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**Section 75W Modification (MP 06\_0309)  
MOD 3**

**Preferred Project Report**

**Proposed Trinity Point Helipad**

**Property:**

Pt Reserve 10121129 Crown Land (Lake Macquarie)  
Adjoins Part Lot 32 DP 1117408

Adjoins No 71 Trinity Point Drive,  
Trinity Point, Morisset Park

**Applicant:**

Johnson Property Group Pty Ltd

**Date:**

April 2018

# Document Control Sheet

Issue No.	Amendment	Date	Prepared By	Checked By
A	Draft	24 April 2018	MR	SH
B	Final	27 April 2018	MR	SH

## Limitations Statement

This report has been prepared in accordance with and for the purposes outlined in the scope of services agreed between ADW Johnson Pty Ltd and the Client. It has been prepared based on the information supplied by the Client, as well as investigation undertaken by ADW Johnson and the sub-consultants engaged by the Client for the project.

Unless otherwise specified in this report, information and advice received from external parties during the course of this project was not independently verified. However, any such information was, in our opinion, deemed to be current and relevant prior to its use. Whilst all reasonable skill, diligence and care have been taken to provide accurate information and appropriate recommendations, it is not warranted or guaranteed and no responsibility or liability for any information, opinion or commentary contained herein or for any consequences of its use will be accepted by ADW Johnson or by any person involved in the preparation of this assessment and report.

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# Table of Contents

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<b>1.0</b>	<b>INTRODUCTION .....</b>	<b>4</b>
1.1	BACKGROUND & PREFERRED PROJECT REPORT OVERVIEW .....	4
1.2	STRUCTURE OF REPORT .....	5
<b>2.0</b>	<b>RESPONSE TO GOVERNMENT AUTHORITY SUBMISSIONS.....</b>	<b>6</b>
2.1	AUSTRALIAN GOVERNMENT DEPARTMENT OF ENVIRONMENT & ENERGY .....	6
2.2	NSW OFFICE OF ENVIRONMENT & HERITAGE.....	8
2.3	NSW ENVIRONMENT PROTECTION AUTHORITY .....	15
2.4	TRANSPORT FOR NSW .....	15
2.5	NSW DPI AGRICULTURE .....	15
2.6	LAKE MACQUARIE CITY COUNCIL.....	16
2.6.1	<i>LMCC Acoustic Comments.....</i>	<i>16</i>
2.6.2	<i>LMCC Social Impact Assessment Comments.....</i>	<i>17</i>
2.6.3	<i>LMCC Strategic Planning Comments.....</i>	<i>21</i>
2.6.4	<i>LMCC Flora &amp; Fauna Comments .....</i>	<i>23</i>
2.6.5	<i>LMCC Community Land Comments .....</i>	<i>23</i>
<b>3.0</b>	<b>RESPONSE TO PUBLIC SUBMISSIONS.....</b>	<b>25</b>
<b>4.0</b>	<b>JUSTIFICATION .....</b>	<b>27</b>
<b>5.0</b>	<b>HELIPAD IN COASTAL LOCATION.....</b>	<b>30</b>
<b>6.0</b>	<b>CONCLUSION.....</b>	<b>32</b>

## APPENDIX A

GOVERNMENT AUTHORITY SUBMISSIONS

## APPENDIX B

RESPONSE TO ACOUSTIC MATTERS RAISED BY LMCC

## APPENDIX C

RESPONSE TO PUBLIC SUBMISSIONS

## APPENDIX D

ADDENDUM TO AQUATIC & TERRESTRIAL ECOLOGICAL ASSESSMENT – MJD  
ENVIRONMENTAL

## APPENDIX E

REVISED ACOUSTIC ASSESSMENT – THE ACOUSTIC GROUP

## APPENDIX F

REVISED SOCIAL IMPACT ASSESSMENT AND COMMUNITY AND DRAFT STAKEHOLDER  
ENGAGEMENT PLAN – KEY INSIGHTS

## APPENDIX G

CONSULTATION LOG – POST EA LODGEMENT (NOVEMBER 2016 - PRESENT)

# 1.0 Introduction

## 1.1 BACKGROUND & PREFERRED PROJECT REPORT OVERVIEW

On 28 October 2016 an Environmental Assessment Report (EA) prepared by ADW Johnson Pty Ltd was submitted to the NSW Department of Planning & Environment (DPE) in support of a Section 75W modification application (MOD 3) for the addition of a helipad to Concept Approval 06\_0309 for the Trinity Point marina and mixed use development. The MOD 3 application was lodged by the proponent, Johnson Property Group Pty Ltd (JPG).

MOD 3 was publicly exhibited from 17 November 2016 to 20 January 2017. Exhibition was originally scheduled to conclude on 16 December 2016 however this was extended to 20 January 2017 by the NSW DPE.

The following was received by the NSW DPE during the exhibition period:

- Six (6) government agency submissions; and
- Public submissions as follows:
  - Organisation Supporters - One (1) letter of support from Tourism Accommodation Australia.
  - Individual Supporters – Eleven (11) letters of support were received.
  - Group Objections – Six (6) group submissions were received. Submissions were made by Morisset Park & District Action Group (two submissions including one that provided over 200 individual objections that compromised of a signed standard proforma objection); Sunshine Progress Association; Community Environment Network; Mannering Park Progress Association; and Brightwaters Christian College.
  - Individual Objections – 357 individual people objected to the proposal (ie. individuals who made more than 1 submission were counted once).
  - Greg Piper MP for Lake Macquarie – One (1) letter of objection was received by the NSW DPE from Mr Piper.

This Preferred Project Report (PPR) has been prepared to respond to the government authority and public submissions received.

The proponent has reviewed the authority and public submissions received and determined that there is no matter raised that necessitates a need to modify the proposal as detailed within the EA. Accordingly, all elements of the proposal remain entirely the same as that outlined within Section 3.0 of the EA.

Notwithstanding, where required to appropriately respond to authority or public comments, JPG have commissioned the services of expert consultants to amend or provide an addendum to their reporting that formed part of the EA. This has taken some time to complete and in this regard, the following is noted:

- An addendum to the Aquatic and Terrestrial Ecology Assessment prepared by MJD Environmental Pty Ltd (that forms Appendix F of the EA) has been prepared in response to commentary received from the NSW Office of Environment and Heritage as well as a number of public submissions, particularly in relation to the assessment of potential impact on shore and sea birds. The addendum is provided within **Appendix D** of this PPR;

- A revised Social Impact Assessment (SIA) prepared by Key Insights Pty Ltd has been prepared in response to commentary from Lake Macquarie City Council and public submissions, in particular regarding stakeholder engagement. The revised SIA is provided in **Appendix F** of this PPR; and
- A revised Acoustic Assessment prepared by The Acoustic Group has been prepared in response to commentary from Lake Macquarie City Council. LMCC supported the methodology, results and recommendations of the acoustic assessment as lodged with the EA; the revised acoustic assessment has been produced to correct nominal typing errors identified by Council. The revised assessment is provided in **Appendix E** of this PPR.

## 1.2 STRUCTURE OF REPORT

This report has been prepared as a Preferred Project Report (PPR). The format is as follows:

- Chapter 1 provides an introduction to the PPR;
- Chapter 2 and **Appendix B** (relevant to LMCC acoustic comments) provides a response to the Government Authority submissions and also details the addendum to the Aquatic & Terrestrial Impact Assessment, the revised Social Impact Assessment and the revised Acoustic Assessment;
- Chapter 3 and **Appendix C** provide a detailed response to the public submissions;
- Chapter 4 provides a summary justification for the modification;
- Chapter 5 provides a response to consideration of the proposal within the coastal environment; and
- Chapter 6 provides a conclusion.

The report is also supported by appendices as outlined.

## 2.0 Response to Government Authority Submissions

Public exhibition of the EA occurred between the 17<sup>th</sup> of November 2016 to the 20<sup>th</sup> January 2017. During this time six (6) authority submissions were received as follows:

- Australian Government Department of Environment and Energy;
- NSW Office of Environment and Heritage;
- NSW Environment Protection Authority;
- Transport for NSW;
- NSW DPI Agriculture; and
- Lake Macquarie City Council.

A copy of each of the authority submissions is provided within **Appendix A** of this PPR.

Each of the authority submissions are addressed below.

