

Department of Planning, Housing and Infrastructure

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Salamander Shores Hotel and Residential Development Modification 4

Modifications to Hotel and Residential Development - Major Project Modification

Assessment

(MP 06_0183 MOD 4)

September 2024





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Salamander Shores Hotel and Residential Development – MOD 4 (MP 06_0183 MOD 4) Assessment Report

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Preface

This assessment report provides a record of the Department of Planning, Housing and Infrastructure's (the Department) assessment and evaluation of modification 4 of the Major Project Salamander Shores Hotel and Residential Development application located at Soldiers Point lodged by Salamander Properties Pty Ltd c/o Milestone (AUST) Pty Ltd. The report includes:

- an assessment of the modification against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the modification during the assessment process
- an assessment of the likely environmental, social and economic impacts of the modification
- an evaluation which weighs up the likely impacts and benefits of the modification, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether the approval should be modified and any conditions that should be imposed.

Executive Summary

This report is an assessment of a request to modify the concept approval (MP06_0138) as modified for a residential and hotel development at Salamander Shores, in the Port Stephens Council (Council) Local Government Area.

The request seeks to modify the residential and hotel development to:

- revise the mix of land uses, by decreasing the hotel rooms (from 90 to 85) and residential apartments (from 98 to 77)
- reduction in the total number of buildings to 5 (previously approved 6 buildings)
- reconfigure building footprints while maintaining the same gross floor area of 19600m² as approved under MOD 2
- reconfigure building heights across the site while maintaining the approved maximum building height of RL36.10 at the top of the roof
- additional building height of 0.5m above the roof level to provide for lift overruns and plant which were previously not captured under MOD 2. The proposed maximum building height is RL36.60
- increase total car parking spaces by 10 spaces, to provide 320 spaces, with dedication of 9 additional car parking spaces for patron parking (total 59 spaces)
- provision of dedicated 'drop-off' zone at the entrance of the hotel at the ground level
- revisions to vehicle access and pedestrian pathways on site to reflect new site layout
- reduction in total number of trees removed by two (2) (from 28 to 26)

The request was lodged by Salamander Properties (the Applicant) pursuant to section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act). The proposal was publicly exhibited and notified to adjoining landholders, Council and relevant State agencies. The Department received 2 public submissions (1 comment and 1 in support) and comments from Council and four NSW Government agencies.

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act and has carefully considered the comments raised in public submissions and the Applicant's response. The Department's assessment concludes that the proposal is acceptable as:

- the approved GFA remains unchanged, despite revising the landuse mix onsite

- the reduction in total buildings and reconfigured footprints offers an improved and simplified development in terms of layout, solar access and operational management and will not result in any unreasonable impacts
- the changes to building height and envelopes are minor and do not result in unreasonable view-loss or visual impacts and ensure compliance with relevant building codes
- the additional 0.5m height above the previously approved maximum building height is acceptable as the plant and lift overruns are centrally located within the building footprints and will not result in adverse bulk and scale, view, visual or overshadowing impacts
- the modification to the traffic, access and parking aspects of the proposal will not result in any material additional traffic impacts to the surrounding network and improves the on-site parking provision when compared to the Concept Plan
- the development will increase housing supply and diversity in accordance with the Hunter Regional Plan 2041
- the development satisfies the statutory requirements of relevant environmental planning instruments
- all other aspects of the development including building design, landscaping, amenity, environmental and construction impacts will be considered in further detail by Council during the assessment of any future development applications

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1 Introduction

1.1 The proposal

This report provides the NSW Department of Planning, Housing and Infrastructure's (the Department's) assessment of an application to modify the approved Concept Approval MP 06_0183 for the redevelopment of the Salamander Shores Hotel (also known as Bannisters Port Stephens).

The modification application seeks approval for changes to the hotel and residential apartment mix, reduction in total buildings, reconfiguration of building heights, increase in total car parking spaces, and revisions to vehicle, pedestrian and access arrangements across the site.

The application was lodged on 23 February 2024 by Salamander Properties Pty Ltd c/o Milestone (AUST) Pty Limited (the Applicant) pursuant to section 75W of the Environmental Planning and Assessment Act 1997 (EP&A Act) as called up by Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP Regulation).

1.2 Background

The request relates to a hotel and residential accommodation site within Soldiers Point, in the Port Stephens Local Government Area. The site is legally described as Lot 31 in DP529002, known as 147 Soldiers Point Road, Soldiers Point. The site is 12,250m² which features a hotel that contains accommodation and restaurant facilities. The site is surrounded by vegetation on most sides and is bounded by Soldiers Point Road to the west, low density residential to the north and south, and a public reserve and Port Stephens to the east.

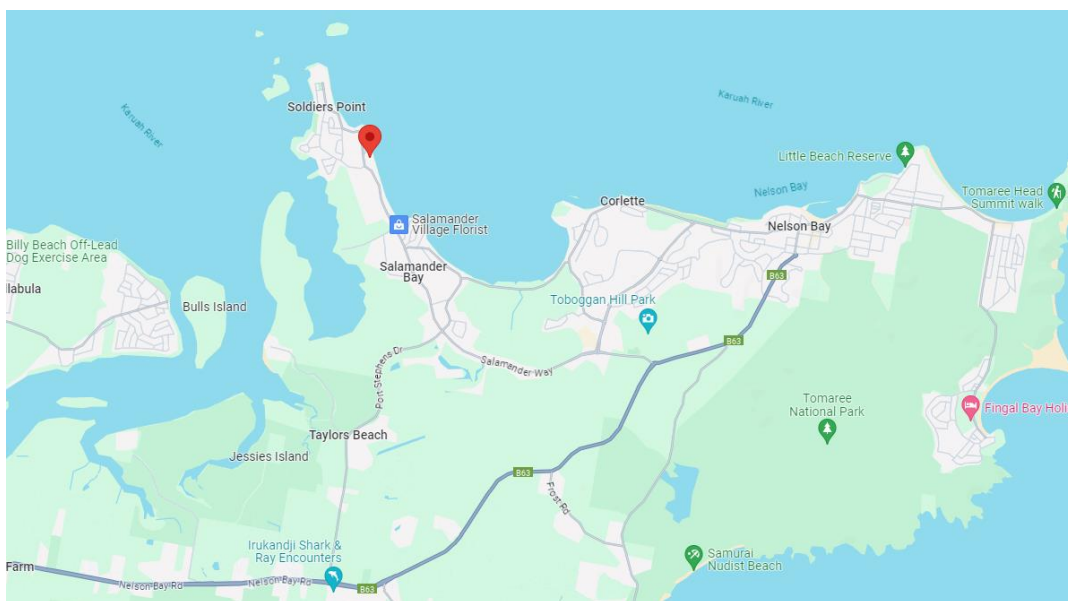


Figure 1 | Regional Context Map (Source: Google Maps 2024)



Figure 2 | Local Context Map (Source: Nearmap 2024)

The site is located on the Soldiers Point peninsula which is largely characterised by low density residential with a Big 4 Holiday Park and the Soldiers Point Bowling Club directly across the road from the site. Soldiers Point Road provides the only access to and from the site to the wider Port Stephens area.

1.3 Approval History

On 4 September 2011, the Concept Plan was approved by the then Deputy Director-General of the Department of Planning and Infrastructure, as delegate for the then Minister for Planning and Infrastructure. The Concept Plan permitted the use of the site for 40 residential apartments, a hotel, serviced apartments, conference facilities, a bar, café and gym, the building of eight separate buildings, and an underground carpark.

On 4 September 2011, Project Approval No. MP06_0183 was also approved by the then Deputy Director-General of the Department for the demolition of the existing hotel complex on the site and clearance of vegetation.

The Concept Plan has been modified three times (Table 1) and is an active consent.

