

29 March 2022

Keiran Thomas  
Director, Regional Assessments  
Department of Planning, Industry and Environment  
Planning and Assessment  
Locked Bag 5022  
Parramatta NSW 2124

**Attention: Jonathan Kerr, A/Senior Planning Officer, Regional Assessments**

Dear Keiran,

**RE: MP06\_0183 MOD 2 - SECTION 75W MODIFICATION APPLICATION TO MODIFY CONCEPT PLAN  
MP06\_0183 - MIXED USE RESIDENTIAL/TOURIST DEVELOPMENT  
RESPONSE TO SUBMISSIONS  
147 SOLDIERS POINT ROAD, SOLDIERS POINT (LOT 31 DP 529002)**

Milestone (AUST) Pty Limited (Milestone) continues to act on behalf of Salamander Properties Pty Ltd (Bannisters Hotel) in relation to the Section 75W Application to modify the Concept Plan Approval No. MP06\_0183 approved by the Minister's Delegate on 4 September 2011, for a "*mixed use residential/tourist development*" for the property known as No. 147 Soldiers Point Road, Soldiers Point.

Application MP06\_0183 MOD 2 (MOD 2) was publicly exhibited from Friday 3 December 2021 to Friday 21 January 2022 and a total of 92 public submissions were received from individuals and organisations, including three (3) late submissions received after the closure of this period. On 1 December 2021, Milestone was originally advised by Emma Butcher, Senior Planner, Department of Planning and Environment (Department) that MOD 2 would be publicly notified for a period of two weeks between 3 December 2021 and 16 December 2021. On 8 December 2021, Ms Butcher advised of the need to extend the exhibition period for MOD 2 until 21 January 2022, based on a request from some community representatives due to initial exhibition period being over the Christmas period. Therefore, MOD 2 was publicly exhibited for a period of seven (7) weeks.

Milestone and the specialist consultant team have undertaken a comprehensive review of all submissions received and considered the issues raised in the public submissions and this Response to Submissions (RtS) forms the response. Further this RtS provides further clarification and responds to the issues identified in the correspondence received from the Department dated 27 January 2022. The Department required a response to the following five key issues:

- GFA and Apartment Layout
- Visual Impact
- Traffic and Parking
- Groundwater
- Bushfire Risk and Access.

This RtS report has been prepared in context of the original Modification Application dated November 2021 and should be read in conjunction with the following supporting documentation provided in **Appendices A-N**, as outlined below:

- **Appendix A** - Submissions Register prepared by Milestone;
- **Appendix B** - Detailed Response to Submissions Table prepared by Milestone;
- **Appendix C** - Gross Floor Area and Apartment Unit Breakdown prepared by DJRD Architects dated March 2022;
- **Appendix D** - Apartment Design Guide Compliance Report prepared by DJRD Architects dated March 2022;
- **Appendix E** - Visual Impact Report prepared by DJRD Architects dated March 2022;

- **Appendix F** – Traffic and Parking Assessment Report prepared by TTPA dated March 2022;
- **Appendix G** – Water Management Addendum Report prepared by Advision dated 18 March 2022;
- **Appendix H** – Bushfire Addendum Letter prepared by BEMC dated 22 February 2022;
- **Appendix I** – Geotechnical Report prepared by Tetra Tech Coffey dated 22 February 2022;
- **Appendix J** – Biodiversity Development Assessment Report prepared by Eco Logical dated 28 March 2022;
- **Appendix K** – Response from Worimi Local Aboriginal Lands Council;
- **Appendix L** – Survey Plan prepared by Monteath and Powys dated 24 February 2022;
- **Appendix M** – Architectural Plans prepared DJRD Architects dated 27 March 2022; and
- **Appendix N** – Legal Advice Submission prepared by Addisons dated 29 March 2022.

The supporting documentation is intended supplement and/or supersede those originally lodged with MOD 2 in November 2021. Further, a legal submission from Addisons has been prepared, held at **Appendix N**. An inventory of all submissions received is detailed in **Appendix A**. The key issues identified within these submissions are discussed with reference to the supporting documentation in **Appendix B**.

Since the public exhibition of MOD 2, no further design development is proposed as part of this submission apart from the following:

#### Updated Survey Plan

A Survey Plan prepared by Harper Somers O'Sullivan, dated 2 September 2008 was submitted supporting the Approved Concept No. MP06\_0183. An updated Survey Plan has been prepared by Monteath and Powys, dated 24 February 2022 and is provided at **Appendix L**.

#### Refinement to Architectural Plans

The Architectural Plans have been revised to capture the new survey material contained in the updated Survey Plan prepared by Monteath and Powys, dated 24 February 2022 in relation existing vegetation; held at **Appendix M**. We note that no further change has been made to the Architectural Plans that detail MOD 2 in terms of the detailed design of the proposed development, which remain as submitted under the original Application in November 2021.

Whilst this project is not classified as State Significant Development (SSD) pursuant to Division 4.7 of the *Environmental Planning and Assessment Act 1979 (the Act)*, as amended, this RtS has been prepared in general accordance with the Appendix C to the *State Significant Development Guidelines November 2021 – Preparing a Submissions Report* published by the Department.

### **1.0 Analysis of Submissions**

During the public exhibition period, four (4) submissions were received from the following NSW Government agencies:

- Department, Crown Lands dated 15 December 2021;
- Department of Planning and Environment Water and the Natural Resources Access Regulator (NRAR) dated 24 December 2021;
- Department Biodiversity and Conservation Division (BCD) dated 17 January 2022; and
- NSW Rural Fire Service (RFS) dated 20 December 2021.

A submission was also received from Port Stephens Council (the Council) dated 21 January 2022. A total of 92 public submissions were received from individuals and organisations, as shown in **Table 1** below:

**Table 1: Public Submission Breakdown**

<b>Objection:</b>	68
<b>Support:</b>	17
<b>Comments:</b>	7
<b>Special Interest Groups and Organisations:</b>	<ul style="list-style-type: none"> <li>• Amarna Resort *</li> <li>• Bay Doctors and Skin Care Clinic *</li> <li>• CEASSA *</li> <li>• Destination Port Stephens *</li> <li>• Human Brand Story *</li> <li>• Koala Coalition EcoNetwork</li> </ul>

	<ul style="list-style-type: none"> <li>• Mambo Wanda Wetlands Conservation Group</li> <li>• Marlin Exhibitions *</li> <li>• Port Stephens Packaging *</li> <li>• PRD Real Estate *</li> <li>• Soldiers Point Community Group Inc</li> <li>• Tomaree Ratepayers &amp; Residents Association</li> </ul>
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Of the 12 submissions made by special interest groups and organisations, four (4) objected to MOD 2 and eight (8) were in support. Those submissions in support have been notated within Table 1 with an asterisk \*.

Three (3) of the public submissions were received after the notification period had ended. One of those being an additional submission from an author who had already made a prior objection submission of similar content.

**Table 2** outlines the geographical context of the submissions received and demonstrates that the majority of submissions were received within a local context.

**Table 2: Geographical Breakdown of Submissions**

<b>Local</b> <i>Less than 5km from site</i>	81
<b>Regional</b> <i>Between 5-100km from site</i>	1
<b>Broader Community Interest</b> <i>More than 100km from site</i>	10

## 2.0 Key Issues

The key issues to be addressed or requiring further clarification raised by the Department in their letter dated 27 January 2022 are:

- GFA and Apartment Layout
- Visual Impact
- Traffic and Parking
- Groundwater
- Bushfire Risk and Access.

The key issues raised within the submissions received from members of the public are summarised in **Table 3**

**Table 3: Key Issues**

Category	Sub-category
The Project	<ul style="list-style-type: none"> <li>• Land Use Allocation</li> </ul>
Procedural Matters	<ul style="list-style-type: none"> <li>• Community Engagement</li> <li>• Lapsing of Concept Approval</li> <li>• Exhibition Period to be extended</li> <li>• Substantial Change Proposed</li> <li>• Extent of Impact</li> </ul>
Economic, Social and Environmental Impacts	<ul style="list-style-type: none"> <li>• Traffic, Parking and Access</li> <li>• Biodiversity</li> <li>• Bushfire Requirements of the Land</li> <li>• Aboriginal Heritage</li> <li>• Visual Impact and Building Height</li> <li>• Overdevelopment</li> <li>• Apartment Mix</li> <li>• Services and Local Infrastructure</li> <li>• Geotechnical Constraints</li> <li>• Construction Impact and Required Infrastructure</li> </ul>

	<ul style="list-style-type: none"> <li>• Support Increased Tourism and Local Employment</li> <li>• Demand For Increased Housing Stock</li> </ul>
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### **3.0      Actions Taken Since Public Exhibition Period**

Since the conclusion of the public exhibition period, the Applicant and the Project Team have comprehensively reviewed and considered all submissions received in relation to the public exhibition of MOD 2. A Register of Submissions is held at **Appendix A** and a detailed Response to Submissions is held at **Appendix B**. An overview of the key actions delivered by the Applicant with respect to the submissions is outlined below.