### 2.1 AUSTRALIAN GOVERNMENT DEPARTMENT OF ENVIRONMENT & ENERGY

The correspondence from the Department of Environment & Energy was issued to inform JPG of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and identify how it may apply to the proposed helipad. The correspondence also made reference to the Trinity Point marina however it should be noted that assessment of all ecological matters relevant to the marina occurred separately in the ecological reporting that accompanied the Environmental Impact Statement for Development Consent 1503/2014 (issued by Lake Macquarie City Council).

The correspondence identified the following Matters of National Environmental Significance (MNES) which the department advises are relevant for consideration and known to occur in the area (among others):

#### Birds

- Critically endangered Curlew Sandpiper (*Calidris ferruginea*).

#### Reptiles

- Endangered Loggerhead Turtle (*Caretta caretta*); and
- Leatherback Turtle, Leathery Turtle (*Dermochelys coriacea*).

Appendix F of the EA provided an Aquatic & Terrestrial Ecology Assessment that included an assessment of all potential MNES in relation to the proposed helipad. It is noted that consideration of any MNES was also a requirement of the SEARs for the MOD 3 project. The assessment confirmed that it was unlikely that the proposal would have any impact on any MNES.

Notwithstanding, and as detailed in **Section 2.2** below, upon review of the Aquatic & Terrestrial Ecology Assessment, the NSW Office of Environment & Heritage (OEH) identified that in their opinion the assessment did not adequately assess threatened species with respect to impact assessment and survey requirements associated with threatened birds. Accordingly, an addendum Ecological Assessment has been prepared by MJD Environmental Pty Ltd to address the NSW OEH commentary. This addendum ecological

assessment included the completion of field surveys within the study area with the methodology confirmed in consultation with NSW OEH. The addendum assessment is provided in full in **Appendix D** of this PPR. The assessment considers all potential MNES and confirms that the proposal is unlikely to impact on any MNES.

Specifically in relation to the three (3) species identified within the Department of Environment & Energy's letter, the following is noted from the addendum Ecological Assessment:

#### Curllew Sandpiper (*Calidris ferruginea*)

Targeted habitat surveys within the Study Area did not detect significant suitable habitat for this species to utilise. Intertidal zones of Bardens Bay and surrounds are generally less than 1m in width, often significantly less due to slope at interface with water. Therefore, foraging habitat is unlikely to be present within the Study Area during all but the most significant low tide events. In addition, the lack of protection and security in this narrow band of habitat, due to the close proximity of urbanisation to much of the lakes edge and high pedestrian usage along the foreshore (by comparison to natural areas) would severely limit the utilisation of this area by this species.

The proposed helicopter flight entry and exit paths will be over open water outside intertidal zones and once above land will be at approximately 1,000ft reducing the impacts of noise on fauna species. Due to the lack of suitable habitat this species is unlikely to occur in the Study Area.

On this basis, it is **unlikely** the species will be impacted by the proposal.

#### Loggerhead Turtle (*Caretta caretta*)

This species foraging/feeding habitat will not be impacted by the proposed helipad, due to the limited surface area the helipad structure would cover in the aquatic environment of Lake Macquarie. This structure will form part of the larger approved Marina that has been assessed to have no impacts on this species.

There is no favoured habitat for breeding of this species within the Study Area as they require sandy beaches.

On this basis it is **unlikely** the species will be impacted by the proposal.

#### Leatherback Turtle, Leathery Turtle (*Dermochelys coriacea*)

This is a pelagic species with a significant (global) home range. The Leatherback Turtle requires coastal sandy beaches as part of its breeding cycle to lay clutches of eggs. The species forages on soft bodied marine species such as jellyfish and squid.

While foraging within Lake Macquarie during any part of this species life cycle cannot be discounted, the proposed helipad has a small surface area to be established over an area with a sandy bottom (circa 5-6m below water surface level) well clear of mapped marine vegetation (sea grass) with no deep benthic inclines where preferred food species may congregate or breed before heading to the ocean as part of their life cycle. There are no known breeding / nesting locations proximate to the Study Area and noting the coastal preferences coupled with the required sand temperatures for incubation known

from the limited species ecology it is unlikely the Lake Foreshore would provide any suitable locations.

On this basis it is **unlikely** the species will be impacted by the proposal.

## 2.2 NSW OFFICE OF ENVIRONMENT & HERITAGE

NSW OEH undertook an assessment of the proposal in relation to threatened biodiversity, Aboriginal cultural heritage and flooding/floodplain matters. This is detailed below.

### Aboriginal Cultural Heritage

OEH confirmed that it is satisfied that the project will have no significant impact on Aboriginal cultural heritage in the vicinity.

### Flooding and Floodplain Management

OEH confirmed that it is satisfied that the project will have no significant impact on flooding in the vicinity.

### Threatened Biodiversity

OEH's review of the EA including the Aquatic and Terrestrial Ecology Assessment by OEH concluded that:

- The Environmental Assessment Report did not adequately assess threatened species with respect to impact assessment and survey requirements associated with threatened birds. As such NSW OEH was unable to support the findings of the EA until this matter is adequately addressed.
- Further to the above point, the Eastern Osprey and the White-bellied sea eagle have both been recorded within the vicinity of the site. Further details on the impacts to these species will be required and how the proposal may impact on local populations.
- With respect to the assessment of likely impacts of the helipad proposal to threatened species, OEH's main concerns relate to impacts of potential bird strike and noise to locally occurring threatened shore/sea birds.
- OEH acknowledged that the proposal is unlikely to impact on threatened reptiles (e.g. marine turtles) and marine mammals (e.g. dugong), including known foraging resources such as seagrass beds. OEH noted that the proposal is not located within the known sea grass beds that occur along the eastern shoreline of Trinity Point, nor will the proposed helipad present any shadowing impacts on these beds. As such OEH confirmed that the EA and associated Appendices have adequately addressed issues that related to these threatened species.

In response to the commentary received from NSW OEH, JPG commissioned MJD Environmental to prepare an addendum Ecological Assessment to address the commentary of NSW OEH. This assessment is provided in full in **Appendix D** of this PPR.

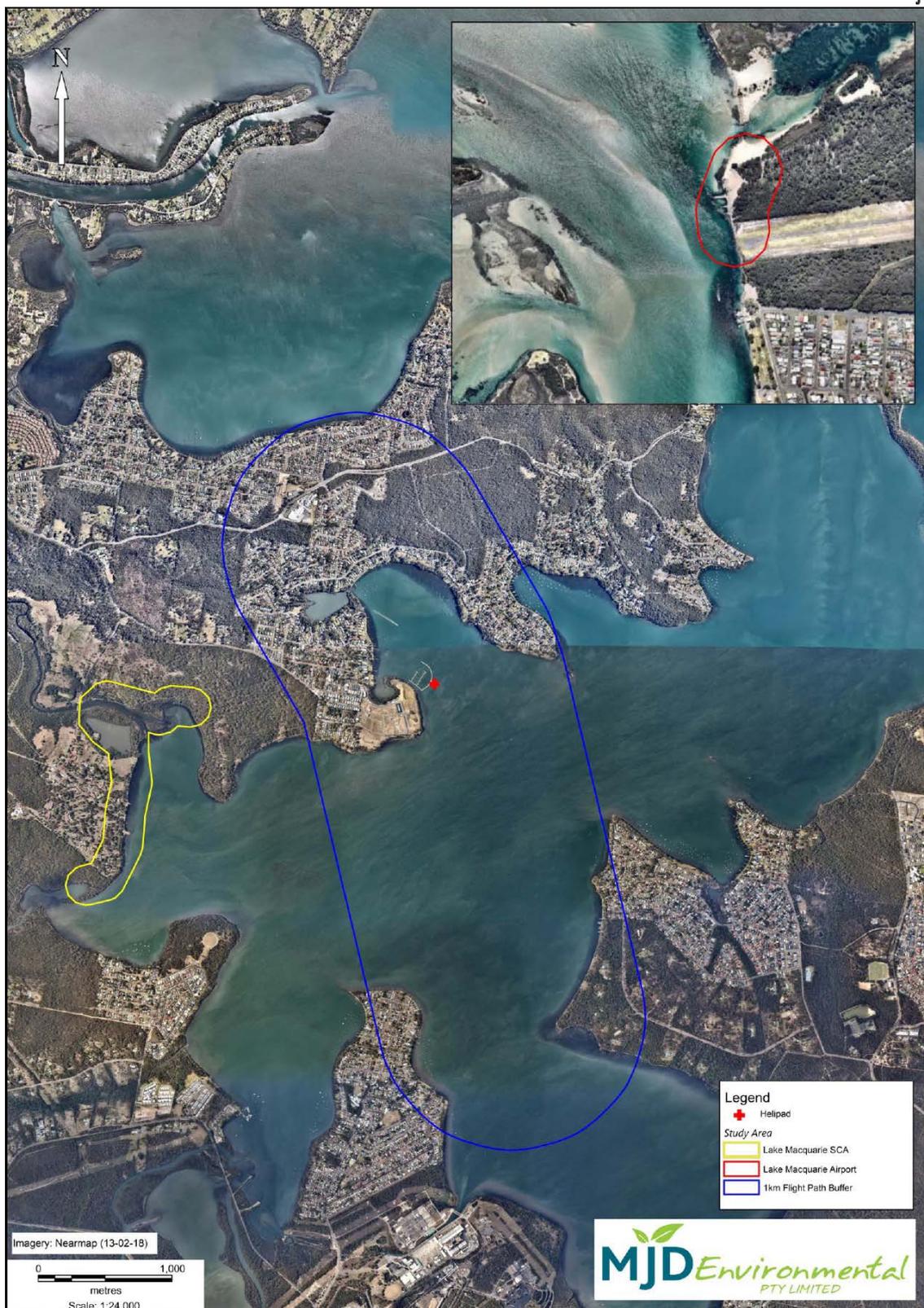
The assessment examined the likelihood of the proposed helipad having a significant effect on any threatened species, populations or ecological communities listed under the *NSW Threatened Species Conservation Act 1995* (TSC Act). The assessment recognises the relevant requirements of the EP&A Act 1979 as amended by the *NSW Environmental Planning and Assessment Amendment Act 2014*. Preliminary assessment was also made