Table 1 | Summary of modifications

| Modification | Description | Decision-maker | Type | Approval Date |
|--------------|---|----------------|------|----------------|
| MOD 1 | Extension of approval lapsing condition to 7 years after the determination | Department | 75W | 30 August 2016 |
| MOD 2 | <p>Amendments to the hotel and commercial development, including:</p> <ul style="list-style-type: none"> • revise the mix of land uses, by increasing the number of hotel rooms (from 84 to 90) and residential apartments (from 40 to 98) and removing all the (34) serviced apartments • reconfigure building footprints and amend building heights • relocate the underground carparking and increase the number of parking spaces (from 275 to 310 spaces) • remove 28 additional trees • revise the gross floor area (GFA) allocated to certain uses, without increasing the GFA. | Department | 75W | 28 June 2022 |
| MOD 3 | Change the Applicant listed on the previous Instrument of Modification for MP06_0183 MOD 2 from 'Salamander Shores Hotel Pty Ltd' to Salamander <i>Properties</i> Hotel Pty Ltd' (emphasis added) | Department | 75W | 16 May 2023 |

2 Proposed modification

On 23 February 2024, the application fee was paid, and the section 75W modification request (MP06_0183 MOD 4) was formally lodged. The request seeks to modify the Concept Plan approval in the following manner:

- revise the mix of land uses, by decreasing the hotel rooms (from 90 to 85) and residential apartments (from 98 to 77)
- reconfigure building heights across the site whilst maintaining the approved maximum building height of RL36.10 at the top of the roof
- additional building height of 0.5m above the roof level to provide for lift overruns and plant which were previously not captured under MOD 2. The proposed maximum building height is RL36.60
- reduction in the total number of buildings to 5 (previously approved 6 buildings)
- reconfigure building footprints while maintaining the same gross floor area of 19600m² as approved under MOD 2
- increase total car parking spaces by 10 spaces, to provide 320 spaces, with dedication of 9 additional car parking spaces for patron parking (total 59 spaces for public patrons)
- provision of dedicated 'drop-off' zone at the entrance of the hotel at the ground level
- revisions to vehicle access and pedestrian pathways on site to reflect new site layout
- reduction in total number of trees removed by two (2) (from 28 to 26)

The Applicant has justified the modification to the mix of uses on the following bases:

- the modification introduces larger premium hotel rooms to better reflect the market
- the change in total number of buildings and revised footprint maximises solar access, outlook and privacy for the permanent residential accommodation and will comprise a more well-considered design with improved operational function
- the reconfiguration of building heights across the site is to allow for better building separation and enhanced residential apartment amenity as well as provide appropriate lift overruns and plant which were not previously captured under MOD 2
- an additional 10 parking spaces will allow for a greater number of public accessible parking spaces to patrons using the restaurants and other facilities on the site.

The key components and features of the modification request are provided in Table 2 and are shown in Figure 3 and Figure 4.

Table 2 | Main components of the modification request

| Aspect | Approved Concept Plan | Proposed Modification |
|------------------------------------|--|--|
| Hotel Apartment Mix | 90 x Hotel Rooms 98 x Residential Apartments | 85 x Hotel Rooms 77 x Residential Apartments |
| Building Heights | Building A – RL 30.60 Building B – RL 34.20 Building C – RL 20.50 Building D – RL 24.70 Building E – RL 24.70 Building F – RL 26.70 Building G – RL 26.70 Building H – RL 36.10 | Building A – RL 31.55 (+0.95m) Building B – RL 24.95 (-9.25m) Building C – RL 29.90 (+9.40m) Building D – N/A (Part of Building C) Building E – RL 29.90 (+5.20m) Building F – RL 36.10 (+9.40m) Building G – N/A (Part of Building F) Building H – N/A (Unchanged) |
| Parking / Access | 310 Spaces (Total) 50 Spaces at ground floor for use by restaurant and retail patrons | 320 spaces (Total) 59 spaces at ground floor for use by restaurant and retail patrons Addition of dedicated ‘drop-off’ zone proposed at entrance of the hotel at ground level. |

| Aspect | Approved Concept Plan | Proposed Modification |
|--|---|--|
| Gross Floor Area Breakdown (m²) | Residential apartments – 11,349 Hotel Rooms – 4,261 Bar/Café – 350 Restaurant – 500 Pre-Function – 70 Conference – 300 Conference Bar – 250 Gym/Spa/Rec – 190 General Back of House/Storage – 1360 Non-residential misc. – 970 TOTAL: 19,600 FSR 1.6:1 | Residential apartments – 11,349 Hotel Rooms – 4,261 Ancillary Hotel Uses – 3,990 TOTAL: 19,600 FSR 1.6:1 Unchanged |
| Tree Removal and Landscaping | 28 Trees to be removed | 26 Trees to be removed (-2) |



Figure 3 | Approved Modified Concept Plan Layout (Source: Applicant's Modification Report)

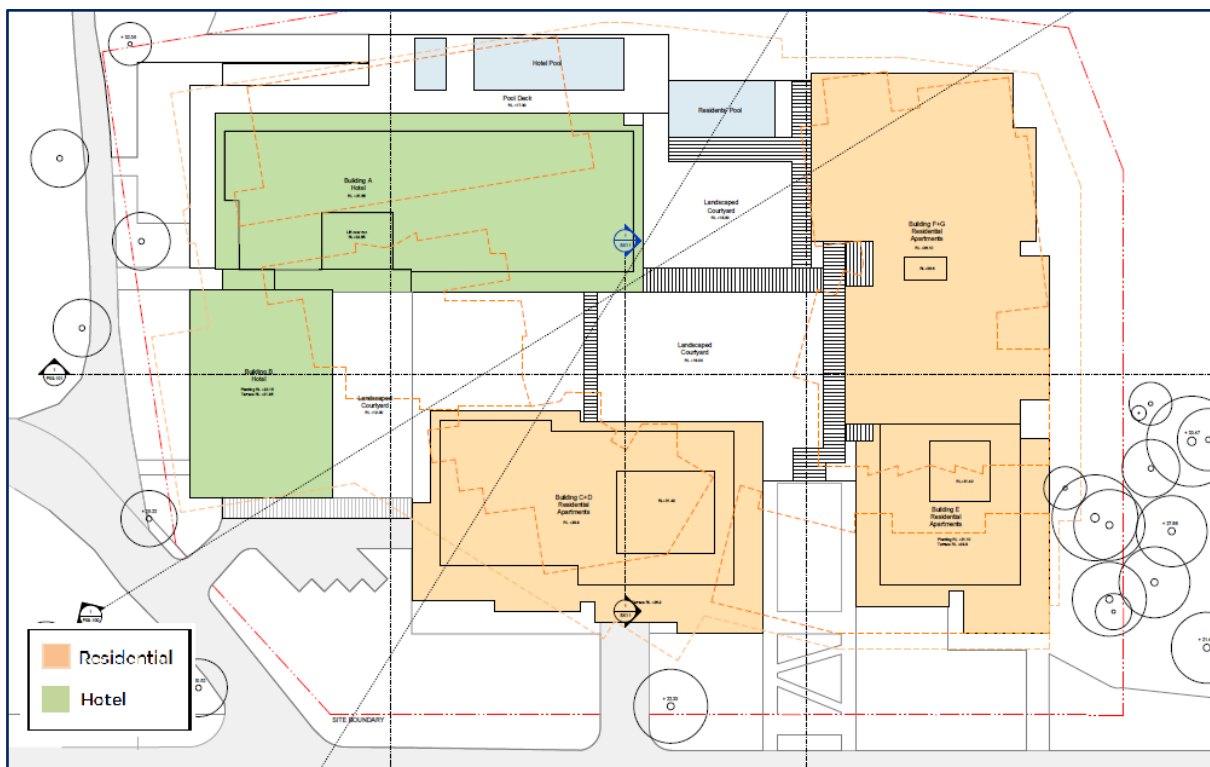


Figure 4 | Proposed Concept Plan Layout (MOD 4) (Source: Applicant's Modification Report)

3 Strategic context

3.1 Hunter Regional Plan 2041

The Hunter Regional Plan 2041 (the Plan) repeals the previous Hunter Regional Plan 2036 and identifies new planning priorities for the Cessnock, Dungog, Lake Macquarie, Maitland, Mid-Coast, Muswellbrook, Newcastle, Port Stephens, Singleton and Upper Hunter LGAs and provides guidance for regional and local planning decisions.

The Plan seeks to facilitate sustainable growth opportunities and investments, as well as housing choice and lifestyle opportunities. The Plan forecasts population growth within the Hunter Region to require an additional 101,800 additional dwellings (11,100 within Port Stephens).