#### **3.1      GFA and Apartment Layout / Apartment Design Guide Compliance**

A breakdown of the total gross floor area (GFA) allocation for MOD 2 has been prepared by DJRD Architects and compared against that of the Concept Plan Approval No. MP06\_0183 issued by the Department on 4th September 2011. The breakdown confirms MOD 2 will continue to retain the total GFA of the Concept Approval; being 19,600sqm with an overall FSR of 1.6:1 in accordance with Part A Terms of Approval Condition A1 (c) of Concept Plan Approval No. MP06\_0183.

In relation to minimum apartment sizes, the detailed design will provide compliance with the minimum GFA requirements for 1, 2 and 3 bedroom apartments in accordance with the Apartment Design Guide (ADG).

The approved development was accompanied by a SEPP 65 Statement assessing the proposal against the general controls of the Residential Flat Design Code. As this instrument has since been superseded by the ADG, a compliance assessment has been prepared by DJRD Architects to assess MOD 2 against the general controls contained within the ADG as per the Department's request. The compliance table concludes MOD 2 is able to comply with these general provisions, based on the proposed concept design of MOD 2.

#### **3.2      Visual Impact**

An updated Visual Impact Report dated March 2022 has been prepared by DJRD Architects which provides the massing of MOD 2 within updated viewpoint images taken in 2021.

The updated Visual Impact Report concludes there is a strong similarity between the approved envelope and that of MOD 2, with some differences apparent at the roof level. Considering that the tree canopy height has increased from 2010 to 2021 from most viewpoints, as well as some increase in vegetation density on the site, the updated analysis indicates a negligible change from the approved in terms of visual impact. In conclusion, the perceivable impacts are a minimal loss of sky, the altering of the approved roof level and there is no significant adverse visual impact to the surrounding context.

A comparison of the visual impact of the Approved Concept and MOD 2 from the foreshore and waterway is shown in **Photo 1** and **Photo 2** below.



**Photo 1: View from Port Stephens facing west (2010)**



**Photo 2: View from Port Stephens facing west (2021)**

### **3.3 Traffic and Parking**

A Traffic and Parking Assessment Report dated March 2022 has been prepared by TTPA, addressing all matters raised by the Department in their letter dated 27 January 2022, as well as identified parking and traffic matters raised within the public submissions.

The report concludes that MOD 2 will produce an acceptable level of traffic when assessed against current traffic volume statistics for the area. Further, the assessment of the operational performance of the main access driveway into the site resulted in a category 'A' performance, consistent with the approved concept. In relation to car parking provision, MOD 2 provides 310 car parking spaces, a surplus of 11 car parking spaces when assessed against the Council's DCP for car parking rates. Further, the modified concept development proposes 35 additional car parking spaces when compared with the existing approval and relocates the location of these car parking areas to support the geotechnical constraints of the site.

### **3.4 Groundwater**

A Water Addendum Report dated 18 March 2022 has been prepared by Advision to provide further detail and assessment of groundwater interception. Comments requested further details on the water take and aquifer interference that would result from the construction of the basement. This analysis confirms that the proposed modified redevelopment will have no adverse impact on groundwater levels or quality. Any risk to the quality of the water in the aquifer and in the wider Tomaree Groundwater source, is able to be appropriately managed by the implementation of standard dewatering procedures during construction.

### **3.5 Bushfire Risk and Access**

The site was previously identified as bushfire prone land and the updated Port Stephens Bushfire Prone Land Map 2021 no longer identifies the site as bushfire prone land. The previously approved bushfire protection arrangements required an Asset Protection Zone (APZ) immediately adjoining the existing Council reserve to the south. A Bushfire Addendum Report dated 22 February 2022, has been prepared by BEMC and provides an analysis of the following:

- Change in bushfire rating of the site and the need for an Asset Protection Zone (APZ); and
- Consideration of bushfire mitigating measures and access on the site.

This further analysis was prepared in context of the matters contained within the submission made by NSW Rural Fire Service (RFS) dated 20 December 2021, which recommends Condition 13 be removed from the Notice of Determination (NOD) for MP06\_0183 requiring an easement over the APZ on the adjoining land. It is not proposed to retain an APZ in MOD 2 nor provide an easement on the adjoining Council reserve. Further, all bushfire mitigation measures will be delivered to mitigate any bush fire risk to acceptable levels on the site in accordance with the recommendations made by BEMC. These mitigation measures include:

- The entire lot be managed to Inner Protection Area Standards of an Asset Protection Zone.
- The existing water hydrant in the south-eastern corner be maintained.
- Vehicle access along the grass verge associated with Soldiers Point Road be provided to the existing water hydrant.
- A live fire hose connected to reticulated water mains, constructed in accordance with *AS/NZS 1221:1997 Fire hose reels*, and installed in accordance with *AS 2441:2005 installation of fire hose reels* is located in the south-eastern corner of the lot between the building and vegetation to the south.
- A clear pedestrian access path is provided between the existing water hydrant in the south-eastern and fire hose in the south-eastern corner.
- All glazing elements along the southern elevation of the proposed building to be delivered to BAL29 construction standards.

### 3.6 Biodiversity

A Biodiversity Development Assessment Report (BDAR) has been prepared by Eco Logical dated March 2022 to assess the biodiversity impacts of MOD 2. This report identifies that the proposal will result in the removal of three native trees in context of the updated Survey Plan. The report concludes that no significant biodiversity impacts are likely to occur.

### 3.7 Aboriginal Cultural Heritage

Potential aboriginal heritage impact was raised in the public submissions. The original Aboriginal Cultural Heritage Assessment Report prepared by Dominic Steele Consulting Archaeology (2008) supporting the approved concept, undertook consultation with WLALC and determined the proposal will not impact on any significant Aboriginal Lands or items.

Further consultation was undertaken with a representative of the Worimi Local Aboriginal Lands Council (WLALC) for MOD 2 by Milestone and a site visit was carried out on 10 March 2022 by traditional owners. Following the site visit, email correspondence was received by Bec Young, Operations Manager Murrooma Inc, on 11 March 2022 confirming that the traditional owners did not object to MOD 2 and consider that cultural heritage will not be impacted. The modified proposal, consistent with the approved concept, will not have any impact on significant Aboriginal lands or heritage items.

### 4.0 Response to Submissions

This RtS is supported by the documents outlined in **Table 5** and provided in the appendices of this report. The supporting documentation is intended to supersede and/or supplement documentation originally lodged in November 2021.

**Table 5: RtS Supporting Documentation**

Supporting Document	Report Date	Consultant	Appendix
Gross Floor Area (GFA) & Residential Unit Breakdown	March 2022	DJRD	C
ADG Compliance Report	March 2022	DJRD	D
Updated Visual Impact Statement	March 2022	DJRD	E
Traffic and Parking Assessment Report	March 2022	TTPA	F
Water Management Addendum Report	18 March 2022	Advisian	G
Bushfire Addendum Letter	22 February 2022	BEMC	H
Geotechnical Report	22 February 2022	Getra Tech Coffey	I
Biodiversity Development Assessment Report (BDAR)	28 March 2022	Eco Logical	J
Response from WLALC	21 February 2022 and 11 March 2022	WLALC	K
Updated Survey Plan	24 February 2022	Monteath & Powys	L
Updated Architectural Plans	27 March 2022	DJRD	M
Legal Submission	29 March 2022	Addisons	N



## 5.0 Clarification to the Submissions - Future DA Matters

The response to submissions at **Appendix B** is limited to matters which are relevant to the assessment of the MOD 2. Some concerns raised in the submissions related to considerations and detailed requirements that would be triggered for the assessment of the future Development Application for the construction and detailed design of the development and therefore are not relevant considerations to a modification to a Concept Approval. Such matters raised included the following and will be delivered as part of the subsequent Development Application:

- Detailed elevations and Photomontages;
- Excavation volume; and
- Acoustic Assessment.

