should be made as to whether the existing services for water supply, electricity supply, sewer management and vehicle access is sufficient to service the proposed increased capacity at the site. The supply of electricity is specifically highlighted given the increased demand for electric vehicle charging points and likely requirement for these charging points to service the future residential flat buildings and hotel. Any future development applications will be required to demonstrate that the essential services have capacity to service future development.

Economic Impact

Council provided a submission response to the SEARs with further considerations that should be made at the EIS stage. In relation to economic impact Council had originally raised that the economic analysis supporting the EIS should address the economic feasibility of the proposal, particularly in relation to the proposed staging to ensure the intended mixed-use tourism and residential outcomes can be achieved. It is recognised that justification for the staging (being Stage 1- Residential, Stage 2 - Hotel, Stage 3 - Remaining Hotel and Residential) has been provided within the submitted EIS however the justification has not been supported by the submitted Economic Impact Assessment (EIA).

Evidence that supports the proposed staging plan should be requested from the proponent. The reason for this is due to the primary use of the area purposed for tourism and the ancillary use of the area purposed for residential accommodation. Following review of this evidence, the Department should seek to require staging of the development which brings forward delivery of the non-residential components as soon as feasible. In doing so, this will ensure the tourist-oriented objectives and identified benefits are delivered for the Lake Macquarie and broader regional economy.

For context, Council's Local Strategic Planning Statement identifies Trinity Point as 'tourism opportunity', specifically highlighting the following objective for the site:

"Trinity Point is developed into a significant tourism asset, supporting a growing visitor economy including conference facilities, restaurants and a marina"

Traffic

An updated Traffic Impact Assessment (TIA) was submitted as part of the Planning Proposal (RZ/14/2021) but has not been submitted as part of this application. The TIA submitted with this application (SSD/2/2022/A) has errors which have been corrected by the updated TIA. It is recommended the updated TIA be requested for consideration if this document is to inform or form part of the concept plan approval.

The applicant has indicated within the EIS that Trinity Point Drive is to be widened by an additional 2 metres which includes a 1.5 metre footpath. Due to the scale of the development it is recommended that this section include 3 metre wide footpath/ shared path to cater for the expected residents and visitors. The application has not indicated how the widening of Trinity Point Drive is to be achieved or whether any consultation with the residents being impacted has occurred. Investigation of the impact on existing residence and whether there is a major loss in amenity such as loss of on-street parking and landscaping should be considered.

The submitted TIA presents both Charles Avenue and Henry Road as being utilised for trip distribution. Both Charles Avenue and Henry Road are substandard and will require upgrading.

It is noted that there is a shared path around the lake side of the development that connects to the southern end of the site. A shared path is required along Trinity Point Drive (southern section) / Henry Road and Charles Avenue to connect to the shared path proposed on Morisset Park Road. This is to support the proposed development as it is expected that the development would be the starting or ending point for the majority of active transport users.

Environmental Management

For the purposes of concept plan approval, the proposal is considered satisfactory in terms of contamination. Notwithstanding, any future development applications will be required to address and confirm the suitability of the site for the intended uses. Future development applications will be subject to conditions of consent for excavation works/construction works to be carried out in accordance with recommendations of the report completed by the qualified contamination consultant.

The submitted Acoustic Assessment provides assessment for 24 hours, 7 days a week, operation. The submitted report includes an assessment against the liquor and gaming criteria. This assessment states that only entertainment/music noise emissions are included in this criteria. Patron noise has been assessed against an intrusive noise criteria.

Any future development application will require a Cumulative Noise assessment inclusive of patron noise is undertaken against the Liquor and Gaming criteria. Future development applications will also require a cumulative assessment of all noise sources occurring from the site, being, mechanical plant, restaurant patron noise, live music, vehicles and helicopter. Council recognise that the helicopter component sits under a separate approval however for the purposes of understanding worst case noise impact scenario and creating a noise management plan for the site as a whole, it is considered the cumulative assessment to be beneficial. Council request this be

submitted with Stage 1 of the proposal as overall noise impacts are required to be considered for the acoustic treatment of the residential flat buildings.

Social Impact

Council provided a submission response to the SEARs with further considerations that should be made at the EIS stage. In relation to social impact it was noted that the Social Impact Assessment (SIA) should consider how the proposed residential buildings and private communal space provide a sense of community and interaction amongst residents.

The submitted SIA supporting the EIS makes comment that the development will provide a range of facilities for the onsite apartments residents, including a swimming pool, poolside amenities and open spaces. The submitted plans do not appear to provide a separate resident pool however the submitted Urban Design Report details residential communal spaces. There is a reference in the Urban Design Report noting that the residential communal spaces will include fenced private areas with BBQ's, picnic settings, shelter and turfed areas for recreation. This is supported by Council. Any future applications for the development of the residential components will be subject to the ADG and requirements for communal open space.

Flora & Fauna

The application proposes to remove a small number of scattered trees and undertake development directly adjoining a council reserve containing Endangered Ecological Communities (EEC) including protected mangroves and saltmarshes.

Lot 32 is owned by Council and managed under an adopted Plan of Management (POM) which includes native vegetation and sits within 'natural area' management zones where existing vegetation is to be protected and enhanced.