with regard to those threatened entities listed under the Commonwealth EPBC Act.

The ecological assessment specifically focused on threatened Avifauna species and their habitat, due to the fact the proposed development is situated entirely over water.

To assess the impacts of the proposal the study area selected for the project (in consultation with NSW OEH and members of the Hunter Bird Observers Club) was based around the proposed flight paths and the air space between landing and take-off, from/to the cruising altitude of 1000ft. A 1km buffer surrounding the flight paths was set to provide a conservative separation from the flight paths that included all shoreline and woodland vegetation areas within Barden's Bay (location of Helipad). Lake Macquarie Airport and its proximity to open water on the lake was also included in the study area to provide information on presence or absence of threatened bird species associated with the operation of the airport.

It is considered that this area provides an appropriate understanding of avifauna utilisation in the locality and provides a range of potential habitat for threatened bird species. Included in the study area were areas south west of the proposed helipad outside the 1km buffer within higher quality vegetation found in the Lake Macquarie State Conservation Area (LM SCA). **Figure 1** below shows the study area of the ecological assessment:



**Figure 1 - Ecological Assessment Study Area.**

A detailed assessment of the habitat value present within the study area was undertaken with a specific focus on shore bird and raptor species habitat. The assessment was undertaken in a three stage process that included desktop appraisal, habitat validation surveys and a formal bird census:

- Stage 1: Desktop appraisal of potential habitat within the study area using GIS analysis including - Aerial Photograph Interpretation (API) and consultation of topographic map (Scale 1:25,000) layers for the site and cadastre boundary info (Private and Public land);
- Stage 2: habitat validation field survey was undertaken to ground truth the potential habitat and survey locations identified during the Stage 1 desktop habitat appraisal. Habitat surveys were based on the specific habitat requirements of each threatened bird species in regard to home range, feeding, roosting, breeding, movement patterns and corridor requirements; and
- Stage 3: Formal bird census surveys were then undertaken at selected sites. Determination of the final site selection was carried out based on Stage 2 works.

Formal survey methods employed included:

- Search area method: was used in areas where there was sufficient vegetation such as woodlands to undertake 1ha searches; and
- Point survey method: was used along foreshores where birds were identified at pre-determined locations along a walking transect.

Additionally, secondary indications and incidental observations such as nests, whitewash, aural recognition of calls, were recorded in the study area.

During the habitat validation assessment, it was observed that habitat to support shore birds is very limited, with no significant areas observed in the study area that provided roosting foraging habit such as large mudflats, sand flats and rocky outcrops. The limited occurrences of these habitat types were observed to be generally adjacent to high pedestrian usage areas (by comparison to natural areas) that in turn reduce protection and security for shore bird habitat. A total of 16 sites were selected from the 45 identified during desktop assessments.

Avifauna field survey results are as follows:

- A total of 51 bird species were observed within the Study Area;
- No threatened shorebirds were observed roosting or foraging at any site within this study area;
- The threatened White-bellied Sea-eagle (*Haliaeetus leucogaster*), was observed at Trinity Point (two occasions), Sandy Point Reserve, Belmont Airport and Lake Macquarie SCA during site surveys;
- The Threatened Eastern Osprey (*Pandion haliaetus*) was observed roosting in trees in the enclosed bay south of the hospital within the National Park; and
- The Sooty Oyster Catcher (*Haematopus fuliginosus*) was observed flying past Sandy Point Reserve in a north-south direction. This species was not observed roosting anywhere in the Study Area (Summer 2017).

The ecological impact assessment and seven part test considered whether the proposed helipad would have the potential to constitute a significant impact on known threatened species (particularly Avifauna), and populations from the locality such that a local extinction may occur.

The assessment concluded that the proposal was unlikely to have a significant impact on the threatened entities assessed.

Specifically in relation to the items raised by NSW OEH, the following is noted:

**OEH Comment** - The Environmental Assessment Report did not adequately assess threatened species with respect to impact assessment and survey requirements associated with threatened birds. As such NSW OEH was unable to support the findings of the EA until this matter is adequately addressed.

*JPG Response* – Methodology and impact assessment is summarised in the preceding commentary above.

**OEH Comment** – Further to the above point, the Eastern Osprey and the White-bellied sea eagle have both been recorded in within the vicinity of the site. Further details on the impacts to these species will be required and how the proposal may impact on local populations.

*JPG Response* – Regarding the Eastern Osprey and White bellied sea eagle, the assessment concluded the following:

Eastern Osprey (*Pandion haliaetus*)

The Eastern Osprey was not observed within the study area during field surveys, although it was detected roosting to the south west of the study area.

This species foraging habitat will not be impacted by the proposed helipad, due to the limited surface area (436m<sup>2</sup>) the proposed helipad will cover in the aquatic environment of Lake Macquarie (ie. 20m x 20m helipad plus access to marina (17m long x 1.5m gangway and three 4m x 3m pontoons). This structure will form part of the larger approved marina that has been assessed to have no impacts on this species.

The roosting or perching habitat of this species will not be directly impacted as there is no shoreline vegetation to be removed, trimmed or managed as part of the helipad proposal.

The foraging behaviour (in aquatic environments) of this species has been observed to fly at low elevations and plunging to the water to retrieve food from heights between 10-50m. The wide foraging range of this species across the Lake Macquarie water mass coupled with the rapid ascent / descent from cruising altitude (1,000ft) is considered to limit interactions between the species and proposed helicopter movements within the flight path.

The assessment of significance completed for this species provided the following conclusions:

- The establishment and operation of the proposed helipad is not likely to have an adverse effect on the life cycle of this species such that a viable local population is likely to be placed at risk of extinction.
- The proposal will not lead to fragmentation or isolation of habitat.
- The removal of minor foraging habitat by the proposed helipad and access link to the marina is not considered to be significant for the long-term survival of the species.
- No critical habitat for the species occurs in the study area.
- The proposal is unlikely to trigger a Key Threatening Process (KTP).

Based on the above, the assessment concluded that the proposal is **unlikely** to have a significant impact on the Eastern Osprey.

#### White Bellied Sea-eagle (*Haliaeetus leucogaster*)

The White bellied Sea-eagle was recorded within the study area during field surveys.

This species foraging habitat will not be impacted by the proposed helipad, due to the limited surface area (437m<sup>2</sup>) the proposed helipad will cover in the aquatic environment of Lake Macquarie (ie. 20m x 20m helipad plus access to marina (17m long x 1.5m gangway and three 4m x 3m pontoons). This structure will form part of the larger approved marina that has been assessed to have no impacts on this species.

The roosting or perching habitat of this species will not be directly impacted as there is no shoreline vegetation to be removed, trimmed or managed as part of the helipad proposal.