## 6.0 Conditions of Consent To Be Modified

Due to the amendment made to the Architectural Plans to capture the new survey material each Drawing No plan sheet was revised necessitating revision to the Consent Approval MP06\_0183, Part A Terms Of Approval, Condition A2 as follows:

### A2 Development in Accordance with Plans and Documentation

- (1) *The approval shall be generally in accordance with MP06\_0183 and with the Environmental Assessment, except where amended by the Preferred Project Report & Response to Submissions, and the following drawings prepared by Daryl Jackson Robin Dyke Architects.*

<b>Concept Plans by Daryl Jackson Robin Dyke Architects</b>			
<b>Drawing No.</b>	<b>Revision</b>	<b>Name of Plan</b>	<b>Date</b>
SK-000	I	Cover Sheet and Site Plan	27/03/22
SK-001	I	Demolition Plan	<del>22/12/2010</del> 27/03/22
SK-099	G	Basement	27/03/22
SK-101	I	Ground Level Plan	<del>18/01/2011</del> 27/03/22
SK-102	J	Level 1 Plan	<del>20/06/2011</del> 27/03/22
SK-103	J	Level 2 Plan	<del>20/06/2011</del> 27/03/22
SK-104	I	Level 3 Plan	<del>22/12/2010</del> 27/03/22
SK-105	I	Level 4 Plan	<del>19/01/2011</del> 27/03/22
SK-106	I	Level 5 Plan	<del>22/12/2010</del> 27/03/22
SK-107	J	Roof Plan	<del>20/06/2011</del> 27/03/22
SK-201	J	Elevations – Sheet 01	<del>20/06/2011</del> 27/03/22
SK-202	J	Elevations – Sheet 02	<del>20/06/2011</del> 27/03/22
SK-251	K	Section – Sheet 01	<del>20/06/2011</del> 27/03/22
SK-L01	F	Landscape Plan	<del>20/06/2011</del> 27/03/22
SK-MD01	H	Movement Diagram Vehicles	<del>22/12/2010</del> 27/03/22
SK-MD02	H	Movement Diagram Pedestrian and Cycle	<del>22/12/2010</del> 27/03/22

Regarding modification of Future Environmental Assessment Requirements, revision of Condition 12 is sought in line with comments from NSW RFS, as follows:

## **12 Landscaping Plan**

*The first future application for a building or excavation shall be accompanied by a Landscape Plan applicable for the entire site. The plan shall make recommendations and provide details for the following:*

- a) Detail to show how the buildings will relate on the ground and the site's interface with the surrounding streets.*
- b) Sufficient screening vegetation at an appropriate height and maturity to assist in the moderation and break up of bulk and scale in the sensitive north and west viewsheds.*
- c) Paving, pathway and driveway treatments, and a species list including only local native species as appropriate to the site and circumstances.*
- d) A minimum of 25% of the open space area must be deep soil planting to promote the growth canopy forming type vegetation. In particular deep soil planting should occur to create pockets/ fingers of vegetation to enhance views and lines to the Port Stephens water body.*
- e) The entire site will be maintained as an inner protection area and landscaping within the site will comply with Appendix 4 of 'Planning for Bush Fire Protection 2019'.*

*Future applications for each building shall be accompanied by detailed Landscape Plans which are consistent with this plan.*

In relation to Future Environmental Assessment Requirements, Condition 13, the Environmental Assessment Report prepared by Milestone dated November 2021 requested the deletion of 13(c), however, the deletion of Condition 13 in its entirety is required in accordance with the recommendations made by NSW RFS in their submission dated 20 December 2021.

Furthermore, revision will be required to the draft Statement of Commitments provided in Environmental Assessment Report prepared by SAKE Developments 2010 including the changes requested in the Environmental Assessment Report prepared by Milestone dated November 2021 to update reference to newly prepared and revised documentation that has been submitted as part of this RtS.

## **7.0 Minimal Environmental Impact**

The Concept Proposal was originally approved under Part 3A of EP&A Act. The project is a transitional Part 3A project under Schedule 2 to the EP&A (Savings, Transitional and Other Provisions) Regulation 2017. On this basis, the provisions of Schedule 2 (Clause 3) continue to apply. Concept Plan modifications under Section 75W are required to be consistent with Clause 3BA(5) of Schedule 2 of the EP&A (Savings, Transitional and Other Provisions) Regulation 2017, as follows:

*(5) A concept plan may continue to be modified under section 75W pursuant to a request lodged on or after the cut-off date (whether or not the project is or has ceased to be a transitional Part 3A project), but only 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).*

Based on the nature of the proposed modifications within MOD 2, and the comprehensive assessment undertaken in both the Environmental Assessment Report dated November 2021 and this RtS Report, along with all supporting expert reports, we are of the view that the modified Concept Approval will result in minimal environmental impact and remains consistent with the intended outcome for the subject site and therefore this modification satisfies the scope of Section 75W of the Act. Specifically:

- In terms of land use, the modified Concept Plan remains a *mixed use residential and tourist development* and the intended outcomes of the future development of the site will be retained.
- In terms of GFA, the approved GFA of 19,600m<sup>2</sup> and FSR of 1.6:1 will remain unchanged.
- In terms of visual impact, the Visual Impact Report prepared by DJRD Architects dated March 2022 provides a comparison of the approved and modified built form from key vantage points with updated 2021 images compared to that of the approved and concludes there is no significant adverse visual impact to the surrounding context. The height, bulk, and scale of the modified buildings are generally consistent with the Concept Approval and will result in a comparable overall visual impact due to the increased canopy height and increased vegetation density that have occurred on the site over the last ten years.
- In terms of traffic and parking impacts:
  - MOD 2 provides a surplus in car parking provision when assessed against the Council's DCP requirements and proposes 35 additional car parking spaces when compared to the approved concept.
  - The Director General's Environmental Assessment Report dated August 2011 raised no concern relating to traffic impacts on the road network when assessing the Concept Plan application.



- Comparison of the approved traffic generation to that of MOD 2, indicates there will be a minor increase in the number of vehicle movements per hour in the weekday afternoon periods of two movements and an increase of eight movements on Saturdays. Despite this minor increase, MOD 2 will retain an operational performance rating of 'A' for the main access driveway, consistent with the approved Concept Plan.
  - The Traffic and Parking Assessment Report dated March 2022 concludes that MOD 2 overall will result in satisfactory traffic implications, suitable access arrangements, and an adequate provision of car parking.
- The Biodiversity Development Assessment Report (BDAR) prepared by Eco Logical dated 28 March 2022 concludes that no significant biodiversity impacts are likely to occur.
- In terms of built form:
  - The modified Concept Plan does not result in any significant material changes to the overall scale of the concept scheme and on this basis the future development of the site will remain a suitable contextual fit within the local area.
  - The key building footprints and general massing on the site will be retained and continues to appropriately respond to the unique character of the site.
- In terms of water management, the Addendum Report prepared by Advisian dated 18 March 2022 makes the following key conclusions for MOD 2:
  - No adverse impact on groundwater levels or quality.
  - It is unlikely any works associated with the construction of the basement would have an adverse impact on groundwater levels external to the site.
  - Groundwater inflow into any excavated areas on site either during development or in the long term after completion is likely to be minimal.
  - As the basement is to be constructed within the rhyodacite rock and is fully contained within the site, there will be no loss of any groundwater from the perched aquifer.
- In terms of bushfire risk, the site is no longer identified as bushfire prone land and does not require an Asset Protection Zone. Recommendations made by BEMC within the Bushfire Addendum Letter dated 22 February 2022 will be delivered in the final design to mitigate the bush fire risk to acceptable levels and provide bushfire protection to ensure a minimal environmental impact.

## **8.0 Substantially the Same**

It is acknowledged that an effect of the modified development outlined in MOD 2 is that it has changed the Concept Approval, however the overall nature of the proposed modifications will not result in any significant changes to the overall built form of the approved development. The proposed changes to the building design, scale or bulk are such that the final built form is substantially the same as that approved. The important design elements remain within MOD 2 and the increased building height will not be discernible. The overall building footprints, number of maximum storeys, and massing on the land will be largely retained, and the modified development continues to appropriately respond to the unique characteristics of the site.

We are of the view that the proposed changes in land use within MOD 2 will have a minimal environmental impact on the locality. Further, the Concept Plan approved in 2011 was for a *mixed use residential/tourist development* and despite the proposed changes in land use, the modified development will continue to be a *mixed use residential/tourist development* and would also be substantially the same as the development approved under Concept Plan Approval No. MP06\_0183.

Changes proposed to the approved development are not deemed to be significant from a qualitative and quantitative sense. The cumulative impact of those changes is not significant and the modified development is considered to be substantially the same as that the concept development approved under the original consent.

The proposed changes do not result in a material change to the original design philosophy for the redevelopment of the land. The important design elements of the Concept Approval will remain and the increased height would not be discernible from surrounding public vantage points. In addition, the minor increase in the number of car parking spaces and relocation of parking areas within the site does not represent a change which affects the way the site will be used.

The modified interface with the public domain will not change the attractiveness of the development which will continue to deliver a significant tourist destination with conference facilities for mixed business and tourist functions, along with the provision of high amenity residential apartments. The modified development will continue to provide a mixed use facility as was contemplated in the original consent.

The impacts of the change to the overall built form, public domain, environment, traffic and parking and land use are such that the development as modified is substantially the same as that approved in the Concept Approval.

## **9.0 Conclusion**

Milestone and the specialist consultant team have undertaken a comprehensive review of all submissions received in relation to the public exhibition of the proposal. A considered and detailed response to all submissions has been provided in this report as well as within **Appendix A** and **Appendix B**.