The modifications proposed are consistent with the objectives outlined in the Plan as follows:

- Plan for ‘nimble neighbourhoods’, diverse housing and sequenced development (Objective 5) as the development provides for a variety of unit sizes and types (permanent or rental) that provides more housing choices for residents of all ages
- Plan for businesses and services at the heart of health, prosperous, and innovative communities (Objective 8) as the development will support a variety of uses and activities (day and night) for the community and visitors to engage with

The proposed modifications are also consistent with the planning priorities set out for the Coastal District as follows:

- Prioritise housing growth in existing urban areas and support sustainable communities (Priority 1) as the development includes new dwellings
- Offer more diverse housing choices (Priority 2) as the development provides a variety of unit sizes and types (permanent or rental) that provide more diverse housing choices for the community

The Department considers that the modified project is consistent with the strategies, plans and policies outlined in Error! Reference source not found. below.

4 Statutory context

4.1 Scope of modification and assessment pathway

The concept plan was originally approved under Part 3A of the EP&A Act, which has been repealed. However, section 3BA(5) of Schedule 2 to the ST&OP Regulation provides that an approved concept plan can be modified under section 75W in response to a request lodged after 1 March 2018 if the Minister is satisfied that:

- a) the proposed modification is to correct a minor error, misdescription or miscalculation, or
- b) the proposed modification is of minimal environmental impact, or
- c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).

4.1.1 Section 3BA(5)(b) Minimal Environmental Impact

The Department is satisfied that the modified Concept Plan will have a minimal environmental impact particularly when compared to the assessed environmental impacts of the approved development for the following reasons:

- the proposed modification remains a mixed use residential and tourist development and the intended outcomes of the future development of the site will be retained
- the approved GFA of the development remains unchanged and the reallocation of floor space throughout the site does not result in any unreasonable environmental impacts
- the revised building envelopes do not result in any unreasonable visual impacts and are commensurate with the approved development
- it has been demonstrated that the traffic and parking impacts of the development will offer an improvement on the approved development with additional parking provision provided on site
- as a result of the rationalisation of buildings and their respective envelopes, an additional 2 hollow-bearing trees on the site that were to be removed under the approved development will be retained
- the proposed modification does not result in any changes to the flooding, stormwater and groundwater related findings provided under MOD 2

- the proposed modification does not result in any changes to the bushfire mitigation measures recommended under MOD 2.

4.1.2 Section 3BA(5)(c) Substantially the same development

The Department is satisfied that the modified Concept Plan is substantially the same as the approved Concept Plan (MOD 2) as follows:

- the approved GFA of 19,600m² and FSR of 1.6:1 will remain unchanged.
- the proposed modification remains a mixed use residential and tourist development and the intended outcomes of the future development of the site will be retained
- the proposed modification will continue to provide a diverse unit mix
- the massing and scale of the proposal will continue to respond to the opportunities and constraints of the site and be commensurate with the approved Concept Plan
- the proposed modification will not result in any additional bushfire risk, traffic, amenity, and environmental impacts when compared to the approved Concept Plan

The Department is satisfied the proposed changes are within the scope of section 3BA(5)(b) and (c).

4.2 Consent authority

The Minister for Planning is the consent authority for the modification request. However, the Director, Regional Assessments may determine the request under the delegations issued by the Minister for Planning dated 9 March 2022 as:

- The modification request is made pursuant to 75W as continued in force by Schedule 2 of the ST&OP Regulation
- A political disclosure statement has not been made
- Less than 25 submissions were received: One submission was comment only, and one submission supported the development
- Council has not made a submission by way of objection.

4.3 Mandatory matters for consideration

The following matters are relevant to the consideration of the modification requested:

- relevant environmental planning instruments (EPIs)
- objects of the EP&A Act

- Environmental Planning and Assessment Regulation 2021

4.3.1 Environmental Planning Instruments (EPIs)

The Department comprehensively assessed the project against the mandatory matters for consideration under section 4.15 of the EP&A Act as part of the original assessment (of MP 06_0138). The Department has also considered the modification requested against the relevant EPIs that currently apply to the proposal, including:

- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022

The Department is satisfied that the proposed modification does not result in any significant changes that would alter the conclusions made as part of the concept approval as modified and is consistent with the above State Environmental Planning Policies. The Applicant provided an assessment of the proposal against the updated provisions of the Koala Habitat Protection requirements and notes that it is consistent with the requirements of the Port Stephens Comprehensive Koala Plan of Management. An assessment against Schedule 9 Design principles for residential apartment development of State Environmental Planning Policy (Housing) 2021 is provided at **Appendix E**.

4.3.2 Objects of the EP&A Act

In determining whether or not to modify the consent, the consent authority should consider whether the modified project is consistent with the relevant objects of the EP&A Act (section 1.3) including the principles of ecologically sustainable development.

The Department is satisfied that the modification does not alter the development's consistency with the objectives of the EP&A Act and the principles of ecologically sustainable development (ESD).

Consideration of the Objects of the EP&A Act, as they relate to the proposed modification, is provided at **Table 3**.

Table 3 | Response to the objects of section 1.3 of the EP&A Act

| Objects of the EP&A Act | Approved Concept Plan Consideration |
|--|---|
| a) to promote the social and economic welfare of the community and a better environment by the management, development and conservation of the State's natural and other resources | The development seeks to maximise the use of the site and provides social and economic benefits through the delivery of increased housing supply and diversity, and the provision of tourism facilities and employment opportunities. The proposal will not expand the urban footprint, beyond that already approved and will not adversely impact on the State's natural or other resources. |
| b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment | The Precautionary and Inter-generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is generally consistent with ESD principles noting the modification does not seek to change ESD initiatives and sustainability measures. |
| c) to promote the orderly and economic use and development of land | The development provides the orderly and economic use of land through the approved land use which has good access to local services. |
| d) to promote the delivery and maintenance of affordable housing | Although the development doesn't specifically deliver affordable housing, the increase in a variety of housing typologies will make a positive contribution to housing supply and affordability in the area. |
| e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats | The Department considers the proposal will not result in unacceptable environmental impacts. |
| f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage) | The modification request does not impact on built or cultural heritage. The Department is satisfied impacts to both Aboriginal heritage and European heritage will be appropriately assessed, minimised and mitigated as part of future applications. |

| Objects of the EP&A Act | Approved Concept Plan Consideration |
|---|--|
| g) to promote good design and amenity of the build environment | The Department considers the proposal will not result in unacceptable built form impacts. |
| h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants | N/A. No construction approved by the Concept Plan. Construction matters will be assessed as part of future development applications. |
| i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the state | The Department notified the modification request, which included consultation with Port Stephens Council (Section 5) and consideration of their responses (Section 6). |
| j) to provide increased opportunity for community participation in environmental planning and assessment. | The Department notified the application as outlined in Section 5. |

5 Engagement

5.1 Department's engagement

In accordance with the EP&A Regulation and the Department's Community Participation Plan, the Department notified the modification request for a period of 14 days between 5 March 2024 and 18 March 2024. The request was made publicly available on the Department's website and written notice was provided to Biodiversity and Conservation Services, Port Stephens Council, DCCEEW - Water (formerly DPIE Water), the NSW Rural Fire Service, the Worimi Local Aboriginal Land Council, and Crown Lands.

5.1.1 Summary of submissions

During the exhibition period, the Department received a total of three submissions on the proposal. Of these, one was from the local council, two were from members of the community. A summary of the council and community submissions is provided at Table 4.

In addition, the Department received advice from four NSW Government agencies. A summary of the matters raised in the council submission and agencies' advice is provided at Table 5 in Section 5.4.

| Submitter | Number of responses | Position |
|---|------------------------------|-------------------------------|
| Unique Submissions from Community Members | 2 | 1x Comment only 1x Support |
| Port Stephens Council | 1 | Response only |
| Total | 3 (including Council) | |

5.1.2 Key issues raised in public submissions

Public submissions commented:

- Traffic impacts generally
- Continued operation of Cheeky Dog Hotel
- Construction duration

5.1.3 Key issues raised in Council submission and agency advice

Table 2 | Summary of Council submission and agency advice

| Council/Agency | Submission summary |
|---|--|
| Port Stephens Council | Council did not object to the proposal, nor did they have any further comments beyond those made under the previous application. |
| Biodiversity and Conservation Services | BCS reviewed the application for biodiversity, flooding and coastal risk issues and raised no issues or comments. |
| NSW Rural Fire Service (RFS) | RFS did not object to the proposal and accepted the Bushfire consultant's recommendations. |
| DCCEEW – Water (formerly DPE Water) | DCCEEW – Water commented on the proposal stating that the matter raised in previous submissions had been satisfied. |
| Crown Lands | Crown Lands reviewed and responded to the exhibition with no further comments. |

5.1.4 Response to submissions and Government Agency advice

Following the notification of the application, the Department placed copies of all submissions and agency advice on its website and requested the Applicant provide a response to the issues raised.