The foraging behaviour (in aquatic environments) of this species has been observed to fly/glide at low elevations whilst scanning for food over water and then plunging to the water. The wide foraging range of this species across the Lake Macquarie water mass coupled with the rapid ascent / descent from cruising altitude (1,000ft) is considered to limit interactions between the species and proposed helicopter movements within the flight path.

The assessment of significance completed for this species provided the following conclusions:

- The establishment and operation of the proposed helipad is not likely to have an adverse effect on the life cycle of this species such that a viable local population is likely to be placed at risk of extinction.
- The proposal will not lead to fragmentation or isolation of habitat.
- The removal of minor foraging habitat by the proposed helipad and access link to the marina is not considered to be significant for the long-term survival of the species.
- No critical habitat for the species occurs in the study area.
- The proposal is unlikely to trigger a Key Threatening Process (KTP).

Based on the above, the assessment concluded that the proposal is **unlikely** to have a significant impact on the White bellied Sea-eagle.

**OEH Comment** – With respect to the assessment of likely impacts of the helipad proposal to threatened species, OEH's main concerns relate to impacts of potential bird strike and noise to locally occurring threatened shore/sea birds.

*JPG Response:*

#### Potential Bird Mortality as a Result of Striking Helicopters while in Flight or on the Helipad

The likelihood of bird strike is assessed as extremely low.

A review of current statistics relating to bird strikes was undertaken, in particular a recent publication by the Australian Transport Safety Bureau *Australian Aviation wildlife strike statistics* (ATSB 2017). The statistics of bird strikes compiled between 2006 – 2015 support this

assessment. Out of the 16,069 bird strikes occurring in Australia over the past 10 years, helicopters account for 275 bird strikes (ie. 1.7%).

The vast majority of bird strikes were reported to involve large commercial aircraft, but within the General Aviation category of which helicopters operating within the study area would belong, the strike rate is 0.419 strikes per 10,000 aircraft movements (it should be noted however that General Aviation statistics include fixed-wing aircraft which account for a significantly higher proportion of bird strikes; therefore the strike rate possible from helicopters operating within the study area would likely fall well below this number).

The proposal will result in a maximum of 38 aircraft movements occurring in the study area per week. Assuming the highly unlikely event that every week involves the maximum number of movements and factoring in the General Aviation strike rate of 0.419 strikes per 10,000 aircraft movements, the likelihood of a bird strike occurring within the study area is approximately 0.0827 strikes per year, or approximately 1 bird strike occurring every 13 years.

In addition, bird strike statistics indicate that, by contrast with fixed wing aircraft where most bird strikes occur during take-off and landing, helicopter bird strikes occur significantly less often during the movement types that will occur within the study area, with approximately 10% of strikes occurring during take-off, 5% during landing and 18% occurring on approach.

Potential Noise impacts to local fauna in particularly Shore birds, resulting from helicopter operations in the Study Area along entry and exit flight paths and at the helipad

A comprehensive Acoustic Assessment was completed by The Acoustic Group (refer to **Appendix E** of this PPR. The Acoustic Assessment included the follow key elements:

- Assessment of existing noise context;
- Discussion and decision making, regarding appropriate noise criteria;
- Consideration of preferred flight paths;
- Rather than relying on a standard practice of only using a theoretical model, testing of flight paths was undertaken for noise impact at different locations for a base helicopter type (not chosen to be either the quietest or the noisiest) via a tailored helicopter survey. The survey is only one part of the acoustic assessment methodology and is used to inform assessment, including other helicopter types;
- Consideration of varying wind directions and speed; and
- Analysis and modelling of results, as directed by relevant standards or measurement and analysis of helicopter noise. This includes an accepted weighting method to provide assessment for all helicopter types.

The assessment confirmed that the proposal will comply with noise targets, including consideration of the existing noise environment and that the helipad can be introduced without unreasonable or unacceptable acoustic impact to surrounding residential areas, on the basis that definitive management measures are introduced.

Background noise within the area was noted during Avifauna surveys. The development of the staged subdivision and construction of housing at Trinity was a continuing source of background noise in the area along with boats on the water, and traffic movements from various roads in the study area. The noises varied from consistent droning (vehicles) to loud power tools and earthmoving machinery. These noises did not appear to impact the

movement of birds across the study area during the survey period.

Whilst the proposal has been identified as being acceptable in terms of acoustic assessment and will not represent an excessively noisy development, a comparison was undertaken using the Penrhyn Estuary at Botany Bay (an area subject to significant noise associated with Sydney Airport). It is known that shorebirds co-exist in this location with the noise source. This area is a location in which migratory shore birds forage and roost regularly within 1.5km of Sydney International Airport runways. In 2016 there were 348,904 flight movements associated with the airport (Sydney Airport 2018), that would contribute to significant noise impacts in the area. This, combined with noise from the commercial operation of the Port Botany container terminal directly adjacent to the estuary has not significantly adversely affected co-existence with shore birds.

Considering the above relative to the proposed movements of Trinity Point helipad (maximum of 38 movements per week), it is considered that the proposal will not adversely affect shorebirds by way of acoustic impact.

Overall it is considered that the addendum Ecological Assessment appropriately addresses the commentary made by NSW OEH.

### 2.3 NSW ENVIRONMENT PROTECTION AUTHORITY

The NSW EPA submission notes:

- As the proposal is for over 30 flight movements per week within 1 kilometre of a dwelling not associated with the landing, taking off or parking of helicopters, the helipad will need to be included on the Environment Protection Licence (EPL).

Trinity Point Marina operates under an existing EPL for boat mooring and storage, EPL 20631. JPG will need to apply to vary this EPL prior to commencing construction to include this activity and ensure that the construction and use of the helipad is appropriately managed and they comply with the conditions of this EPL.

- The nature of this proposal is such that it will not necessitate the EPA providing any recommended conditions of approval as no refuelling or maintenance facilities are proposed for the helipad.

These comments are noted by JPG and it is recognised that a variation to the marina EPL will be necessary prior to commencement of construction.

### 2.4 TRANSPORT FOR NSW

The Transport for NSW (TfNSW) submission confirmed that the EA documentation had been reviewed and TfNSW had no comments on the proposal.

### 2.5 NSW DPI AGRICULTURE

DPI Agriculture confirmed that it had no comments in relation to the proposal as it does not impact on agricultural lands.

## 2.6 LAKE MACQUARIE CITY COUNCIL

Lake Macquarie City Council (LMCC) reviewed the EA and also commissioned an external independent acoustic expert, Renzo Tonin & Associates, to undertake a peer review of the Acoustic Assessment undertaken as part of the EA. The LMCC response provides commentary in relation to acoustic considerations; social impact; flora and fauna; and strategic planning as well as providing a number of internal LMCC referrals. These items are addressed below.

### 2.6.1 LMCC Acoustic Comments

LMCC and its acoustic expert confirmed the following in relation to the Acoustic Assessment submitted as part of the EA (**Appendix E**):

- Council staff and its retained expert were consulted during the establishment of the methodology for acoustic testing, and were present when the testing was undertaken. It is confirmed that the report is consistent with the agreed methodology and on-site testing.
- The acoustic assessment is generally robust and satisfactorily addresses the SEARs.
- The approach taken by the acoustic assessment in deriving acceptable noise criteria for the proposal appears to be comprehensive. Despite some minor editorial issues, the acoustic assessment provides relevant and appropriate background data, assessment criteria, summary and conclusions.
- In Council staff's opinion, both acoustic experts agree on the finding that the application of the Australian Noise Exposure Forecast, AS2363 and AS2021 provide the best evaluation methodology. The proposed helipad is able to be carried out in compliance with ANEF20.
- A suite of draft conditions of consent were recommended.

JPG welcomes the overall support for acoustic assessment by Council and its commissioned expert. In response to the matters raised, the following is noted:

- The Acoustic Assessment that was submitted as Appendix E of the EA has been updated to address the editorial commentary raised by LMCC. The revised acoustic assessment is provided as **Appendix E** of this PPR.
- Provided in **Appendix B** of this PPR is a summary table and detailed response to each acoustic item raised in LMCC's submission. The summary table addresses the following:
  - Identifies and provides a response to each of the minor editorial comments raised by LMCC; and
  - Provides a response to each of the draft conditions of consent recommended by LMCC.
- Whilst Council and its retained expert have acknowledged that application of the Australian Noise Exposure Forecast (ANEF), AS2363 and AS2021 provide the best evaluation methodology; to further validate that this is the most appropriate methodology and to also further validate the key recommendations of the assessment, the Acoustic Assessment has also been updated to reference a recent Land & Environment Court decision.