The exhibited Section 75W (MOD 2) assessed the potential impacts of the proposed amendments to the Concept Approval Consent Approval MP06\_0183 and given the nature of the proposed modifications, the assessment that the modified Concept Plan will be of minimal environmental impact and is consistent with the development originally approved under Concept Plan Approval No. MP06\_0183. The impacts of the change to the overall built form, public domain, environment, traffic and parking and land use are such that the development as modified is substantially the same as that approved.

The proposal is acceptable in these circumstances and the Minister (or their delegate) can reasonably determine that this application is capable of being approved as a modification under Section 75W of the Act.

The proposed revisions contained within MOD 2 were also necessitated to deliver an updated development that addresses the relevant legislative updates in the terms of approval and statement of commitments respectively, and to seek to provide clarity and certainty in the assessment and determination of the detailed Development Application that is intended to be lodged later in 2022. The proposed modifications are critical to progress the redevelopment of the site in accordance with the Concept Plan Approval No. MP06\_0183 so the future redevelopment of the site can progress. The current proposal to modify the Concept Approval is paramount to the future growth of local housing and delivery of the tourist economy, with an internationally recognisable operator Bannisters Hotels, within the Port Stephens Local Government Area (LGA).

This RtS has demonstrated that modified proposal, continues to suitably balance environmental impact with community benefit and sufficient information has been provided by the Applicant to enable the Department to finalise the assessment of the Section 75 Modification.

We trust the above information is sufficient to enable the assessment of the modification to be finalised promptly. If you require clarification on any matter, do not hesitate to contact the undersigned.

Yours sincerely

**Milestone (AUST) Pty Limited**



**Lisa Bella Esposito**

Director

## **Appendices**

### **APPENDIX A. SUBMISSIONS REGISTER**

**PREPARED BY MILESTONE**

## Appendix A – Submissions Register

Group	Name	Section of RTS Report where issues are addressed
Public Authorities	NSW Department of Planning and Environment	Appendix B: D1, D2, D3, D4, D5 Appendix C: GFA & Residential Unit Breakdown Appendix D: ADG Compliance Report Appendix E: Updated Visual Impact Statement Appendix F: Traffic and Parking Assessment Report Appendix G: Water Management Addendum Report Appendix H: Bushfire Addendum Letter
	NSW Rural Fire Service	Appendix B: RFS1, RFS2 Appendix H: Bushfire Addendum Letter
	DPIE Crown Lands	Appendix B: D6
	DPIE Water and the Natural Resources Access Regulator (NRAR)	Appendix B: D8, D9, D10, D11, Appendix G: Water Management Addendum Report Appendix I: Geotechnical Report
	DPIE Biodiversity and Conservation Division (BCD)	D12, D13 Appendix K: BDAR
Council	Port Stephens Council (Council)	Appendix B: C1, C2, C3, C4, C5, C6, C7 Appendix F: Traffic and Parking Assessment Report Appendix G: Water Management Addendum Report Appendix I: Geotechnical Report
Organisation	Koala Koalition EcoNetwork, Nelson Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3
	Mambo Wanda Wetlands Conservation Group, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6
	Soldiers Point Community Group Inc, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5
	Tomaree Ratepayers & Residents Association, Nelson Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS5, PS8, PS10
	Amarna Resort, Nelson Bay, NSW	Appendix B: PS12
	Bay Doctors and Skin Care Clinic, Salamander Bay, NSW	Appendix B: PS12, PS13
	CEASSA, Salamander Bay, NSW	Appendix B: PS12
	Destination Port Stephens, Nelson Bay, NSW	Appendix B: PS12, PS13
	Human Brand Story, Soldiers Point, NSW	Appendix B: PS12
	Marlin Exhibitions, Nelson Bay, NSW	Appendix B: PS12
	Port Stephens Packaging, Taylors Beach, NSW	Appendix B: PS12
	PRD Real Estate, Salamander Bay, NSW	Appendix B: PS12, PS13
Individuals	Anonymous 1, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7
	Anonymous 2, Soldiers Point, NSW	Appendix B: PS1, PS5, PS11
	Anonymous 3, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS5
	Anonymous 4, Nelson Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7

Anonymous 5, Salamander Bay, NSW	Appendix B: PS1, PS7
Anonymous 6, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7
Anonymous 7, Anna Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS5
Anonymous 8, Soldiers Point, NSW	Appendix B: PS1
Anonymous 9, Anna Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Anonymous 10, Soldiers Point, NSW	Appendix B: PS1, PS7
Anonymous 11, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS7
Alessandra Barnes, Sydney, NSW	Appendix B: D5, RFS1, PS2, PS4
Alison Rogers, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Andrew Edwards, Sydney, NSW	Appendix B: D5, RFS1, PS2, PS4
Andrew Webster, Soldiers Point, NSW	Appendix B: PS1, PS2, PS3, PS4, PS6
Anna Powers, Bob's Farm, NSW	Appendix B: PS2
Annemarie Cordwell, Corlette, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Beryl Hill, Anna Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Brian Curry, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS4, PS6, PS7, PS8, PS9, PS9
Brian Tehan, Corlette, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Bruce Pease, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4
Catherine Freeman, Corlette, NSW	Appendix B: PS1, PS2, PS3, PS4, PS5, PS7
Catherine Madigan, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4
Cherylle Stone, Soldiers Point, NSW	Appendix B: PS1, PS2, PS3, PS4, PS5, PS6, PS7
Clay Kerswell, Salamander Bay, NSW	Appendix B: PS1, PS6, PS7
David Harden, Sydney, NSW	Appendix B: D5, RFS1, PS1, PS2, PS6, PS8
David Rodley, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7
Diana Adamson, Sydney, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4
Elsbeth Armstrong, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS6, PS10
Fran Reay, Sydney, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Gabrielle McMann, Soldiers Point, NSW (Submission 1 of 2)	Appendix B: PS1, PS9
Georgia Phillips, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7
Heather Callister, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Heather Letham, Salamander Bay, NSW	Appendix B: PS2, PS4, PS9
Irene Curtis, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7
Irene Jones, Salamander Bay, NSW	Appendix B: D5, RFS1, PS2, PS4
Jennifer Graham, Soldiers Point, NSW	Appendix B: PS1, PS2, PS4, PS6, PS7, PS9
Jennifer Warman, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS4, PS13
Jillian Compton, Sydney, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Jodi Harris, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7
John Harden, Sydney, NSW	Appendix B: D5, RFS1, PS1, PS2, PS6
Judith Hayes, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS5, PS6, PS7

Karen Jones, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Kate Wilkie, Soldiers Point, NSW	Appendix B: PS1, PS2, PS3, PS4, PS6, PS7
Kathryn Klinger, Salamander Bay, NSW	Appendix B: PS1, PS2, PS3, PS4, PS5, PS11
Kathy Brown, Salamander Bay, NSW	Appendix B: PS1, PS2, PS3
Kelly Earnshaw, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS4, PS5, PS6, PS7
Kerrie Dash, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Kevin Walker, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Liz Page, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS7
Marian Harden, Sydney, NSW	Appendix B: D5, RFS1, PS2, PS4
Marion Land, Nelson Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS4
Mary Anne Adams, Salamander Bay, NSW	Appendix B: PS1, PS2, PS3, PS4, PS6
Peter Freeman, Corlette, NSW	Appendix B: PS1, PS2, PS5
Peter McMann, Sydney, NSW	Appendix B: D5, RFS1, PS1, PS2, PS4
Peter Rogers, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Rhonda Pollard, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Roslyn Scoles, Anna Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS4
Sandra Ball, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Sue van Mechelen, Corlette, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Tad Foley, Shoal Bay, NSW	Appendix B: PS1, PS2, PS6, PS7
Tony Gapes, Salamander Bay, NSW (Submission 1 of 2)	Appendix B: D5, RFS1, PS1, PS2, PS5, PS6, PS7
Tony Gapes, Salamander Bay, NSW (Submission 2 of 2)	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Wendy Beattie, Soldiers Point, NSW	Appendix B: D5, RFS1, PS1, PS2, PS3, PS4, PS6
Anonymous 12, Soldiers Point, NSW	Appendix B: PS1
Robert Young, Soldiers Point, NSW	Appendix B: PS1, PS2, PS5
Susan McMahon, Salamander Bay, NSW	Appendix B: D5, RFS1, PS1, PS2
Iain Watt, Soldiers Point, NSW	Appendix B: PS1, PS2, PS5, PS6, PS7, PS9
Gabrielle McMann, Soldiers Point, NSW (Late Submission 2 of 2)	Appendix B: PS1, PS2, PS9
Ian Woodward, Baulkham Hills NSW (Late Submission)	Cover Letter: 9.0, 10.0 Appendix B: D5, RFS1, PS1, PS2, PS4, PS6, PS8, PS9, PS10, PS14, PS15
Lindy Evans, Soldiers Point, NSW (Late Submission)	Appendix B: D5, RFS1, PS1, PS2, PS3
Anonymous 13, Soldiers Point, NSW	Appendix B: PS12
Anonymous 14, Corlette, NSW	Appendix B: PS12
Anonymous 15, Anna Bay, NSW	Appendix B: PS9, PS12
Adam Henson, Salamander Bay, NSW	Appendix B: PS12
Bill Murphy, Salamander Bay, NSW	Appendix B: PS12
Dan Bowen, Soldiers Point, NSW	Appendix B: PS12
Dane Queenan, Salamander Bay, NSW	(Letter of general support)