On 6 May 2024, the Applicant provided a Response to Submissions on the issues raised during the notification of the proposed modification. No further design development was requested or provided as part of the submitted RtS.

The RtS was made publicly available on the Department's website.

6 Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the Modification Report and associated documents, including response to submissions and additional information (**Appendix A**)
- the Environmental Assessment and conditions of the original approval and previous modifications
- submissions received on the proposal
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act

The Department considers the key assessment matters associated with the proposal to be:

- Visual Impact and Built Form
- Traffic, Parking and Access

An assessment of all other issues is set out in **Section 6.3**.

6.1 Visual Impact and Built Form

The proposal seeks to rationalise the number of buildings, reconfigure the building footprints and modify the building envelopes as follows:

- Reduce in the total number of buildings to 5 (previously approved 6 buildings)
- Reconfigure building footprints while maintaining the same gross floor area of 19,600m² as approved under MOD 2
- Reconfigure building heights across the site whilst maintaining the approved maximum building height of RL36.10 at the top of the roof
- Add building height of 0.5m above the roof level to provide for lift overruns and plant which were previously not captured under MOD 2. The proposed maximum building height (including lift overruns) is RL36.60.

The modified proposal effectively relocates and consolidates the hotel components of the future development on the northern and northeast portions of the site (Buildings A and B). The residential components are also grouped together on at the southern and western portions of the site (Buildings C/D, E and F/G) refer to **Figure 5**.



Figure 5 | Proposed Built Form (Source: Applicants Modification Report)

The applicant states that the modifications will maximise the opportunity for water views to the north and northeast and provide more efficient operation.

No submissions raised concerns regarding the above changes.

The proposed changes in building envelope heights across the site are outlined in Table 6.

Table 6 | Response to the objects of section 1.3 of the EP&A Act

| Building | Approved Heights | | Proposed Height | Lift Overrun/ Planting | Storeys | Change | |
|----------|------------------|-----------|--------------------------|---------------------------|---------|---------|------------|
| A | RL 30.60 | 7 storeys | RL 31.55 | RL 32.55 | 7 | +0.95m | No change |
| B | RL 34.20 | 8 storeys | RL 21.95 | RL 23.15 | 4 | -12.25m | -4 storeys |
| C | RL 20.50 | 3 storeys | RL 29.90 | RL 31.40 | 6 | +9.40m | +3 storeys |
| D | RL 24.70 | 5 storeys | N/A – Part of Building C | - | - | - | - |

| Building | Approved Heights | | Proposed Height | Lift Overrun/ Planting | Storeys | Change | |
|----------|------------------|-----------|--------------------------------|---------------------------|---------|--------|------------|
| E | RL 24.70 | 5 storeys | RL 29.90 | RL 31.40 | 6 | +5.20m | +1 storey |
| F | RL 26.70 | 5 storeys | RL 36.10 | RL 36.60 | 8 | +9.40m | +3 storeys |
| G | RL 26.70 | 5 storeys | N/A – Part of Building F | - | - | - | |
| H | RL 36.10 | 5 storeys | N/A – Part of Building F | - | - | - | |

The additional heights, in part, are proposed in lieu of part reductions in height and the redistribution of footprints throughout the site and as such the approved Gross Floor Area (GFA) of 19,600m² remains unchanged.

In the Department's original report for MP 06_0138, vegetation screening was identified as a measure used to mitigate adverse visual impacts of the development. The Department also noted that the separation of buildings would provide an improved visual outcome when compared to the existing single building.

Overall, the Department considers that:

- the visual impacts of the modified envelopes are minor and commensurate with the previously approved development and will not result in any unreasonable amenity impacts
- the development achieves an appropriate degree of separation of buildings that is commensurate with the previously approved scheme
- any additional overshadowing as a result of the additional heights will fall within the site itself or over the existing heavily vegetated bushland in Councils Reserve
- the rationalisation of the buildings results in an improvement in terms of layout and overall bulk and is considered to have minimal environmental impacts
- the principles in the approved development of having taller buildings located in the centre of the site and stepping down buildings in accordance with the topography to minimise visual impacts are maintained
- the modification will result in the retention of an additional two mature trees on site

- the proposed development will remain significantly screened by existing vegetation and dense tree canopy cover particularly when viewed from the coastline and south of the site

The Department is satisfied that the changes will have a minimal impact on the environment and are consistent with the approved project as modified.

6.2 Traffic, Parking & Access

The proposal will alter the approved traffic, parking and access characteristics of the site as follows:

- Provision of 10 additional car parking spaces on site from 310 to 320 spaces.
- Dedicate 9 of these additional car parking spaces for patron parking (total 59 spaces)
- Provision of dedicated 'drop-off' zone at the entrance of the hotel at the ground level.
- Minor revisions to vehicle access and pedestrian pathways on site to reflect new site layout.

6.2.1 Traffic

The Department's original assessment noted that the hotel and serviced apartments would generate most of the sites traffic movements however the overall increase in traffic movements from the development was considered minor.

Subsequently, MP 06_0138 MOD 2 proposed an additional 6 hotel rooms, an additional 58 residential apartments and the removal of 34 serviced apartments (an overall increase in 24 apartments). It was noted within the assessment that traffic generation would be comparable to the originally approved development despite the increased number of apartments.

The current proposal seeks to modify the unit mix by reducing the total number of hotel rooms by 5 and reducing the number of residential apartments by 21.

A Traffic and Parking Assessment prepared by CBRK dated 27 November 2023 was submitted with the application assessing the traffic aspects of the proposed modifications when compared to the approved Concept Plan. The assessment concludes that the proposed modified concept plan, proposing 21 fewer residential apartments and 5 fewer hotel apartments, will result in a reduced traffic generation of some 5 to 10 vehicles per hour when compared to the approved development.

6.2.2 Access, Servicing and Layout

Revised vehicular access is proposed from 2 locations, including the existing main carriageway of Soldiers Point Road and an additional connection to the north of the site. The proposed access points are generally in the same locations as the approved accesses of the development.

Hotel access to the car park and porte cochere will be provided from the connection to Soldiers Point Road, north of the site. An additional drop-off area is proposed opposite the porte cochere.

Service vehicles to the development will include large rigid vehicles for garbage collection and deliveries and these will access the site via the ramp from Soldiers Point Road. A vehicle turntable is proposed within the site to allow for service vehicle manoeuvrability to the loading dock and allow for entry and exit in a forward direction.

Cars and service vehicles will share the external road network as well as a short length of internal access road within the site. The Traffic and Parking Assessment concluded that the access points will continue to operate effectively.

The Department notes any future development application for the proposal will be considered traffic-generating development under State Environmental Planning Policy (Transport and Infrastructure) 2021, as the proposal will include car park with a capacity 200 or more spaces. As the proposed modification relates to a Concept Plan only (i.e. is not a development application that approves development), existing FEAR 2A requires a Parking Operational Management Plan to be submitted with a future development application for the consent authority's assessment, and existing FEAR 2B requires a Traffic Impact Assessment with a future development application. Subject to existing FEAR 2A and 2B, the Department is satisfied that potential traffic safety, impacts, road congestion and/or parking implications of the development will be adequately addressed.

6.2.3 Car Parking

The original development provided a total of 275 car parking spaces on site, with 75 of these spaces required to be provided at the ground level for bar, restaurant and retail patrons. A subsequent modification (MOD 2) approved a total of 310 car parking spaces on site, with 50 of these spaces required to be provided at ground level for bar, restaurant and café patron usage. Parking was provided across 5 levels.

The proposal seeks to alter carparking arrangements onsite through an additional 10 car parking spaces servicing the hotel and residential apartment uses. An additional basement level is proposed and parking will now be across 6 levels.

The proposed changes to onsite carparking are outlined in **Table 7 below**.