The case of *Nessdee Pty Ltd vs Orange City Council [2017] NSWLEC 158* considered the proposal of a 'heliport' with up to 90 flight movements per week within the Orange LGA. Whilst the JPG Trinity Point helipad differs from the court case as it is for a 'helipad'

and not a 'heliport' and has significantly less proposed movements, there are some valid considerations relevant to the Trinity Point proposal, including:

- o The acoustic experts and the court accepted the applicability of the ANEF system for determining the acoustic acceptability of helicopter noise – ANEF 20;
- o Acoustic testing was undertaken including measuring noise from helicopters taking the proposed flights;
- o Noise mitigation included the following:
  - Specifying the types of helicopter that could be used. There was, however, no need to specify the manufacturer as this may restrict the ability to use different types of quieter helicopters.
  - Limiting the number of flights per day and per week.
  - Restricting the hours of operation based on acoustic assessment.
  - Specifying a minimum distance for helicopter flights from residential receivers (except take off and landing).
  - Requiring compliance with specific flight paths, including flight paths in certain wind conditions.
  - Specifying numeric noise criteria in which operations must comply.
  - Specifying types of activities that could not be undertaken.
  - Preparing and implementing a plan of management (PoM) regulating operation of the site. The PoM is to include mitigation measures but also methods to measure and monitor compliance with conditions, including tracking and recording of the approach and departure paths of helicopters, the number of movements and the helicopter type.
  - Requiring acoustic compliance after operations commence.

It is considered that the findings of this case provide additional validation of the methodology and recommendations of the acoustic assessment.

## 2.6.2 LMCC Social Impact Assessment Comments

The LMCC submission raised a number of Social Impact comments. In March 2018, the author of the Social Impact Assessment (SIA) (Key insights) that accompanied the EA met with Council staff to discuss LMCC's Social Impact commentary. It was confirmed in the meeting that a replacement SIA was not needed, however additional information, particularly in relation to development of the stakeholder engagement strategy that deals with a range of stakeholders including Brightwaters Christian College, should be provided as an addendum to the SIA. It was also confirmed that Council would be willing to review and offer additional commentary on the engagement strategy to allow its progression. Accordingly, on 17 April 2018, Key Insights supplied LMCC with a proposed Community and Stakeholder Engagement Plan (CSEP) for review. At the time of lodgement of this PPR, no comments have been received.

In response to Council's commentary in its submission as well as the abovementioned meeting, Key Insights have prepared a revised SIA and also a Community and Stakeholder Engagement Plan (CSEP) (refer to **Appendix F** of this PPR).

The CSEP references the detailed engagement undertaken for this project to date and provides an opportunity for ongoing community engagement post application determination. This includes:

**Table 1: Community & Stakeholder Engagement: Operational Phase**

Objective / Community Target	Engagement Tools	Strategy
<b>Brief General Community Respond to enquiries / complaints</b>	<ol style="list-style-type: none"> <li>1. Website</li> <li>2. Enquiry / Complaints Line</li> <li>3. Fact Sheets (available on-line)</li> <li>4. Media release</li> </ol>	<ul style="list-style-type: none"> <li>• Published operating hours and flight paths (on website).</li> <li>• Contact number for enquiries / complaints.</li> <li>• Grievance Procedure (record, respond).</li> <li>• Occasional Media release for information.</li> </ul>
<b>Near Neighbours</b>	<ol style="list-style-type: none"> <li>1. Website</li> <li>2. Enquiry / Complaints Line</li> <li>3. Amenity Alerts (via letterbox drop if required)</li> </ol>	<ul style="list-style-type: none"> <li>• Inform, Engage, Respond.</li> <li>• Grievance Procedure (record, respond).</li> </ul>
<b>Local Schools</b>	<ol style="list-style-type: none"> <li>1. Website</li> <li>2. 6 monthly meeting (if required)</li> <li>3. Mechanism for urgently addressing issues: Telephone hotline – 24-hour timeframe for Marina Operator response.</li> </ol>	<ul style="list-style-type: none"> <li>• Schools notified in advance of helicopter movements during school hours via email. Amenity alerts as required.</li> <li>• Agreed notification of students with special needs (relating to low level sound impacts) by school to operator.</li> <li>• Direct phone line with 24-hour turnaround on Grievance Procedure.</li> <li>• Scheduled bi-annual meeting to discuss operations and monitoring (e.g. number of flights using northern flight path, incidents, etc.).</li> </ul>
<b>Local Businesses</b>	<ol style="list-style-type: none"> <li>1. Website</li> <li>2. Direct Mail-outs</li> </ol>	<ul style="list-style-type: none"> <li>• Inform, Engage, Respond.</li> <li>• Explore business opportunities.</li> </ul>
<b>NGAs / Community Groups</b>	<ol style="list-style-type: none"> <li>1. Website</li> <li>2. Newsletter / Fact Sheets</li> </ol>	<ul style="list-style-type: none"> <li>• Inform, engage, respond.</li> <li>• Grievance and response monitoring reported on website.</li> <li>• Occasional fact sheets / written updates and briefings as required.</li> </ul>
<b>Lake Macquarie Council</b>	<ol style="list-style-type: none"> <li>1. Briefings</li> </ol>	As required: report on monitoring activities.
<b>Government Agencies</b>	<ol style="list-style-type: none"> <li>1. Briefings</li> </ol>	Report against Departmental interests as required.
<b>Tourism, Boating and Fishing</b>	<ol style="list-style-type: none"> <li>1. Website</li> <li>2. Media release for Amenity Alerts</li> <li>3. Tourism promotional media</li> </ol>	<ul style="list-style-type: none"> <li>• Inform, Engage, Respond.</li> <li>• Grievance procedure.</li> </ul>
<b>Local and State MPs</b>	<ol style="list-style-type: none"> <li>1. Briefings</li> </ol>	<ul style="list-style-type: none"> <li>• On request</li> </ul>

The SIA has been revised to include:

- Updated community demographic snapshot;
- Updated impact analysis (reviewed in 2018 with reference to community and submissions); and
- Use of the recently adopted NSW DPE Social Impact Assessment Guideline.

In response to the key matters raised by Council in its submission, the following is noted within the revised SIA:

### **The Character and Nature of the Area**

Council's position that the area is predominantly an aging community "*as the suburbs are attractive to the 'sea changers' who are looking for the quieter, relaxed lifestyle, which offer outdoor / recreational activities*" is not entirely supported by the demographic data which shows a median age of 42 and 20% growth in the population of Morisset Park, accompanied by strong growth in the numbers of families settling in the area. In Morisset Park (Census 2016) children aged 0 - 14 years made up 19.6% of the population and people aged 65 years and over made up 16.6% of the population. Morisset Park does have a higher proportion of residents over the age of 55, when compared to NSW. It also has a higher proportion of children between 0 and 9 years of age; which may be an indicator of longer term demographic change in the area (refer to table 2 in Section 6.1.1 of the SIA).

Even with the high rate of population growth, the area appears to maintain its quiet lakeside ambience. Council's contention that "*the proposed helipad will significantly affect the character and nature, and impact on the broader community (all the suburbs on the peninsular)*", is not supported. The flight path of the proposed helipad is not over all suburbs of the peninsular. Up to eight (8) movements a day is not significant, and the assessment of the acoustic expert must be relied upon. The flight path will vary depending on wind conditions and will only occasionally track over land on the northern side of Bardens Bay below the 1,000ft cruising altitude during an approach for a landing. Any noise impacts are likely to be highly localised and below accepted criteria (refer to the Acoustic Assessment findings presented within Section 7.2 of the EA).

### **The Helipad and Benefits**

Council contends that "*... the potential benefits of the helipad will be felt by a select few people, who are not members of the local community ...*" and that "*... the proposed helipad is non-essential infrastructure for the marina and tourist facility*". These concerns are echoed in submissions from people who are active in their opposition to the helipad. These claims are not supported. Firstly, it is the owner and proponent of a business that is best able to decide what is essential to maximise the performance of that business. Primary comparative research with other helipad operators associated with tourist development conducted for the SIA suggests that:

- Helicopters are important to business but not the biggest part of the business. It is difficult to quantify value but the business would notice if helicopters were not there.
- Helicopter tourists on commercial services (e.g. lunch tours) don't necessarily spend more, but people with private helicopters tend to spend more money.
- Noise has not been a problem however some establishments noted they had few neighbours and typically lower density surrounding land uses.