	Kyle Shanahan, Anna Bay, NSW	Appendix B: PS12
	Philippa Brooks, Salamander Bay, NSW	Appendix B: PS12, PS13

## **Appendices**

### **APPENDIX B: DETAILED RESPONSES TO SUBMISSIONS AND REQUEST FOR INFORMATION PREPARED BY MILESTONE**


## Appendix B – Detailed Response to Submissions and Request for Information

### Department of Planning and Environment (Department)

Reference No.	Extract	Response										
D1	<p><b>GFA and Apartment Layout</b></p> <ul style="list-style-type: none"><li>• A comparison of the approved gross floor area (GFA) and proposed GFA for all uses (both commercial and residential) is required, noting that no change to the GFA is proposed but an additional six hotel rooms and 24 apartments are proposed. Details of the GFA of the proposed residential apartments and hotel rooms are required, including room sizes and the proposed unit mix</li><li>• Please provide further details demonstrating that the development is capable of complying with the Apartment Design Guide, provided in a table similar to the 2010 SEPP 65 Statement.</li></ul>	<p>A Gross Floor Area (GFA) and Residential Unit Breakdown dated March 2022 has been prepared by DJRD Architects and provides a comparison of the approved concept plan and MOD 2, and is provided at <b>Appendix C</b>. The breakdown illustrates how much floor area has been allocated to each use on the site to provide the number of hotel rooms, residential apartments, and associated hotel and commercial floor space proposed. The breakdown confirms that MOD 2 retains the approved total GFA of 19,600sqm, with the addition of further residential accommodation.</p> <p>As the Apartment Design Guide (ADG) has now superseded the Residential Flat Design Code, a Compliance Report dated March 2022 has also been prepared by DJRD Architects and provides reference to the nine quality design principles, and general building controls and objectives outlined in the Apartment Design Guide (ADG) and is held at <b>Appendix D</b>. As the proposal relates to a modification to a concept plan, this statement outlines high level commentary demonstrating that the future Development Application with detailed design is able to achieve design quality in accordance with the design quality principles of the SEPP 65 as well as the controls stated within the ADG.</p> <p>In response to the Department's comment relating to apartment size specification, <b>Figure 1</b> below sets out the minimum GFA requirements for studio, 1-, 2- and 3-bedroom apartments as per Section 4D of the ADG:</p> <table><tr><th>Apartment type</th><th>Minimum internal area</th></tr><tr><td>Studio</td><td>35m<sup>2</sup></td></tr><tr><td>1 bedroom</td><td>50m<sup>2</sup></td></tr><tr><td>2 bedroom</td><td>70m<sup>2</sup></td></tr><tr><td>3 bedroom</td><td>90m<sup>2</sup></td></tr></table> <p><b>Figure 1: Apartment Size Requirements</b> Source: Apartment Design Guide</p>	Apartment type	Minimum internal area	Studio	35m <sup>2</sup>	1 bedroom	50m <sup>2</sup>	2 bedroom	70m <sup>2</sup>	3 bedroom	90m <sup>2</sup>
Apartment type	Minimum internal area											
Studio	35m <sup>2</sup>											
1 bedroom	50m <sup>2</sup>											
2 bedroom	70m <sup>2</sup>											
3 bedroom	90m <sup>2</sup>											

		The Compliance Report held at <b>Appendix D</b> states that the proposed apartments in the MOD 2 Concept Plan is able to comprise apartment sizes ranging from 65m2 to 150m2, providing options for 1-, 2-, and 3-bedroom apartments in line with the minimum requirements.
D2	<b>Visual Impact</b> <ul style="list-style-type: none"> <li>Please provide updated 2021 images from all viewpoints that illustrate the massing and visual impact of the proposed building envelopes, similar to those provided from 2010 as displayed as provided in Appendix C – Site Analysis and Visual Impact Report.</li> </ul>	<p>An updated Visual Impact Statement dated March 2022 has been prepared by DJRD Architects and is provided at <b>Appendix E</b>. This updated report includes massing within the 2021 viewpoints comparing the bulk and scale of the approved concept plan against MOD 2.</p> <p>The report concludes there is a strong similarity between the approved envelope and that of MOD 2, with some differences apparent at the roof level. Considering that the tree canopy height has increased in height and density from 2010 to 2021 from most viewpoints, the updated analysis indicates a negligible change from the approved in terms of visual impact. In conclusion, there is considered to be no significant adverse visual impact to the surrounding context.</p>
D3	<b>Traffic and Parking</b> <ul style="list-style-type: none"> <li>The traffic assessment provided does not consider the changing land uses along the Soldiers Point peninsula, the existing parking capacity issues from the recent upgrades of the Cheeky Dog pub or provide rigorous numerical analysis and assessment of traffic volumes. Additional assessment of the cumulative traffic impacts and plans for overflow parking is required.</li> <li>Details of measures to reduce visitor and employee parking on the adjacent reserves and on the verge of Soldiers Point Road are required.</li> </ul>	<p>A Traffic and Parking Assessment Report dated March 2022 has been prepared by TTPA and is provided at <b>Appendix F</b>. The report includes numerical assessment of traffic flow and access into the site considering current traffic statistics for the Soldiers Point area and surrounding land uses, as well as the anticipated traffic generation of the proposal.</p> <p>In terms of car parking, it is acknowledged that the existing development on site, which includes the 'Cheeky Dog' pub, has parking constraints resulting in overflow parking occurring on the reserve land opposite the site on Seaview Crescent. This issue is raised in seven of the public submissions. The proposed redevelopment of the site will remove the Cheeky Dog pub component and therefore, it is not considered this needs to be a specific consideration within any further assessment. However, the overall issue of parking supply is considered.</p> <p>MOD 2 provides 310 parking spaces to accommodate the proposed uses on the site. An assessment of MOD 2 against Port Stephens Council on-site parking requirements as outlined in Section B8.B of the Port Stephens Development Control Plan 2014 (DCP) results in a</p>

		<p>minimum car parking requirement of 299 spaces and therefore, the proposal provides a surplus of 11 car parking spaces on the site. The Traffic and Parking Assessment Report concludes this level of parking is adequate for peak demand circumstances given the multi-use of the site and assumed travel mode of the hotel guests.</p> <p>Considering the above, MOD 2 results in acceptable outcomes for the site when assessed against current traffic statistics for Soldiers Point and the Council DCP 2014 requirements for car parking.</p>
D4	<p><b><u>Groundwater</u></b></p> <ul style="list-style-type: none"> <li>Details of the water take and aquifer interference that would result from the construction of the basement are required, as requested by DPIE Water.</li> </ul>	<p>A Water Management Addendum Report dated 18 March 2022 has been prepared by Advisian and is provided at <b>Appendix G</b>. This analysis concludes the proposed redevelopment (MOD 2) will not involve any additional water take that could be construed to equate to additional groundwater extraction from the site. This analysis also confirms that the proposed modified redevelopment will have no adverse impact on groundwater levels or quality. Any risk to the quality of the water in the aquifer and in the wider Tomaree Groundwater source, is able to be appropriately managed by the implementation of standard dewatering procedures during construction.</p>
D5	<p><b><u>Bushfire Risk and Access</u></b></p> <ul style="list-style-type: none"> <li>Please provide further details about the retention of the Asset Protection Zone and whether an easement on adjoining land is still being pursued.</li> </ul>	<p>A Bushfire Addendum Letter dated 22 February 2022, has been prepared by BEMC and is provided at <b>Appendix H</b>. The site is no longer identified as bushfire prone in accordance with s10.3 EP&amp;A bushfire prone area mapping (refer to <b>Figure 2</b> below).</p>

		 <p><b>Figure 2: Port Stephens Bushfire Mapping</b>  <b>Source: Port Stephens Council, 2022</b></p> <p>Considering this, the provision of an Asset Protection Zone (APZ) is no longer required on the site. Reference is made to the submission from NSW Rural Fire Service (RFS) dated 20 December 2021, which recommends Condition 13 be removed from the Notice of Determination (NOD) for MP06_0183 requiring an easement is formed over the APZ on the adjoining land.</p> <p>The further analysis from BEMC regarding to the provision of the easement concurs that there is no consent condition requirement for the establishment of the s88B easement within the adjacent Council reserve to the south and the planning framework has determined the bush fire threat is so low that specific bushfire construction or planning requirements are not warranted.</p> <p>Therefore, it is concluded that an APZ is not required nor is there a requirement for an easement on the adjoining land.</p>
<b>DPIE CROWN LANDS</b>		
D6	The Department of Planning, Industry and Environment – Crown Lands have reviewed the proposal.	Noted.