Table 7 | Summary of Parking

| Level | MP08_0183 MOD 2 | | | Proposed | | |
|---------------------|----------------------|-------------|-------|----------------------|-------------|-------|
| | Public Patron Access | Unallocated | Other | Public Patron Access | Unallocated | Other |
| Basement 02 | - | 65 | 0 | - | 80 | - |
| Basement 01 | - | - | - | 59 | 5 | - |
| Ground Floor | 50 | - | - | - | - | 10 |
| Level 01 | - | 75 | - | - | 68 | - |
| Level 02 | - | 42 | 10 | - | 60 | - |
| Level 03 | - | 68 | - | - | 38 | - |
| Subtotal | 50 | 250 | 10 | 59 | 251 | 10 |
| Total | 310 | | | 320 | | |

The Department has assessed the proposed parking rates against the approved development and DCP requirements at **Appendix C**.

The total required car spaces for the residential component of the development has reduced from 155 spaces to 126. The modified proposal, with 136 parking spaces, meets this new requirement.

The total required spaces for the hotel, restaurant and bar components have increased from 158 to 180. The modified proposal, with 184 spaces proposed, meets this new requirement. Of the 184 spaces, 59 spaces are allocated for public patron use and have been relocated from the ground level to Basement Level 01 (the upper basement level). The public patron parking will be provided on Basement Level 01 and this will be available to the public at all times, 24 hours a day to prevent any conflicts with the operation of the development and not restrict public patron parking provided on the site. An amended FEAR 2 is recommended that requires details of this access be provided.

Overall, the development will provide an excess of 14 spaces across the entire site having regard to the Port Stephens Development Control Plan 2014 (DCP) requirements and as such the proposed allocation of parking is an improvement on the previously approved parking rates under MOD 2.

Subject to the amended FEAR 2 and taking into consideration the likely sharing of parking spaces due to the complementary uses on the site, the Department is satisfied that the proposed parking is appropriate and will not result in adverse off-site impacts.

Overall, the Department considers that:

- the modified proposal will have similar or lesser traffic generation to the approved development
- access, servicing, and internal circulation through the site has been demonstrated to facilitate the proposed development in accordance with the relevant standards
- the increase in 10 car parking spaces across the site combined with changes to the land use mix that requires fewer parking spaces, is an improvement to that previously approved
- the relocation of allocated parking for public patron use from ground level to basement level is not considered to have detrimental impact on the parking availability of the surrounding network
- the proposal will continue to satisfy the parking requirements pursuant to the DCP for tourist and visitor accommodation and residential flat buildings

6.3 Other issues

Table 8 | Assessment of other issues

| Issue | Findings | Recommendations | Conditions |
|---------------------|---|---|--|
| Land Use Mix | <p>The proposal introduces larger premium hotel rooms, reducing the total number of rooms from 90 to 85, whilst retaining the approved allocation of GFA for hotel rooms.</p> <p>The proposal seeks to reduce the total number of residential apartments from 98 to 77 to better reflect the current market.</p> <p>Despite the reduction in total units, the GFA of the site will remain consistent with that approved under MOD 2 and the development will continue to provide a suitable unit mix. The proposed uses will be consistent that approved under MOD 2.</p> | Amendments to Terms of approval A1 and A2 so as to reference correct building, use and plan identification Nos. | <p>Amendments to Terms of approval:</p> <p>A1 Development Description</p> <p>A2 Development in accordance with Plans and Documentation</p> |

| Issue | Findings | Recommendations | Conditions |
|----------------------|--|---|---|
| Bushfire Risk | <p>The proposed layout results in a minor reduction in the separation between the lot boundary and the building envelope (balconies) in the south-eastern corner compared to the concept plan approval under MOD 2.</p> <p>The ground level access and separations are consistent between MOD 2 and MOD 4.</p> <p>The reduction in units and total occupancy within subject MOD 4 is viewed as an improvement to the design in consideration of MOD 2.</p> <p>There are no significant changes to the development that would alter previous recommendations from NSW RFS. In addition, the RFS is satisfied with the recommendations contained in the application's bushfire report.</p> | An amended consent FEAR will reference the new bushfire report. | <p>Amendment to FEAR</p> <p>13 Bushfire</p> |

| Issue | Findings | Recommendations | Conditions |
|---------------------|---|--|---|
| Biodiversity | <p>The modified proposal alters the building footprints and access from that approved under the concept plan approval under MOD 2 and as such a review of the previous Biodiversity conclusions provided within the Salamander Shores Biodiversity Development Assessment Report –Streamlined Assessment Module (Small Area) (ELA 2022) are required to ensure they are appropriate for the new design.</p> <p>The proposed modified footprint is wholly contained within the original development site and is commensurate with the concept approval. The amended advice letter prepared by Eco Logical Australia notes that the area of impacts will remain unchanged and that based on this, the Salamander Shoes Biodiversity Development Assessment Report (BDAR) – Streamlined Assessment Module (small area) completed by ELA in 2022 is considered to remain valid for the subject modification and no further impacts or credit calculations are required.</p> | No additional conditions or amendments to existing conditions necessary. | <p>No change to FEAR</p> <p>5A Biodiversity</p> |

| Issue | Findings | Recommendations | Conditions |
|---|--|--|--|
| Groundwater and Geotechnical Affection | <p>The proposed modification seeks to modify the lowest entry and basement levels and as such a Water Management Assessment prepared by Advisian dated 4 December 2023 was submitted with the application.</p> <p>The lowest ground floor entry for the proposed layout is at an elevation of 7.7m AHD. The lowest basement level within the proposed layout is at an elevation of 1.7m AHD, which is lower than was approved under MOD 2, being 5m AHD. The vehicle entrance to the basement level is at an elevation of 7.7m AHD. The Flood Planning Level for the site is 2.9m AHD. Therefore, both the ground floor and the vehicle entrance to the basement are above the Flood Planning Level (FPL) and the Year 2100 design 1% AEP flood level. As a result, floodwaters will not enter the basement via the vehicle entrance.</p> <p>Advisian has reviewed the previous conclusions and findings for groundwater management against the proposed modified Concept Plans and conclude that suitable drainage infrastructure and stormwater requirements can be accommodated for the modified proposal and the proposal will be capable of addressing all relevant legislative requirements.</p> | No additional conditions or amendments to existing conditions necessary. | <p>No change to FEAR</p> <p>4 Water Management and Groundwater</p> |

| Issue | Findings | Recommendations | Conditions |
|-------------------------------------|--|--|---|
| Aboriginal Cultural Heritage | <p>An Aboriginal Cultural Heritage Report was submitted and approved as part of the original Concept Plan Approval in 2010, which concluded the site has been subject to significant disturbance including site clearing and construction as a result of the establishment of the existing hotel development in 1969. Accordingly, the original Concept Plan was approved on the basis that the site has been assessed to have ‘low archaeological significance’.</p> <p>The Applicant has undertaken a due diligence assessment via the Aboriginal Heritage Information Management System (AHIMS) Web Services on 22 November 2023. Based on this search, the Applicant notes that no Aboriginal sites have been recorded and no Aboriginal places have been declared within a 200m buffer area of the site at No. 147 Soldiers Point Road, Soldiers Point.</p> <p>Consultation has also been undertaken with WLALC in relation to the Modified Concept Plan Application, confirming that the Aboriginal Cultural Heritage of the site would not be impacted by the modification.</p> <p>The Future Environmental Assessment Requirements No 10 requires the preparation of a Cultural Management Plan to outline ongoing consultation WLALC and any other relevant Aboriginal communities.</p> | No additional conditions or amendments to existing conditions necessary. | <p>No change to FEAR</p> <p>10 Aboriginal Cultural Heritage</p> |

| Issue | Findings | Recommendations | Conditions |
|-------------------|--|--|--|
| Noise | <p>All air conditioning condensers and other plant equipment generating noise will be located on rooftops or in basements away from residential apartments.</p> <p>All internal walls, floors and ceilings will meet the noise insulation requirements of the BCA.</p> <p>Noise transfer is expected to be minimised through the proposed siting of the buildings and amended use mix (separating the hotel uses from the residential uses within respective buildings). No new impacts are anticipated by the development.</p> <p>As per previous approvals, acoustic assessments and proposal of mitigation measures would occur as part of any future development applications.</p> | No additional conditions or amendments to existing conditions necessary. | <p>No change to FEAR</p> <p>9 Acoustic Impacts</p> |
| Open Space | <p>The Apartment Design Guide requires a minimum area equal to 25% of the site area be provided as communal and open space. The site measures 12,250m² in total. Approximately 7,133m² or 58% of the site will comprise communal landscaped courtyards, outdoor pool decks and landscaped setback zones. The Department is satisfied that the modified development would be able to provide suitable open space which has appropriate solar access.</p> | No additional conditions or amendments to existing conditions necessary. | |