- Helicopters add a sense of specialness and prestige to the establishment. Other guests are interested in the 'comings and goings' and many take photos.
- A helipad in that location would open up Lake Macquarie and it would meet tourist demand.
- It might be difficult to achieve the eight (8) movements a day due to constraints at landing site, such as limits to one helicopter on pad or limited spaces to stay overnight.

Further there has not been a cost-benefit analysis of the helipad operation as this is deemed a highly speculative approach to take for a small component of the business.

Secondly the potential benefits, although not fully quantified, will have positive impacts beyond the few who are able to fly to the resort. These include jobs associated with the helicopter flights both locally and in bases in Sydney, jobs associated with the tourist development itself as the helicopter is able to strengthen the local business and the possible benefit of bringing more people with high disposable incomes to the area who may use other services, facilities and tours throughout Lake Macquarie and the Hunter.

### **Brightwaters Christian College**

Council states that *"Of particular concern are the impacts on Brightwaters Christian College"*.

These potential impacts are acknowledged and discussed in the SIA, and particular attention has been given to addressing risk and developing a communication mechanism with the College in the CSEP (refer to above commentary and **Appendix F** of this PPR).

This SIA does not support the claim that the impacts on the College would be significant and relies on the acoustic assessment to reach this position.

### **Trinity Point Reserve and Community Values**

Council has expressed a concern that *"... no information is provided in the SIA as to how these values are to be considered, or when they are to be considered."* This is a fair point as the assumption has been made in the SIA that preservation of the lakeside ambience of Trinity Point Reserve is critical to the unique offering of the tourist resort and therefore both the business and the local community will work towards that end. Attention has been given to monitoring and communication on this, and other issues, in the CSEP (refer to **Appendix F** of this PPR).

### **Community Support for the Proposed Helipad**

There has been some support expressed for the helipad and it is not entirely related to emergency services (we note the helipad has not been designed to specifically cater for emergency helicopters and is not promoted by JPG as a public benefit of the proposal). Support also highlights the contribution to the local tourism market and support for a high-end marina and tourist offering.

While there has been a consistent campaign against the helipad in the local community, there has also been a very low response rate from the catchment which has been sent mail outs on this proposal by JPG.

### 2.6.3 LMCC Strategic Planning Comments

Council's submission acknowledges that the proposed helipad will provide additional recreational, private use of the waterway and therefore reflect an economic asset; however this benefit needs to be considered alongside its social impacts. The environmental impacts as they relate to flora and fauna are acceptable.

Consideration of social impacts has been provided in **Section 2.6.2** above and also within the Social Impact Assessment provided within **Appendix F** of this PPR.

Council's submission also requests that further refinement be provided in relation to the zoning objectives of the LEP 2004 and LEP 2014, specifically in relation to where objectives relate to protection and prevention rather than impacts (LEP 2014) and protection and enhancement rather than impacts (LEP 2004). Provided below is commentary regarding the proposal's consistency with the objectives of the 11 Lakes and Waterways Zone (LEP 2004) and W1 Natural Waterways (LEP 2014).

#### LMCC LEP 2004

##### **Zone 11 Lakes and Waterways Zone**

The objectives of this zone are to:

- (a) recognise the importance of Lake Macquarie and its waterways as an environmental asset, not only to Lake Macquarie City, but to the Hunter and Central Coast Regions, and

The proposed development is consistent with this objective. The proposal to allow people greater access to the lake locality will assist with increased recognition of its significance.

- (b) ensure that development of the Lake and its waterways occurs in a manner that is consistent with the principles of ecologically sustainable development, and

The proposed development is consistent with this objective. The proposed development involves minimal disturbance to the lake and lake bed and upon completion will have no ongoing impacts.

- (c) ensure development does not adversely affect the ecology, scenic values or navigability of the Lake or its waterways, and

The proposed development is consistent with this objective; the proposal will not adversely affect the ecology, scenic values or navigation of the lake.

- (d) ensure that aquatic and terrestrial habitats and their interface are protected and enhanced and are not adversely affected by the recreational use of the Lake or its waterways, and

The proposed development is consistent with this objective. The proposal is an ancillary component to the recreational use of the lake providing access to the marina and shore based activities.

The proposed development does not impact on aquatic and terrestrial habitats (refer to Section 7.6 of the EA). The proposal includes 5 piles to support the helipad structure inclusive gangway access to the marina (similar to the 70 piles already installed for the marina). The piles offer the opportunity for enhancement of the aquatic habitat as they provide high quality colonisation surfaces for mixed algae and encrusting and attached fauna. This provides an important shelter and feeding habitat, particularly for small reef fish or juveniles. This is confirmed within Section 1.2.2 of the Aquatic Ecology assessment provided within Appendix F of the EA.

*(e) provide for sustainable and viable economic use of the Lake and its waterways, and*

The proposed development is consistent with this objective. The proposal is a sustainable and economical viable use of the lake.

*(f) provide for sustainable water cycle management.*

The proposed development is consistent with this objective, incorporating measures to ensure protection of water from potential pollution.

#### LMCC LEP 2014

### **Zone W1 Natural Waterways**

#### **1 Objectives of zone**

- *To protect the ecological and scenic values of natural waterways.*

The ecological values of the lake are protected by the proposed development, as identified within Sections 7.6 (Flora and Fauna), 7.2 (acoustic), 7.4 (coastal processes), and 7.5 (hydrology and water quality management) of the EA.

The scenic values of the lake are protected by the minimal scale of the helipad, which will be integrated into the approved marina. The visual impact assessment undertaken as part of the EA (refer to Section 7.7 and Appendix G) confirms that the proposed helipad is of small scale and low overall visibility in the context of the existing Concept Approval and approved Stage 1 marina.

The VIA also notes the proposed helipad is a natural addition to the approved marina and it shares many attributes with it. Accordingly, it was determined that the proposed helipad would be of high compatibility with the marina. It will also benefit from the screening effect on views afforded by the approved marina and its occupation by vessels of various sorts and sizes in views from a significant part of the visual catchment.

- *To prevent development that would have an adverse effect on the natural values of waterways in this zone.*

The proposed helipad development does not need to be prevented because it does not have an adverse impact on the natural values of the lake.

- *To provide for sustainable fishing industries and recreational fishing.*

The proposed development supports sustainable fishing and recreational fishing by providing increased access to the lake and enhancement of aquatic habitat by providing 5 piles (which will support the helipad structure inclusive gangway access to the marina). Similar to the 70 piles already installed for the marina, the piles will offer the opportunity for enhancement of the aquatic habitat as they provide high quality colonisation surfaces for mixed algae and encrusting and attached fauna. This provides an important shelter and feeding habitat, particularly for small reef fish or juveniles which supports sustainable and recreational fishing.

- *To provide for the recreational use of Lake Macquarie and its waterways as an important environmental, social and economic asset, including maintenance or enhancement of public navigation channels to a depth suitable for yachting and other boating activities.*

The proposed helipad provides direct access to the lake for increased recreational opportunities. The importance of the lake as an environmental asset is enhanced with improved access and the enhancement of aquatic habitat for marine species around piles (in particular for juvenile fish and small reef fish). The importance of the lake as a social asset will be enhanced with greater access to it for a greater range of people and in manner that does not have significant adverse impacts. The importance of the lake as an economic asset is protected with no significant adverse impacts to that benefit it provides to the locality. Indeed the proposed development responds to this by providing for jobs and access to the tourist facility and marina that relies on the lake as its significant attraction.

#### 2.6.4 LMCC Flora & Fauna Comments

Following review of the EA documentation, Council confirmed that it raises no objection to the helipad from a flora and fauna impact perspective. The LMCC submission supports the recommendations of the Aquatic and Terrestrial Ecology Assessment that forms part of the EA (Appendix F).

#### 2.6.5 LMCC Community Land Comments

Community Land was not directly raised within the LMCC submission; however the internal referral from Council's Community Land section was attached to the submission. The referral makes the following commentary:

- *The adopted plan of management for Trinity Point Reserve outlines that helicopter landings are only permissible on community land by emergency services. No landings as part of the operation of the helipad can occur on community land at any time.*
- *Consideration of impacts of the proposed helipad activity on users of the adjoining community land should be undertaken during this assessment.*

The Plan of Management (PoM) for Trinity Point Reserve does not apply as the proposal is not on land (or will affect land) within the PoM.

The helipad is proposed to be located on the lake attached to the marina and cited approximately 145m from the edge of the lake, well clear of the community land. Helicopters associated with the proposal will not land on the community land.