	As no Crown land, roads or waterways are in the vicinity of the proposal, Crown Lands has no comments at this time.	
<b>DPIE WATER AND THE NATURAL RESOURCES ACCESS REGULATOR (NRAR)</b>		
D7	<p>Inadequate assessment has been provided to quantify the water take due to aquifer interference associated with construction of the basement.</p> <p>The modification report has not referenced the NSW Aquifer Interference Policy (AIP) or identified the licensing implications for the take of groundwater. In accordance with the AIP, groundwater take needs to be quantified and accounted for.</p> <p>The proponent will need to complete an assessment against the 'minimal impact considerations' of the AIP, develop a Dewatering Management Plan, and re-evaluate the need for an Acid Sulfate Soils Management Plan.</p>	<p>The Water Management Addendum Report as discussed in <b>DPE4 (Appendix G)</b>, confirms that MOD 2 will not involve any additional water take that could be construed to equate to additional groundwater extraction from the site and it is unlikely any works would impact groundwater levels. Further, groundwater inflow into any excavation on site is likely to be minimal and therefore, there will be no impact on the water table or water pressure in the aquifer.</p> <p>The Addendum Report addresses the NSW Aquifer Interference Policy (AIP). The report also discusses licensing for the take of groundwater, stating:</p> <p><i>the hotel [Bannisters Hotel] currently has a licence to extract groundwater for the irrigation of gardens via an existing bore. The bore will continue to be used as part of the redeveloped site with no changes to the current extraction rates or licensing.</i></p> <p>With no changes to the current groundwater use, the proposed redevelopment is not expected to affect groundwater levels in the area. Therefore, many of the provisions and requirements of the NSW AIP are not relevant to the works proposed within MOD 2.</p> <p>An assessment considering the need for an Acid Sulfate Soils Management Plan (ASSMP) was undertaken by Tetra Tech Coffey and is outlined in the Geotechnical Report dated 22 February 2022, stating further assessment of acid sulfate soils is not required at this stage (refer to <b>Appendix I</b>).</p>
D8	<p><b><u>Recommendation - Prior to Determination</u></b></p> <p>That the proponent:</p> <ul style="list-style-type: none"> <li>quantify the maximum annual volume of water take due to aquifer interference activities required for the project and demonstrate sufficient entitlement can be acquired in the relevant water source unless an exemption applies.</li> </ul>	As previously mentioned in <b>DPE7</b> , groundwater inflow into any excavation on site is likely to be minimal and therefore, there will be no impact on the water table or water pressure in the aquifer. Further consultation with regard to the maximum volume of water take due to aquifer interference activities determined the maximum annual volume of water take due to aquifer interference activities that might

		<p>occur is considered to be negligible and most certainly no greater than that which may have arisen as part of the approved concept plan.</p> <p>Therefore, MOD 2 is unlikely to have any additional impact to maximum annual volume of water take when compared to the approved concept.</p>
D9	<p><b><u>Recommendation - Post Determination</u></b></p> <p>That the proponent:</p> <ul style="list-style-type: none"> <li>• provide a statement of impact against the 'minimal impact considerations' as defined in the NSW Aquifer Interference Policy (2012).</li> <li>• prepare a Water Management Plan and include monitoring, metering and management measures to address groundwater take due to the project.</li> <li>• prepare a Dewatering Management Plan consistent with the requirements set out in the NSW Government guideline 'Minimum requirements for building site groundwater investigations and reporting' (DPE 2021), in consultation with DPE Water.</li> <li>• re-evaluate the need for an Acid Sulfate Soils Management Plan.</li> </ul>	<p>The post determination recommendations have been noted. All additional required documents can be prepared post-determination as advised by the Consent Authority.</p> <p>An assessment considering the need for an Acid Sulfate Soils Management Plan (ASSMP) was undertaken by Tetra Tech Coffey and is outlined in the Geotechnical Report at <b>Appendix I</b>, stating further assessment is not required at this stage.</p>
D10	<p>The proposal includes basements with inverts below groundwater level. The department asserts that basements which intersect, or are likely to intersect, the groundwater table should be watertight (fully tanked).</p>	<p>Advison confirmed in their Addendum Report, that given the basement carpark is to be constructed within the rhyodacite rock and is fully contained within the site, there will be no "loss" of any groundwater from the perched aquifer that sits above it.</p>
D11	<p><b><u>Recommendation - Post Determination</u></b></p> <p>That the proponent:</p> <ul style="list-style-type: none"> <li>• incorporate tanked-basement designs where basements are likely to intersect groundwater.</li> </ul>	<p>Further advise will be sought at the detailed design stage to ensure the basement design considers groundwater intersection.</p>
<b>DPIE BIODIVERSITY AND CONSERVATION DIVISION (BCD)</b>		
D12	<p>BCD requires the proponent to either submit:</p> <ul style="list-style-type: none"> <li>(i) a Biodiversity Assessment Development Report (BDAR) done in accordance with the Biodiversity Assessment Methodology 2020; OR</li> </ul>	<p>A BDAR dated 28 March 2022 was prepared by Eco Logical using a streamlined assessment module under Part 4 in accordance with the Biodiversity Assessment Methodology 2020 and is provided at <b>Appendix J</b>.</p>

	(ii) (ii) a BDAR waiver under section 7.9 of the Biodiversity Conservation Act 2016; which are to be appended to the Environmental Assessment report.	The report concludes that the proposal is unlikely to have a significant impact on any matters of environmental significance or Commonwealth land, and a referral to the Commonwealth Environment Minister is therefore, not recommended. Further, as the project is proposed on already modified land, the design has incorporated existing cleared areas and building footprints as much as possible and minimised the clearing of native vegetation. The majority of native vegetation within the development area will be retained, with exception to three trees, thereby avoiding and minimising direct impacts on biodiversity values where possible.
D13	BCD is satisfied with the flooding and coastal risk assessment in the EA, in that the development modification does not affect or is not affected by coastal processes, nor does the proposed modification impact flood behaviour or increase flood risk. No further assessment is required.  No further flooding or coastal risk / processes assessment is required.	Noted.

#### Port Stephens Council (Council)

No.	Extract	Response
C1	<p><b>Drainage</b></p> <p>The drainage plan has been appropriately updated to incorporate/address current principles of Australian Rainfall and Runoff ("AR&amp;R 2019").</p> <p>The flood planning levels should be informed onsite by a flood certificate which can be applied for via Council's website.</p>	<p>A 'Drainage Plan' did not accompany MOD 2. Email correspondence with Emily Allen from Port Stephens Council (Council) on 4 March 2022, specified 'Drainage Plan' refers to the Water Management, Flooding and Coastal Plan dated November 2021 prepared by Advision. Council's comments in relation to the Water Management Plan dated November 2021 are noted.</p> <p>With respect to obtaining a flood certificate, the Water Management, Flooding and Coastal Plan, concluded MOD 2 is at least two metres above the Flood Planning Level for the site and further to this, there would be no possibility for mainstream flooding to occur across the development site or for the development to impact on flooding across adjoining land. Further advice from Advision advises that a Flood Certificate will be required at the detailed design stage and is not required for the assessment of MOD 2. Therefore, the relevant flood certificate will be obtained at the DA stage.</p>