| Issue | Findings | Recommendations | Conditions |
|--|--|--|---|
| Crime Prevention Through Environmental Design | <p>The proposal seeks to amend the layout of buildings on the site, resulting in the consolidation of hotel use buildings to the north and east and residential use buildings to the south and west.</p> <p>The Department considers the proposed buildings will not result in unacceptable safety impacts, and will still allow for passive surveillance to public spaces in accordance with the principles of Crime Prevention through Environmental Design (CPTED).</p> <p>As part of the assessment undertaken for MOD 2, FEAR 1 was updated to require a CPTED Report be prepared and submitted with future applications.</p> | No additional conditions or amendments to existing conditions necessary. | <p>No change to FEAR</p> <p>1(e) Future application to include CPTED report</p> |

| Issue | Findings | Recommendations | Conditions |
|---------------------------------|---|---|--------------------------------|
| Statement of Commitments | <p>Amendments to the Statement of Commitments (SoC) are proposed within the submitted Environmental Assessment Report with the proposal, refencing updated documents and deleting a number of commitments.</p> <p>In addition to the above, the Applicant seeks to remove requirements specifically relating to hydrants, electricity & gas service and perimeter access width.</p> <p>At the time of the original approval, the subject site was classified as bushfire prone land. The RFS later stated within their review of the approved Concept Plan (Concept Approval No. MP06_0183 MOD 2) that the site was no longer mapped as bushfire prone land. Therefore, the bushfire protection measures provided under 'Fire Management' including provision of a 10m wide Asset Protection Zone (APZ) and implementation of an APZ Maintenance Plan are no longer required on the site.</p> <p>The Department is satisfied that the proposed SoC 'Fire Management' amendments under subject MOD 4 capture the relevant consultant reports and will be consistent with the recommendations provided for bushfire management on the site.</p> | The Department recommends the SoC be updated accordingly. | Amend Statement of Commitments |

7 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department has carefully considered the issues raised in the submissions and the response of the Applicant concludes that the proposal is acceptable as:

- the approved GFA remains unchanged, despite revising the landuse mix onsite
- the reduction in total buildings and reconfigured building envelopes offers an improved and simplified development in terms of layout, solar access and operational management and will not result in any unreasonable impacts
- the changes to building height and envelopes are minor and do not result in unreasonable view-loss or visual impacts and ensure compliance with relevant building codes
- the additional 0.5m height above the previously approved maximum building height is acceptable as the plant and lift overruns are centrally located within the building footprints and will not result in adverse bulk and scale, view, visual or overshadowing impacts
- the modification to the traffic, access and parking aspects of the proposal will not result in any material additional traffic impacts to the surrounding network and improves the on-site parking provision when compared to the Concept Plan
- the development will increase housing supply and diversity in accordance with the Hunter Regional Plan 2041
- the development satisfies the statutory requirements of relevant environmental planning instruments
- all other aspects of the development including building design, landscaping, amenity, environmental and construction impacts will be considered in further detail by Council during the assessment of any future development applications

8 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

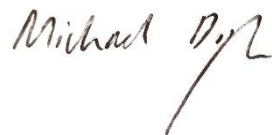
- considers the findings and recommendations of this report
- determines that the application MP 06_0138 MOD 4 falls within the scope of section 75W of the EP&A Act
- accepts and adopts all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- agrees with the key reasons for approval listed in the draft notice of decision
- modifies the consent MP 06_0138
- signs the attached approval of the modification

Recommended by:



Ryan Lennox
A/Senior Planning Officer
Regional Assessments

Recommended by:



Michael Doyle
A/Team Leader
Regional Assessments

9 Determination

The recommendation is adopted by:

A handwritten signature in blue ink, appearing to read 'K T' followed by a long horizontal stroke.

Keiran Thomas

Director

Regional Assessments

Glossary

| Abbreviation | Definition |
|-----------------------------|--|
| AHD | Australian height datum |
| BCS | Biodiversity Conservation and Science group of the NSW Department of Climate Change, Energy, the Environment and Water |
| Council | Port Stephens Council |
| Crown Lands | Crown Lands division of the Department of Planning, Housing and Infrastructure |
| Department | Department of Planning, Housing and Infrastructure |
| EPA | NSW Environment Protection Authority |
| EP&A Act | Environmental Planning and Assessment Act 1979 |
| EP&A Regulation | Environmental Planning and Assessment Regulation 2021 |
| EPI | Environmental planning instrument |
| ESD | Ecologically sustainable development |
| FEAR | Future Environmental Assessment Requirements |
| LGA | Local government area |
| LEP | Local environmental plan |
| Minister | Minister for Planning and Public Spaces |
| RFS | NSW Rural Fire Service |
| RtS | Response to submissions |
| SEPP | State environmental planning policy |
| ST&OP Regulation | Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 |
| TfNSW | Transport for NSW |

Appendices

Appendix A – List of referenced documents

- a) Modification Report
- b) Submissions
- c) Response to Submissions
- d) Instrument of Modification

The above documents can all be found at the following link:

<https://www.planningportal.nsw.gov.au/daex/under-consideration/salamander-shores-motel-mod-4-mp060183-mod-4>

Appendix B – Statutory considerations

Table 9 | Consideration of the Design Principles for residential apartment development (Housing SEPP)

| Design Principle | Department Response |
|---|---|
| 1. Context and Neighbourhood Character | The Department is satisfied that the proposal is consistent with Design Principle 1 as the development appropriately responds to the context of the area, particularly the significant vegetation surrounding the development, the varied topography of the land and the water views to the east and will enhance the identity of the subject site and neighbourhood character. |
| 2. Built Form and Scale | The Department is satisfied that the design features including massing, envelopes and siting incorporated into the proposal ensure that the built form and scale of the development is sympathetic to the surrounding built forms and is commensurate with the desired future character of the area. The modified development also retains existing vegetation to screen and manage visual impacts from the revised built form and scale. |
| 3. Density | The Department is satisfied that the revised building envelopes proposed achieve an acceptable level of amenity for residents (subject to further planning approvals) and are part of a density which is appropriate to the site. |
| 4. Sustainability | The Department is satisfied that the proposal meets Design Principle 4 as the proposal achieves cross ventilation in accordance with the ADG design criteria and provides for satisfactory solar access to units within the development. It is acknowledged that the development will be required to comply with the relevant BCA and Sustainability SEPP requirements. |

| Design Principle | Department Response |
|--|--|
| 5. Landscape | The proposed built form has been designed to fit into the surrounding landscape and topography through significant setbacks, minimal vegetation removal and provision of deep soil zones commensurate with previous approvals. The Department considers that the proposed revised landscaping plan is suitable, relates to the built form and the surrounding natural environment and is consistent with Design Principle 5. |
| 6. Amenity | The Department considers the proposed development will result in satisfactory amenity for future residents, as the proposal achieves adequate access to sunlight, natural ventilation, and acoustic privacy. |
| 7. Safety | The Department is satisfied that the revised building envelopes will enable apartment orientation to provide passive surveillance of both public and communal spaces. |
| 8. Housing diversity and social interaction | The proposal provides a range of different dwelling types, including a variety of unit sizes. The Department is satisfied that the proposal provides suitable housing diversity and opportunities for social interaction. |