The temporary managed 30m safety zone (during take-off and landing movements only) as detailed within Section 3.2 of the EA does not extend over the community land. A significant separation distance of approximately 115m is provided between the community land and the edge of the temporary 30m managed safety zone.

Comprehensive assessment has been completed as part of the EA and this PPR in relation to key items such as acoustic considerations, flora and fauna, hydrology and water quality and visual impact and it is considered that the helipad can operate appropriately and without adverse impact in respect of the community land on the edge of the lake.

## 3.0 Response to Public Submissions

MOD 3 was publicly exhibited from 17 November 2016 to 20 January 2017. The following was received by the NSW DPE during the exhibition period:

- Organisation Supporters - One (1) letter of support from Tourism Accommodation Australia.
- Individual Supporters – Eleven (11) letters of support were received.
- Group Objections – Six (6) group submissions were received. Submissions were made by Morisset Park & District Action Group (two submissions including one that provided over 200 individual objections that compromised of a signed standard proforma objection); Sunshine Progress Association; Community Environment Network; Mannering Park Progress Association; and Brightwaters Christian College.
- Individual Objections – 357 individual people objected to the proposal (ie. individuals who made more than 1 submission were counted once).
- Greg Piper MP for Lake Macquarie – One (1) letter of objection was received by the NSW DPE from Mr Piper.

The above totals are based on the number of submissions reviewed as at 30 January 2017. If there have been any additional submissions received by the NSW DPE since this date, JPG are of the position that any issues noted will be addressed within the comprehensive JPG summary and response tables provided in **Appendix C**.

Provided within **Appendix C** of this PPR is a detailed summary and response to all key issues that were raised within the public submissions. **Appendix C** is comprised of the following:

- Table 1 – A summary of the key grounds of support.
- Table 2 – Provides a summary and detailed response to the key issues raised by group and individual objections that are directly relevant to the MOD 3 application.
- Table 3 – Provides a summary of the issues raised by group and individual objections that are not directly relevant to the MOD 3 application.

JPG are confident that all public issues raised during the exhibition period have been appropriately addressed by the EA and this PPR.

In addition to the above, in November 2016 (ie. following EA lodgement) an article was published in the Newcastle Herald that included an online poll with the question 'Do you support the developer's plans to build a helipad'? The results of the poll which included 843 votes was 51% support, 13.5% didn't care, with 33% not supportive.

Further to the abovementioned exhibition process, since lodgement of the EA on 28 October 2016, JPG has continued to undertake public and authority consultation. A copy of the consultation log (post lodgement of the EA to date) is provided within **Appendix G** of this PPR. As a summary, the consultation undertaken post EA lodgement includes:

- Notices in the Lakes Mail and Newcastle Herald from NSW DPE confirming MOD 3 EA public exhibition dates and details on making a submission.
- JPG held an open community 'drop in' session at the Bonnells Bay Youth & Community Centre on 5 December 2016. Approximately 60 people attended. The purpose of the information session was to make available copies of the exhibited Environmental

Assessment material and have JPG staff / representatives available to direct interested members of the community to relevant information within the EA to assist with submission preparation. Also available were:

- o Project fact sheets;
- o Details on how to make a submission to the NSW DPE; and
- o JPG's invitation to the 'drop in' session that was posted to the Local Community.

The local community were notified of the exhibition period and invited to the 'drop in' session by a letter mailed to 6,533 dwellings on the Morisset Peninsula, Summerland Point, Mannering Park and Wyee as well as a public notice in the Lakes Mail, notification on the JPG website and also a Facebook post.

- Ongoing local resident contact through JPG's website established for the helipad ([www.trinitypoint.com.au/helipad](http://www.trinitypoint.com.au/helipad)).
- In addition to the website a JPG contact phone number (ph. 8023 8888) was distributed at the abovementioned community meeting for public enquiry.
- Ongoing contact with local residents and representatives of community groups.
- Contact with Brightwaters Christian College including a presentation to the board in November 2016.
- Contact with the Trinity Point Registered Aboriginal Parties.
- Contact with local MP's.
- Ongoing articles and letters to the editor in the Lakes Mail.

It is considered that this ongoing consultation in particular the December 2016 'drop in' session has continued to inform the community of the proposal and also assisted members of the community with preparation of submissions to the NSW DPE. As noted above, all public submissions have been addressed in detail in **Appendix C** of this PPR.

Since lodgement of this application, the Land & Environment Court considered *Nessdee Pty Ltd v Orange City Council* [2017] NSWLEC 158 and its judgement has some parallels to the consideration of helicopter movements and impact assessment, particularly acoustic impact and some of the of the consistent issues raised in public submissions including criteria to determine acoustic acceptability of helicopter noise, acoustic testing methodology and appropriateness of noise mitigation measures including specifying types of helicopters, limiting numbers of flights, restricting hours of operation, specifying distances from receivers after take off and landing, requiring compliance with specific flight paths including in certain wind conditions, specifying noise criteria, preparing and implementing a plan of management to regulate operation and requiring acoustic compliance after operations commence. The methodology and recommendations of the Trinity Point acoustic assessment is consistent with those findings.

## 4.0 Justification

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The proposed Helipad whilst separately defined is part and parcel of the shore based and water-based tourism facility. The helipad is not designed to operate independently of these facilities and can be viewed as an ancillary land use. Without the approved tourism facilities there would be no need for a helipad in this location as there is no demand otherwise.

The success of tourism facilities relies heavily on the ability to offer a very broad range of services or activities. Such range can sometimes be offered on the one site or be delivered by land uses located in proximity of one another but on different sites and by different providers.

Trinity Point is not located near any other tourism land uses and operators and so must create the destination in its own right to be competitive in the tourism industry. It must on its own create enough interest that people want to visit. This approach not only encourages visitation but hopefully encourages repeat visitation.

The site as concept approved provides for:

- Residential accommodation;
- Tourism accommodation;
- Infinity pool;
- Spa;
- Marina;
- Water sport;
- Passive recreation and relaxation;
- Functions;
- Retail;
- Dining; and
- Business centre.

Not any one of these facilities would easily survive on their own in this location, however they work in synergy to create a destination, a point of difference and the ability to compete in the tourism market. The proposed helipad adds to this list and further broadens the services offered. Whilst some have argued that the helipad is unnecessary so too arguably are a number of the land uses that are already approved, a pool, spa, retail and business centre. Whilst not essential as individual land uses these are highly desirable and each makes a contribution to a successful and sustainable overall facility.

The proposed helipad allows for fast and convenient access to the site, particularly from Sydney (35 minutes from Sydney Airport). It allows the facility to also compete with other operators who also offer a helipad. The identified market includes:

- Hotel guests;
- Public speakers;
- Day trippers to the site as well as linking to the Hunter Valley as part of day out;
- Brides and wedding parties arriving for weddings;
- Permanent residents undertaking business travel to large centres; and
- Private/corporate transfers for a range of uses.

The relatively small number of movements being sought is adequate to cater for this market and make a significant contribution to the success of the overall tourism project. Research has also shown that helicopters add a sense of “specialness and prestige” adding further interest to the site. Other guests are also intrigued by the helicopters and will often watch one arrive and leave and take photographs, adding to the overall sense of vitality and activity of the site.

The benefits of the proposed helipad to the overall tourism facility however must be balanced against impacts. In particular the receiving environment should be considered in detail to determine if the arrival and departure of helicopters would have a significant adverse impact.

Potential key identified impacts include (including consideration of feedback received through public consultation):

- Impacts to local amenity, particularly noise;
- Restrictions of public access due to helipad safety and rotor downwash management area;
- Health and safety risks; and
- Environmental.

In consideration of noise the small number of flights, proposed flight paths, proposed hours of operation, and selection of helicopters have all been designed to have the least impact possible on the amenity of the locality and importantly those considerations were developed after local on site testing was completed. Joyflights have been precluded. There is also a high level of control over the proposed helipad because the helipad is not open to any member of the public to arrive, it is by prior arrangement and at the discretion of the operator.

The maximum time across a day that helicopters will be audible to and from the site will be approximately 30-45 minutes (assuming all 8 movements occur in that day). The acoustic report has identified that the receiving environment can comfortably cater for the proposed use. Notwithstanding this the proponent has kept the number of flights to what it requires and has not used the full capacity of the receiving environment. There will be no noise from maintenance, which is precluded.