C2	<p><b>Traffic</b></p> <p>The traffic impact assessment lacks the numerical analysis regarding traffic volumes and adequacy of proposed access that you'd expect with the following comment provided: "While the previously proposed serviced apartments are now to be residential apartments and there will be a slightly greater number, the occupants will have significant elements of retiree's and holiday rental and the traffic outcome for the revised development scheme will be very similar. It is noted that vehicle access points will remain the same as that for the previous approval and it is apparent that the traffic outcome will be quite satisfactory being comparable to that of the previously approved development."</p> <p>The numerical basis, or assumptions adopted, should be provided to support the above statement.</p>	<p>Further analysis of MOD 2 has been undertaken to address Council's request for further numerical assessment using updated traffic information. Current statistics for the Soldiers Point area published by Transport for New South Wales (TfNSW) have been considered within the Traffic and Parking Assessment Report dated March 2022.</p> <p>This assessment concludes a satisfactory traffic outcome is provided. An assessment of the main access way into the site was also undertaken. It was concluded that the modified scheme will continue to provide a Level of Service (LoS) rating of A, as well as retain the same Average Vehicle Delay (AVD) rating as approved at the proposed main access driveway into the site, centrally located off Soldiers Point Road.</p>
C3	<p><b>Parking</b></p> <p>It is important to treat the car parking numbers on a merit basis, through an explanation of the actual operations onsite but there should also be a clear consideration for where overflow parking would go to if/when full occupancy occurs in the future.</p>	<p>The Traffic and Parking Assessment Report (refer to <b>Appendix F</b>) calculates the minimum required number of car parking spaces in accordance with Council's DCP controls. For the permanent residential component 155 car parking spaces (incl. visitor) are required as well as 144 car parking spaces for the tourist component. Collectively, a minimum of 299 car parking spaces are required as envisaged by the Council controls. MOD 2 proposes 310 car parking spaces, providing 11 spaces above that of the minimum required by Council. In any case, the proposal will provide 175 additional parking spaces when compared to the existing situation, which is more than double.</p> <p>To provide a merit-based assessment, it is important to note all existing structures will be cleared from the site, including the 'Cheeky Dog' pub which notably accounts for the overflow parking issue generated at the site, as has been raised in seven public submissions also. Therefore, when considering the expected parking requirement that will be generated from the new uses within MOD 2, the proposal provides an excess of car parking. On this basis, MOD 2 accommodates all required car parking.</p>
C4	<p><b>Noise</b></p> <p>The modification proposes an increase in permanent residential apartments, from 40 to 98. Approval is also sought to increase the number of hotel rooms from 84 to 90. Whilst the modification indicates a clear separation of residential and hotel accommodation,</p>	<p>The need to provide further acoustic assessment beyond the concept stage is noted. At the detailed design stage, acoustic assessment will be carried out by a suitably qualified consultant to ensure the development on site has suitable acoustic mitigation measures if required, for the permanent residential component.</p>

	<p>it is noted that operational and recreational spaces such as reception, back of house and bar form part of the residential apartment buildings. Prior attention has been given to noise impacts from a traffic management perspective. Greater consideration, assessment and planning for potential noise impacts associated with daily operations and the transient nature of short-term accommodation is recommended beyond the concept planning stage.</p> <p>External to the development site, the closest residential receivers are noted to be 145 and 145A Soldiers Point Road, Soldiers Point. As the modification proposes to increase permanent residency options, any ongoing noise impacts are unlikely to exceed the current operational levels of the existing development.</p>	
C5	<p><b><u>Acid Sulfate Soils</u></b></p> <p>Class 4 and 5 Acid Sulfate Soils (ASS) are applicable to the site. Section 10.9 of the <i>Milestone Environmental Assessment (November 2021)</i> refers to a prior Geotechnical Assessment, noting an updated report addressing the relevant criteria for ASS will be prepared to accompany the subsequent development application. This would be recommended given the proposed basement works to facilitate underground car parking.</p>	<p>The Geotechnical Report dated 22 February 2022 (refer to <b>Appendix I</b>) prepared by Tetra Tech Coffey includes a phase 2 Environmental Site Assessment (ENVIWAR00284AB) to assess the presence of acid sulfate soils associated with the proposed modified development (MOD 2). The analysis concludes that the likelihood for significant contamination to be present at the site is low, and further investigations are not required at this time.</p>
C6	<p><b><u>Water Management</u></b></p> <p>Stormwater and ground water should be monitored whereby ASS and/or other pollutants are encountered during demolition and construction. An updated Geotechnical Assessment may provide recommendations and plans in monitoring and responding to any detrimental impact to water quality. Neutral or beneficial effect on water quality (NorBE) should be achieved during all stages of development, as supported by the <i>WorleyParsons Water Management, Flooding and Coastal Processes Report 2010 and Advisian Statement Addendum Report 2021</i>.</p> <p>It is noted that stormwater will (continue to) be facilitated by the western site catchment (draining into Council's stormwater drainage line along Soldiers Point Road) and eastern site catchment (discharging directly into Salamander Bay via the existing 525 mm stormwater drainage line located in the direction of the Jetty on the</p>	<p>The Applicant acknowledges Council's request to have detailed Soil and Water Management Plans prepared prior to the commencement of any demolition and construction.</p>

	foreshore – Figure 7 <i>WorleyParsons Report 2010</i> ). Detailed soil and water management plans should be sought prior to the commencement of demolition and construction respectively.	
C7	<p><b>Other</b></p> <p>Conditions listed under the 2011 Section 75O Concept Approval appear generally sufficient with regard to environmental health matters. Council have not made comments concerning food businesses or public swimming and spa pools as it doesn't seem like they are required at this point however happy to provide if needed.</p>	Noted.

#### NSW Rural Fire Service (RFS)

No.	Extract	Response
RFS1	<p>Given that the land is not mapped bush fire prone land, the NSW RFS advises that condition 13 of the NOD can be deleted and condition 12 Landscaping be amended to include:</p> <ul style="list-style-type: none"> <li>The entire site will be maintained as an inner protection area and landscaping within the site will comply with Appendix 4 of <i>'Planning for Bush Fire Protection 2019'</i>.</li> </ul>	<p>The recommendation from NSW RFS to remove condition 13 of the Notice of Determination (NOD) for Concept Approval MP06_018 and amend Condition 12 is noted. Although an APZ is no longer required due to the site's bushfire classification in accordance with s10.3 Environmental Planning &amp; Assessment Act (EP&amp;A Act) Bushfire Prone Area Mapping, BEMC has provided recommendations for bushfire mitigation measures in the Bushfire Addendum Letter held at <b>Appendix H</b>. These recommendations are as follows:</p> <ul style="list-style-type: none"> <li>The entire lot be a managed to Inner Protection Area Standards of an Asset Protection Zone.</li> <li>The existing water hydrant in the south-eastern corner be maintained.</li> <li>Vehicle access along the grass verge associated with Soldiers Point Road be provided to the existing water hydrant.</li> <li>A live fire hose connected to reticulated water mains, constructed in accordance with AS/NZS 1221:1997 Fire hose reels, and installed in accordance with AS 2441:2005 installation of fire hose reels is located in the south-eastern corner of the lot between the building and vegetation to the south.</li> <li>A clear pedestrian access path is provided between the existing water hydrant in the south-eastern and fire hose in the south-eastern corner.</li> </ul>



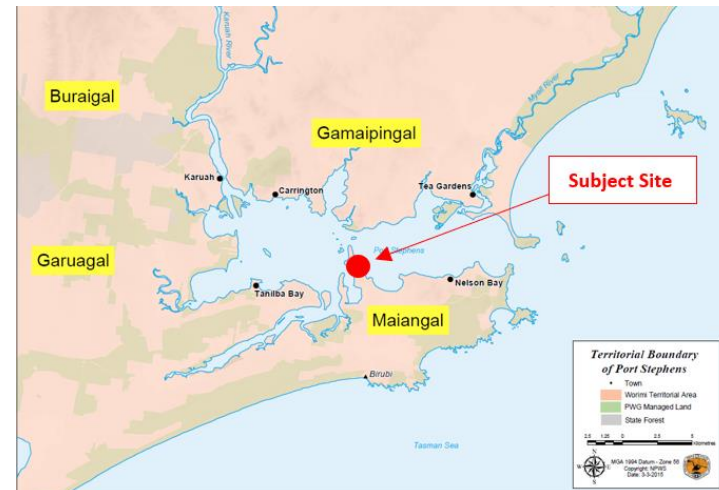
		<ul style="list-style-type: none"> <li>• All glazing elements along the southern elevation of the proposed building be to BAL29 construction standards".</li> </ul> <p>In relation to Condition 12 of the NOD, it is noted the detailed Landscape Plan for the site will need to be in accordance with Appendix 4 of <i>'Planning for Bush Fire Protection 2019'</i> if this amendment to the condition proceeds.</p>
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## Public Submissions