Table 10 | Consideration of the Apartment Design Guideline

| Objective | Department Response |
|---|--|
| 3A-1 Site Analysis Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context. | <p>Satisfactory/to be addressed in future planning applications</p> <p>Design decisions have and will be made based on opportunities & constraints of the site conditions and site context.</p> <p>The site is surrounded by Council Bushland Reserve to the south with dense vegetation. The development is setback substantially from the water and will therefore be screened by dense vegetation surrounding the development. The buildings have been designed to complement the existing topography of the site.</p> <p>Further details of how the development will interact with the site will be addressed in further detailed planning applications.</p> |

| Objective | Department Response |
|---|---|
| <p>3B-1 – Orientation</p> <p>Building types & layouts respond to the streetscape & site while optimising solar access within the development</p> | <p>Satisfactory.</p> <p>The proposed development has considered the site's opportunities and constraints. It is noted that the topography of the site is quite varied throughout the site and the buildings have been designed to fit comfortably within this topography. The design of the buildings is commensurate with the surrounding developments and is considered to not have detrimental impacts on the streetscape. The proposed massing improves building separation compared the approved development and therefore solar access to courtyards and apartments is also improved.</p> |
| <p>3B-2 - Orientation</p> <p>Overshadowing of neighbouring properties is minimised during mid winter.</p> | <p>Satisfactory.</p> <p>Neighbouring buildings are approximately 80m away to the west, 104m to the south and 72m away to the southwest. No additional overshadowing of neighbouring properties is proposed.</p> |
| <p>3C-1 Public Domain Interface</p> <p>Transition between private and public domain is achieved without compromising safety and security.</p> | <p>Satisfactory.</p> <p>Transition between private & public domain at street edges and through site links will be clearly defined by landscape walls, pergolas, planting and paving treatments. The building envelopes provide suitable transitions from the public and private domain within the development.</p> <p>Further detail regarding the interface with public domain would be detailed in further detailed planning applications.</p> |
| <p>3C-2 Public Domain Interface</p> <p>Amenity of the public domain is retained and enhanced.</p> | <p>Satisfactory.</p> <p>A 15m setback is provided from Soldiers Point Road to the proposed built form that allows for the existing amenity of the streetscape. The proposed buildings have been designed to be recessive behind vegetation to the west. Ground floor activation on this western edge is provided through the introduction of residential lobbies and maintained courtyards. Overall, the Department is satisfied that the amenity of the public domain and retained and enhanced.</p> |

| Objective | Department Response |
|---|--|
| 3D-1 Communal and Public Open Space An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping. | Satisfactory. The total area of communal open space will be significantly greater than the requisite 25% minimum. |
| 3D-1 Communal and Public Open Space - Design Criteria Communal open space has a minimum area equal to 25% of the site area. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9am and 3pm on 21 June (mid-winter). | Satisfactory. The central courtyard has open aspects to the east, north and west. It is considered within this report that sufficient solar will be provided to the communal open spaces of the development in accordance with the criteria. |
| 3D-2 Communal and Public Open Space Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting. | Satisfactory. The communal areas retain a range of passive recreation areas including, pool facilities, communal gardens, and open areas for congregation and social gathering. |
| 3D-3 Communal and Public Open Space Communal open space is designed to maximise safety. | To be addressed in future planning applications. |
| 3D-4 Communal and Public Open Space Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood. | Satisfactory. The modified development retains public open space along the western edge of the development that enables connection to the street. The space is proposed to be landscaped in keeping with the existing streetscape. The proposed buildings have been designed to be recessive behind the vegetation. |
| 3E-1 Deep Soil Zones Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality. | Satisfactory. Adequate space for deep soil is provided. |

| Objective | Department Response |
|---|--|
| <p>3E-1 Deep Soil Zones - Design Criteria</p> <p>Deep soil zones are to meet the following minimum requirements: Site area >1,500m² Minimum dimensions of 6m and 7% of site area. Site area >1,500m² with significant existing tree cover Minimum dimensions of 6m and 7% of site area.</p> | <p>Satisfactory</p> <p>The modified proposal will be able to provide more than the minimum required 7% deep soil zone. Zones are located along the boundary perimeter, rear setbacks and the street front landscaped area.</p> |
| <p>3F-1 Visual Privacy</p> <p>Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> | <p>Satisfactory.</p> <p>The site features significant tree growth around the edges of the site which enhance visual privacy.</p> |
| <p>3F-1 Visual Privacy - Design Criteria</p> <p>Separation distance between windows and balconies is provided to ensure visual privacy is achieved. Minimum requires separation distance from buildings to the side and rear boundaries are as follows:</p> <p>Building up to 12m (4 storeys): 6m between habitable rooms and balconies, 3m between non-habitable rooms.</p> <p>Building up to 25m (5-8 storeys): 9m between habitable rooms and balconies, 4.5m between non-habitable rooms.</p> <p>Building over 25m (9+ storeys): 12m between habitable rooms and balconies, 6m between non-habitable rooms.</p> <p>Separation distances between buildings on the same site should combine required building separations depending on the type of room. Gallery access circulation should be treated as habitable space when measuring privacy separation distance between neighbouring properties.</p> | <p>Satisfactory.</p> <p>The development appears to be capable of compliance with the criteria. Further details regarding visual privacy to be addressed in future planning applications.</p> |

| Objective | Department Response |
|---|---|
| <p>3F-2 Visual Privacy</p> <p>Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.</p> | <p>Satisfactory.</p> <p>The modified development has been designed to increase privacy without compromising access to light and air.</p> <p>Overlooking between apartments will be minimised through adequate building separation and orientation.</p> <p>The Applicant notes that the majority of living rooms will be oriented towards the central landscaped courtyard, or outwards towards the water views however no indicative floor plans have been provided. As such, these details will need to be addressed in future planning applications.</p> |
| <p>3G-1 Pedestrian Access and Entries</p> <p>Building entries and pedestrian access connects to and addresses the public domain.</p> | <p>The development can include entries and access addressing the public domain. Further details are to be included in future planning applications.</p> |
| <p>3G-2 Pedestrian Access and Entries</p> <p>Access, entries and pathways are accessible and easy to identify</p> | <p>To be addressed in future planning applications.</p> |
| <p>3H-1 Vehicle Access</p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p> | <p>Satisfactory.</p> <p>Vehicle access points have been designed to achieve safety, minimise conflicts between pedestrians and vehicles and create a high quality streetscape.</p> <p>The proposed development minimises streetscape impacts by limiting access to 2 access points for vehicles which is commensurate with previous approvals.</p> <p>Streetscape impacts and minimised by locating drop off and pick up (parking) areas centrally, being adequately screened by the buildings and vegetation.</p> <p>Hotel drop off is also provided through the proposed porte cochere within the site along Seaview Crescent which minimises disruptions to Soldiers Point Road.</p> |
| <p>3J-1 Bicycle and Car Parking</p> <p>Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.</p> | <p>Satisfactory.</p> <p>The parking provided is in accordance with the Port Stephens DCP.</p> |

| Objective | Department Response |
|--|---|
| 3J-2 Bicycle and Car Parking Parking and facilities are provided for other modes of transport. | Adequate space for buses and bicycles is available, the detailed location will be addressed in future planning applications. |
| 3J-3 Bicycle and Car Parking Car park design and access is safe and secure. | To be addressed in future planning applications. |
| 3J-4 Bicycle and Car Parking Visual and environmental impacts of underground car parking are minimised. | Satisfactory. Modified development has considered groundwater impacts, and future environmental assessment requirements have been imposed to manage impacts. |
| 4A-1 Solar and Daylight Access To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. | Satisfactory/to be addressed in future planning applications. The modified development has sought to optimise solar access to apartments and private open space. Further details to be addressed in future planning applications. |
| 4A-1 Solar and Daylight Access - Design Criteria Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9am and 3pm at midwinter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter. Achieving the design criteria may not be possible on some sites. This includes: <ul style="list-style-type: none"> • where significant views are oriented away from the desired aspect for direct sunlight | The modified development has sought to optimise solar access from habitable rooms. Further details to be addressed in future planning applications. |
| 4B-1 Natural Ventilation All habitable rooms are naturally ventilated | The proposed building envelope changes allow for increased cross-ventilation for residential apartments. |
| 4B-2 Natural Ventilation The layout and design of single aspect apartments maximises natural ventilation. | To be addressed in future planning applications. |

| Objective | Department Response |
|---|---|
| <p>4B-3 Natural Ventilation</p> <p>The number of apartments with natural cross ventilation is maximized to create a comfortable indoor environment for residents.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4B-3 Natural Ventilation - Design Criteria</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be naturally ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4C-1 Ceiling Heights</p> <p>Ceiling height achieves sufficient natural ventilation and daylight access.</p> | <p>Satisfactory.</p> <p>The proposed building envelopes have been modified to achieve minimum ceiling heights that meet the minimum requirements outlined in the design criteria below.</p> |
| <p>4C-1 Ceiling Heights - Design Criteria</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms</p> <p>2.7m.</p> <p>Non-habitable rooms</p> <p>2.4m.</p> <p>Two storey apartments</p> <p>2.7m for main living area floor.</p> <p>2.4m for second floor, where its area does not exceed 50% of the apartment area</p> | <p>Satisfactory.</p> <p>The proposed building envelopes have been modified to achieve minimum ceiling heights.</p> |
| <p>4C-2 Ceiling Heights</p> <p>Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.</p> | <p>The proposed building envelopes have been modified to achieve minimum ceiling heights that meet the minimum requirements outlined in the design criteria above.</p> |