The vegetation on site contains threatened species habitats, including foraging habitat, large remnant trees (greater than 50cm DBH), roosting habitat within hollow bearing trees and partial connectivity to local native vegetation.

The BC Act requires that an SSD application must be accompanied by a biodiversity development assessment report (BDAR) unless it is determined that the proposed development is not likely to have any significant impact on biodiversity values. Council recognise that a BDAR waiver has been submitted.

An approved Vegetation Management Plan (VMP) over Council's reserve (Lot 32 DP 1117408) as required by the existing Concept Approval (MP 06_0309) is proposed to be integrated into the new State Significant Development (SSD) project.

The current VMP is not considered sufficient to protect adjoining sensitive areas and achieve the required outcomes presented. It is recommended that a new updated VMP be prepared to rehabilitate, revegetate, manage and protect biodiversity values across the entirety of the council reserve. The updated VMP is requested to:

- Be brought into alignment with the new concept plans;
- Consider the current condition of the site;

- Be prepared in accordance with the Lake Macquarie DRAFT VMP Guidelines 2019;
- All land contained within the Plan of Management (POM) being Lot 32 DP 1117408, Lot 409 DP 1139690 and Lot 105 DP 1090979 is to be incorporated into the updated VMP;
- Ongoing management actions are increased from a 2-year to 10-year period to ensure required aims and outcomes are realised throughout the likely development timeframe for the site; and
- A cash bond or bank guarantee is to be set and held to ensure satisfactory site condition and completion of works and at the end of the VMP. The recommended cash bond condition is as follows:

Prior to commencement of works

1. Bond

A cash bond or bank guarantee will be calculated and set by council and calculated at the estimated VMP implementation cost. For in perpetuity bond payments, the DPIE Total Deposit Fund calculator under the Biodiversity Conservation Act 2016 will be used. The cash bond or bank guarantee will be paid or lodged with Council before the associated development commences i.e. when a Construction Certificate (CC) is issued. The bond will be returned or retained by Council based upon final inspection confirming satisfactory site condition and completion of works and at the end of the VMP, as specified in a Planning Agreement, Development Consent or Activity approval. Staged release of bonds may be considered (e.g. if 50 per cent of total works are completed to Council's satisfaction, a refund representing those works may be considered)

Landscape

The design of the building containing landscaping coverage provides potential for crime and safety impacts, namely opportunities to climb the side of the building to access balconies. Subsequently, there is also opportunity to fall whilst climbing. Consideration should be made in relation to the treatment of the landscaped building coverage and 'climb ability'. The end design should ensure that the proposed landscaped building cannot be climbable and not a potential element to invite crime or safety risk to the site.

Foreshore Erosion

Ongoing monitoring together with stabilisation of the foreshore is recommended to assess and mitigate the increased risk plus impact of erosion from the proposed development. The development will create an increased use of maritime vehicles along the lake and increased foreshore pedestrian movements that will expedite foreshore erosion. The erosion will directly impact current Endangered Ecological Communities, public land and proposed public assets. It is recommended that an Erosion Management Plan be prepared to obtain a sound technical understanding of the physical coastal processes at the site, determine sustainable erosion management strategies and preserve coastal values. Monitoring of the foreshore should be

undertaken every two years. This should be submitted to the Department to demonstrate a sufficient plan in place to monitor the foreshore and actions to mitigate erosion. The Erosion Management Plan and ongoing monitoring evidence will be required to be submitted to Council with every development application relating to the concept plan. Upon completion of all development proposed under the concept plan, it is expected that ongoing monitoring will continue throughout the lifespan of the development asset. This is to ensure the longevity of the foreshore be retained and the development amongst the public land and pedestrian pathways be protected.

Heritage (Aboriginal)

There are no objections to the proposal on Aboriginal heritage grounds.

The existing Aboriginal Cultural Heritage Management Plan (ACHMP) should be updated, as per the recommendations in the submitted report.

The Mitigation Measures included in the EIS are in accordance with the heritage report and should be considered as conditions.

The Designing with Country approach to the proposal and the resulting changes to the heritage interpretation strategy have been noted. The updated Heritage Interpretation Strategy plans in the Landscape Masterplan are acknowledged and supported.

Flooding

Future development applications will be required to consider sea level rise impacts to the development specific to a 100-year timeframe from the time of lodgement, and identify any mitigation and management measures. Council support the use of alternative and innovative development solutions such as resilient housing designs.

Accessibility

An access audit is required for any future Development Applications to demonstrate how the new proposed plans ensures non-discriminatory access and use for the common areas and also the adaptable dwellings have been designed to meet the essential features listed in Appendix A of AS 4299. For proposals with more than 10 dwellings, one adaptable dwelling must be provided for every 10.

For dwellings that are for tourism accommodation one accessible dwelling must be provided for every 10 dwellings.

The Disability Access Audit must be prepared by an accredited access consultant.

Council Consultation

The submitted EIS refers to the viewing platform encroaching on Council land. Any works encroaching Council land will require consultation to obtain consent prior to the works being undertaken.

Thank you once again for the opportunity to provide comments. Should you require further information, please contact the undersigned on 0436 939 136 or by e-mail on nsellen@lakemac.nsw.gov.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'nsellen', written in a cursive style.

Nicole Sellen
Senior Development Planner
Development Assessment and Certification