The proposed helipad itself will be managed during landing and take off to ensure adequate safety is maintained for all persons. A draft procedures manual has been prepared covering the relevant matters. The relatively small area that would be excluded to the public during landing and take off will be actively managed and will only be for very short periods of time either side of the arrival and departure of a helicopter.

The proposed development does not include any fuel storage for the fuelling of helicopters and no fuelling of helicopters will be available. Accordingly there is limited likelihood of fuel spillage or other hazard such as fire or explosion. Given the co-location with an approved marina, any accidental spills can be managed and water quality management of the pontoon can be incorporated into detailed design. The final operations manual will include robust safety and routine procedures.

The proposal requires no dredging and construction of the pad involves minimal disturbance of the lake bed by the provision of telescopic piles. The resultant proposed helipad and marina lease area, and additional licence area is less than the area of the

lake identified in agreements with the Crown.

The environmental assessment has found that the proposed helipad and the landing and taking off of helicopters will not impact on flora and fauna including marine ecology and has no significant coastal impacts.

Trinity Point has been identified for the provision of tourism and related land uses, a long-term vision of Council. This is reflected in the zoning of the site, the approved concept plan for the site and multiple development approvals recently received. Tourism forms part of policy objectives at both local (see LMCC lifestyle 2030) and State level (See NSW State Plan). The success of any tourism project is the ability to offer the broadest range of experiences possible. The proposed helipad is part of the overall range of site offerings that when combined will make a valuable contribution to the overall success of Trinity Point, contribute to attracting new visitors to the area and forming part of a regional link (such as with the vineyards and with the new cruiser terminal). Actual impacts are predicted, within acceptable limits and are managed. On balance it is considered that the benefits of the project outweigh the potential negative impacts.

Bryan Garland from JPG has advised:

*“Council has for many years sought to achieve a high standard of tourism for Lake Macquarie. With the announcement that Accor Hotels will be the operator of the hotel, under its Pullman Brand, Trinity Point in our opinion will be the pinnacle tourism destination for Lake Macquarie. To be successful the facility needs to be a destination in its own right. To do this we not only need to offer the 5 - star services our competition offers, we need to exceed those. The helipad together with the overall mix of land uses proposed for Trinity Point will maximise this opportunity”.*

## 5.0 Helipad in Coastal Location

The modification to include a helipad into the broader approval for marina and mixed-use development has been submitted under Section 75W transitional arrangements and so is able to continue to be assessed on that basis.

At the time the overall Concept Plan was submitted (2006) the helipad was permissible under LMCC LEP 2004. The proposal originally included a helipad, however, was deleted as the proponent at that time needed to complete further work to determine its suitability and impacts and respond to issues raised by parts of the community. Despite its deletion, JPG have always made its intentions clear that it would revisit the helipad proposal. The Concept Plan was ultimately approved on 5 September 2009 without the helipad despite it being permissible.

It has long been the desire of JPG to include a helipad to the facility and the reasons are clearly outlined in the justifications provided for the facility. Accordingly, when JPG had completed the necessary work to be completely satisfied that it could be included without significant adverse impacts JPG made the decision to seek approval for it. To that end the 75W modification to the concept plan was lodged with the Department of Planning and a DA has been submitted to Lake Macquarie City Council.

At the time of lodging the DA and the Section 75W application the helipad was permissible within the 11 Waterways zone applying to the lake under LMCC 2004 LEP. Since submission of these applications which remain valid and under assessment, the 2004 LEP has been replaced with the 2014 LEP. The W1 Natural Waterways zone now applies to the site in which zone helipads are prohibited.

We note that if a helipad was proposed under a Concept Plan application and lodged after when it became prohibited under the 2014 LEP it could not be approved because the site is located in a sensitive coastal location (and Concept Plans cannot approve prohibited development in sensitive coastal locations). However, this restriction does not apply to the modification of concept plans and so does not apply in this instance (as mentioned above it also did not apply at the time of lodgement of the original concept plan because helipads were permitted).

Despite a helipad in its own right now being prohibited there is some argument that a helipad for use in association with the approved marina is ancillary to the marina and so could actually be regarded as permissible because marinas are permissible (i.e. the helipad is not a separate land use it only operates because of the presence, at least in part, of the marina).

It is important to note that a helipad is permissible within the adjoining tourist zone that applies to Trinity Point and so Council has maintained the opportunity for helicopter movements within this locality. The reason that a helipad is permissible within the tourist zone is that it supports tourism outcomes, which of course is the purpose of seeking approval for it.

Whilst the helipad under the 2014 LEP is only permissible within the Trinity Point tourist zone the decision was made to locate the helipad onto the water (as was permissible under the 2004 LEP) as part of the approved Marina within the lake. The helipad is proposed to be attached to the approved and nearly constructed marina and so in reality the

physical structure of the helipad has no significant increased impact. Additionally, the helipad is integrated into the overall access, operation and management of the marina. At the same time flights from a helipad located either on the lake or on the land would both satisfy acoustic and environmental criteria.

The helipad is proposed as part of a marina and mixed-use development, identified to be a tourist destination for Lake Macquarie, it is not a standalone facility. It is only proposed because of the adjacent tourism zone and the marina and mixed use approved development. This presents a unique circumstance, supported by detailed impact analysis. It is noted that Council advised JPG at the time of introducing the 2014 LEP that helipads should not generally be permitted anywhere on the lake given the potential for impacts and it would be preferable to deal with a proposal on its merits, with reference also to extensive community consultation. JPG has sought that merits assessment via this modification process as well as the development application before Council (DA 1176/2014).

The submitted documentation has clearly established that the proposed development has no impact on coastal processes, is not significantly impacted by coastal processes, does not impact on water quality, does not impact on marine or coastal ecology, has no significant impact to visual character and does not significantly impact use and navigation of the bay and wider waterways. Accordingly, we strongly believe that there is no coastal impact reason not to support the proposed helipad.

## 6.0 Conclusion

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Johnson Property Group (JPG) have lodged a modification application (MOD 3) for the addition of a helipad to Concept Approval 06\_0309 for the Trinity Point marina and mixed use development.

It is JPG's vision that the Trinity Point Marina and Mixed Use Development will be a world class land and water based destination development that forms part of an experience and interaction with Lake Macquarie. The success of the overall tourism facility is the diversity of land uses and activities on offer and the proposed helipad will contribute an important part of this outcome.

The Environmental Assessment (EA) for MOD 3 was publicly exhibited from 17 November 2016 to 20 January 2017.

This Preferred Project Report (PPR) has been prepared to respond to the government authority and public submissions received during the exhibition period. Where necessary, to ensure a comprehensive response to submissions, JPG commissioned expert consultant input into this PPR.

Following detailed review and response to the government authority and public submissions it has been determined that there is no matter raised that necessitates a need to modify to the proposal as detailed within the EA. Accordingly, all elements of the helipad proposal remain entirely the same as that outlined within the EA.

The EA and PPR have identified and addressed the key issues relevant to the proposed helipad development, including:

- Establishment and use of a helicopter landing site;
- Noise impact assessment;
- Public access;
- Natural hazards – coastal processes;
- Hydrology (including hydrodynamics);
- Aquatic and Terrestrial Ecology;
- Visual Amenity; and
- Strategic context and project justification.

Assessment of each of the above confirms that the subject site and the receiving environment are appropriate for the proposed helipad.

The proposed Trinity Point Helipad will make a positive contribution and will contribute towards establishing Trinity Point as a world class regional tourist destination and is consistent with the intent of key strategic planning documentation whilst appropriately mitigating and managing site constraints and environmental issues.

It is considered that this PPR has appropriately addressed the authority and public submissions and NSW DPE can progress with assessment of MOD 3 to determination.



# Appendix A

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GOVERNMENT AUTHORITY SUBMISSIONS

## Appendix B

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RESPONSE TO ACOUSTIC MATTERS RAISED BY LMCC

# Appendix C

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RESPONSE TO PUBLIC SUBMISSIONS

## Appendix D

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ADDENDUM TO AQUATIC & TERRESTRIAL ECOLOGICAL ASSESSMENT – MJD ENVIRONMENTAL

## Appendix E

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REVISED ACOUSTIC ASSESSMENT – THE ACOUSTIC GROUP

## Appendix F

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### REVISED SOCIAL IMPACT ASSESSMENT AND COMMUNITY AND DRAFT STAKEHOLDER ENGAGEMENT PLAN – KEY INSIGHTS

## Appendix G

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CONSULTATION LOG – POST EA LODGEMENT (NOVEMBER 2016 - PRESENT)