| Objective | Department Response |
|---|--|
| <p>4D-1 Apartment Size and Layout</p> <p>The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity</p> | <p>To be addressed in future planning applications.</p> |
| <p>4D-1 Apartment Size and Layout - Design Criteria</p> <p>Apartments are required to have the following minimum internal areas:</p> <p>Studio 35m².</p> <p>One bedroom 50m².</p> <p>Two bedroom 70m².</p> <p>Three bedroom 90m²</p> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p> <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms</p> | <p>The proposed GFA allocation for residential apartments will allow for the minimum internal areas to be achieved. Further detail will be provided in future planning applications.</p> |
| <p>4D-2 Apartment Size and Layout</p> <p>Environmental performance of the apartment is maximized.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4D-3 Apartment Size and Layout - Design Criteria</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> | <p>To be addressed in future planning applications.</p> |

| Objective | Department Response |
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| <p>4D-3 Apartment Size and Layout - Design Criteria</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space), Bedrooms have a minimum dimension of 3m (excluding wardrobe space). Living rooms or combined living/dining rooms have a minimum width of:</p> <p>One bedroom apartments 3.6m.</p> <p>Two or three bedroom apartments 4m.</p> <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4E-1 Private Open Space and Balconies</p> <p>Apartments provide appropriately sized private open space and balconies to enhance residential amenity.</p> | <p>To be addressed in future planning applications.</p> |

| Objective | Department Response |
|---|---|
| <p>4E-1 Private Open Space and Balconies - Design Criteria</p> <p>All apartments are required to have primary balconies as follows:</p> <p>Studio apartments 4m².</p> <p>One bedroom apartments 8m² with a minimum depth of 2m.</p> <p>Two bedroom apartments 10m² with a minimum depth of 2m.</p> <p>Three+ bedroom apartments 12m² with a minimum depth of 2.4m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4E-2 Private Open Space and Balconies</p> <p>Primary private open space and balconies are appropriately located to enhance liveability for residents.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4E-3 Private Open Space and Balconies</p> <p>Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4E-4 Private Open Space and Balconies</p> <p>Private open space and balcony design maximizes safety.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4F-1 Common Circulation and Spaces</p> <p>Common circulation spaces achieve good amenity and properly service the number of apartments.</p> | <p>To be addressed in future planning applications.</p> |

| Objective | Department Response |
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| <p>4F-2 Common Circulation and Spaces</p> <p>Common circulation spaces promote safety and provide for social interaction between residents.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4G-1 Common Circulation and Spaces</p> <p>Adequate, well designed storage is provided in each apartment.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4G-1 Common Circulation and Spaces - Design Criteria</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: Studio apartments</p> <p>4m³.</p> <p>One bedroom apartments</p> <p>6m³.</p> <p>Two bedroom apartments</p> <p>8m³.</p> <p>Three+ bedroom apartments</p> <p>10m³. At least 50% of the required storage is to be located within the apartment.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4G-2 Common Circulation and Spaces</p> <p>Additional storage is conveniently located, accessible and nominated for individual apartments.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4H-1 Acoustic Privacy</p> <p>Noise transfer is minimized through the siting of buildings and building layout.</p> | <p>Satisfactory.</p> <p>The modified development has sought to minimise noise transfer through the proposed siting of the buildings and amended use mix (separating the hotel uses from the residential uses within respective buildings). No new impacts are anticipated by the development.</p> |

| Objective | Department Response |
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| 4H-2 Acoustic Privacy Noise impacts are mitigated within apartments through layouts and acoustic treatments. | Satisfactory/to be addressed in future planning applications. All internal walls, floors and ceilings will meet the noise insulation requirements of the BCA. Noise impacts arising from apartment layout design are to be assessed in future applications. |
| 4J-1 Noise and Pollution In noisy or hostile environments, the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. | N/A – The site is not located within a noisy or hostile environment. Surrounding development is residential only. |
| 4J-2 Noise and Pollution Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission. | The site is not located within a noisy or hostile environment. Surrounding development is residential only. Noise attenuation measures for uses within the site will be provided as part of future applications. |
| 4K-1 Apartment Mix A range of apartment types and sizes is provided to cater for different household types now and into the future | Satisfactory. The development provides a variety of apartment types. Refer to Appendix F below for information. |
| 4K-2 Apartment Mix The apartment mix is distributed to suitable locations within the building. | To be addressed in future planning applications. |
| 4L-1 Ground Floor Apartments Street frontage is maximized where ground floor apartments are located. | N/A –no ground floor apartments addressing the street proposed. |
| 4L-2 Ground Floor Apartments Design of ground floor apartments delivers amenity and safety for residents. | To be addressed in future planning applications. |
| 4M-1 Facades Building facades provide visual interest along the street while respecting the character of the local area. | To be addressed in future planning applications. |

| Objective | Department Response |
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| 4M-2 Facades Building functions are expressed by the façade. | To be addressed in future planning applications. |
| 4N-1 Roof Design Roof treatments are integrated into the building designed and positive respond to the streets. | To be addressed in future planning applications. |
| 4N-3 Roof Design Roof design incorporates sustainability features. | To be addressed in future planning applications. Roof top gardens are proposed. |
| 4O-1 Landscape Design Landscape design is viable and sustainable. | Satisfactory. Landscaping design is generally sustainable. |
| 4O-2 Landscape Design Landscape design contributes to the streetscape and amenity. | To be addressed in future planning applications. |
| 4P-3 Planting on Structures Planting on structures contributes to the quality and amenity of communal and public open spaces | To be addressed in future planning applications. |
| 4Q-1 Universal Design Universal design features are included in apartment design to promote flexible housing for all community members. | To be addressed in future planning applications. |
| 4Q-2 Universal Design A variety of apartments with adaptable designed are provided. | To be addressed in future planning applications. |
| 4Q-3 Universal Design Apartment layouts are flexible and accommodate a range of lifestyle needs. | To be addressed in future planning applications. |
| 4U-1 Energy Efficiency Development incorporates passive environmental design | To be addressed in future planning applications. |

| Objective | Department Response |
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| <p>4U-2 Energy Efficiency</p> <p>Development incorporates passive solar design to optimize heat storage in winter and reduce heat transfer in summer.</p> | <p>To be addressed in future planning applications.</p> |
| <p>4U-3 Energy Efficiency</p> <p>Adequate natural ventilation minimises the need for mechanical ventilation.</p> | <p>Satisfactory.</p> |

Appendix C – Car Parking Breakdown

| Use | DCP Requirement | GFA/Unit Breakdown | Required Spaces | Approved | GFA/Unit Breakdown | Required Spaces | Proposed |
|------------------------|--|-----------------------|-----------------|----------|-----------------------|-----------------|----------|
| | | Approved Mod 2 | | | Proposed Mod 4 | | |
| Residential Apartments | 1 car spaces for one and two bedrooms dwellings 2 car spaces for three > bedroom dwellings 1 visitor space for every three dwellings | 19 x one bed | 155 | 155 | 11 x one bed | 126 | 136 |
| | | 55 x two bed | | | 43 x two bed | | |
| | | 24 x three bed | | | 15 x three bed | | |
| | | | | | 8 x four bed | | |
| | | Total = 98 apartments | | | Total = 77 apartments | | |
| Hotel Rooms | 1 car space for each accommodation unit 1 car space per 2 employees | 90 hotel rooms | 124 | 105 | 85 hotel units | 115 | 115 |
| | | Max 67 staff | | | 60 employees | | |
| Restaurant | 1 car space per 25m ² floor area within commercial premises | 500sqm | 20 | 50 | 1012sqm | 40 | 59 |
| Bar/cafe | 1 car space per 25m ² floor area within commercial premises | 350sqm | 14 | | 610sqm | 25 | |
| Unallocated | | | | | | | 10 |
| Total | | | 313 | 310 | | 306 | 320 |
| Allocated public uses. | | | | 50 | | | 59 |