No.	Issue	Extract	Response
PS1	Traffic, Parking and Access	<ol style="list-style-type: none"> <li>1. A current traffic survey with updated data needs to be completed.</li> <li>2. Bannisters does not currently have sufficient parking.</li> <li>3. There will be unreasonable pressure on the road network during demolition and construction.</li> <li>4. A significant increase in the number of permanent residential apartments and guest accommodation as well as increases in the size of conference areas will cause a significant increase in vehicle ingress and egress for which the site is currently not suitable for.</li> <li>5. Traffic along Soldiers Point Road has increased significantly since the 2011 approval.</li> </ol>	<ol style="list-style-type: none"> <li>1. Assessment using current traffic surveys has been provided in the Traffic and Parking Assessment Report dated March 2022 prepared by TTPA (refer to <b>Attachment F</b>).</li> <li>2. A surplus of car parking is proposed on the site within MOD 2 as per the on-site car parking requirements outlined within Part B8.B of DCP 2014.</li> <li>3. The Traffic and Parking Assessment Report provides an assessment of traffic flow and volume using current traffic information for Soldiers Point and concludes there will be an acceptable level of traffic generation from MOD 2 and is quantitatively comparable to what has already been approved on the site.</li> <li>4. The Traffic and Parking Assessment Report provides a numerical assessment of the ingress and egress generated by MOD 2. The proposed main access driveway which is centrally located off Soldiers Point Road into the site will be able to accommodate the modified proposal with significant spare capacity. The assessment concluded the modified proposal is quantitatively the same with regard to the Level of Service (LoS) at the proposed main access driveway, having an overall rating of 'A'.</li> <li>5. Increased volumes of traffic flow and volume along Soldiers Point Road and other local roads within the vicinity of the site have been considered within the Traffic and Parking Assessment Report. The report determines the modified scheme (MOD 2) will be acceptable for the site despite the increased traffic in the locality since 2011.</li> </ol>
PS2	Biodiversity	<ol style="list-style-type: none"> <li>1. A full BDAR should be required and made for public comment.</li> <li>2. The public reserve adjacent to the site, known as Seaview Crescent Reserve, does not belong to the owners of Bannisters/Salamander Shores Hotel.</li> <li>3. The owners have no right to remove any of the flora from this native reserve.</li> <li>4. Three property boundaries face significant bushland containing koala habitat.</li> </ol>	<ol style="list-style-type: none"> <li>1. A BDAR dated 28 March 2022 has been prepared by Eco Logical in accordance with the streamlined module under Part 4 and is provided with this RtS Report held at <b>Appendix J</b>.</li> <li>2. The public reserve adjacent to the site does not belong to the owners of the site, nor has this claim been made within MOD 2.</li> <li>3. Any removal of vegetation within the adjacent reserve has been undertaken by Council and RFS NSW, as advised to the Applicant within an email from Jessica Brine, Bushfire Management &amp; Compliance Officer at Port Stephens Council on 1 March 2021.</li> </ol>

		<p>5. Provision must be made for to allow koalas to continue to traverse the site by providing safe thoroughfare during construction.</p> <p>6. The cumulative impact of development on the natural environment must be considered.</p> <p>7. Fauna could be injured or killed due to the impact of the redevelopment on the native forest remnants around the site.</p> <p>8. There has been a history of excessive and possibly unauthorised clearing of vegetation by the existing hotel.</p> <p>9. Tree removal should be stringently controlled and in the event of cutting down, branch lopping or poisoning of trees on-site and on Council-controlled property</p> <p>10. The redevelopment will contribute to carbon ramifications for global warming.</p>	<p>4. Preferred Koala habitat has been identified within the BDAR, to the east of the site. It is also confirmed this habitat will not be impacted by the proposal.</p> <p>5. The BDAR advises that due to the existing development footprint already within an established residential setting, the site has not been identified as providing connectivity between areas of habitat for threatened species.</p> <p>6. All native vegetation within the confines of the subject site will be retained, with the exception of three trees, thereby avoiding and minimising direct impacts on biodiversity values. Therefore, the redevelopment of the site will not have a significant impact on the natural environment.</p> <p>7. As previously stated, the site has not been identified as providing connectivity between habitat areas. Measures proposed to mitigate and manage any biodiversity impacts have been outlined within the BDAR and will be implemented within the redevelopment of the site. These measures include:</p> <ul style="list-style-type: none"> <li>• Pre-clearance Survey to ensure fauna are not present in any trees to be removed prior to clearing.</li> <li>• Protection of trees to be retained by limiting soil disturbance with lower impact machinery such as a chainsaw where partial clearing of areas is proposed on the site.</li> <li>• Sediment barriers to control erosion and runoff of contaminated substances.</li> <li>• Light shields to avoid light disturbance to native species habitats.</li> <li>• Hygiene protocols to prevent the spread of weeds of pathogens.</li> <li>• Staff training to communicate environmental features to be retained and protected on the site.</li> </ul> <p>8. Any previous clearing that has occurred on the site has been carried out under the approval of Council. A permit was granted under Clause 10(1) of the <i>State Environmental Planning Policy (Vegetation in non-rural areas)</i> by Council on 6 August 2021.</p> <p>9. All tree removal on the site has been carried out subject to Council approval. The removal of some mid-story vegetation over 3m on the site was approved by Council on 6 August 2021, under permit no. 59-2021-168-1.</p> <p>10. The applicant recognises the need to consider how the construction and operation of the new mixed-use development on</p>
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			<p>site will manage its impact on carbon emissions. Low carbon building materials and construction methods will be considered within the detailed design of the development. Energy and water efficient fixtures will also be used to ensure the overall function of the mixed-use development performs to a high level of environmental sustainability post-construction.</p>
PS3	Aboriginal Heritage	<ol style="list-style-type: none"> <li>1. The supporting document included with the proponents' DA erroneously claims there are no Aboriginal sites/places recorded or declared in or near the area. The public reserve behind Bannisters/Salamander Shores known as Seaview Crescent Reserve is heritage listed by PSC and today still has historical places.</li> <li>2. The Aboriginal Cultural Heritage Assessment consulted only the Worimi Land Council. Soldiers Point is a well-known Maiangal clan area and consultation with Carol Ridgeway-Bissett should be sought out to draw conclusions about this site's heritage.</li> <li>3. We submit, in the event of approval being considered that, a full Aboriginal Cultural Heritage Assessment Report should be required and made public for comment before any decision is made on the Concept Plan.</li> </ol>	<ol style="list-style-type: none"> <li>1. The approved concept plan for the site provided a comprehensive Aboriginal Cultural Heritage Report dated December 2008 and included consultation with the relevant Aboriginal Lands Council, being the Worimi Local Aboriginal Land Council (WLALC). This report concluded, inter alia: <p><i>"the current redevelopment proposal is unlikely to have an adverse impact upon the Aboriginal cultural heritage values of the place and should proceed as proposed subject to the implementation of the management recommendations provided below".</i></p> <p>Recent consultation with the WLALC was undertaken to confirm that the findings within the 2008 report are still relevant in the assessment of the modified proposal. The WLALC conducted a site inspection on 10 March 2022. Email correspondence from Bec Young, Operations Manager, Murrooma Inc. (refer to <b>Attachment K</b>) on 11 March 2022 states:</p> <p><i>'As Traditional Owners within our Worimi Community – Murrooma are happy with the modifications of the original plan and believe that Cultural Heritage will not be impacted upon with this modification'.</i></p> </li> <li>2. It is acknowledged that Soldiers Point is land of the Maiangal Clan, however, it is also noted, this clan falls within Worimi Territorial Area. This is outlined within mapping provided by Worimi Conservation Lands NSW (see <b>Figure 3</b> below).</li> </ol>



**Figure 3: Worimi Conservation Lands NSW Mapping**  
**Source: Worimi Conservation Lands NSW, 2021**

The Aboriginal Heritage Assessment submitted under the approved concept also identifies the site within the WLALC. The WLALC has a statutory responsibility to promote the protection of Aboriginal culture and the heritage of Aboriginal people within its council boundaries. Advice was sought from WLALC to confirm the correct Aboriginal groups had been consulted within the previous consultation undertaken. Email correspondence from Jamie Merrick, Senior Site Officer at WLALC on 21 February 2022 (refer to **Appendix K**) confirms:

*'Worimi Local Aboriginal Land Council recognises the following groups /clans to represent the Worimi area they are Nurrungee, Murrooma Inc, Maiangal and Indigenous Karuah'.*

Accordingly, it can be confirmed the previous consultation undertaken with WLALC in 2008 would have considered any significant lands or items associated with the Maiangal Clan.

3. Considering the above, further Aboriginal Heritage Cultural Assessment is not required for this development. An Aboriginal Cultural Heritage Report dated December 2008 has already been

			<p>prepared and submitted under the approved scheme, and as previously mentioned, has consulted the correct Aboriginal Lands Council, being WLALC, who provide no objection in relation to MOD 2.</p>
PS4	Community Engagement & Exhibition Period	<ol style="list-style-type: none"> <li>1. There was no engagement with the local community regarding the current concept plan,</li> <li>2. There was no local newspaper advertisements or engagement through other channels</li> <li>3. No evidence of public exhibition from the 2011 concept period.</li> <li>4. The situation has been exacerbated by the Christmas, New Year and Summer holidays intervening in the exhibition period. Consequently, there has been little opportunity for meaningful submissions to be made by those who would otherwise wish to make them.</li> </ol>	<ol style="list-style-type: none"> <li>1. Community consultation was undertaken during the initial stages of the approved concept by way of an information night held in April 2010. The feedback sheets provided to participants resulted in 100% of the respondents supporting the redevelopment of the Salamander Shores Hotel including future residential accommodation. Positive aspects of the development included improvement to the building and facilities without encroaching on bushland areas, new restaurants, cafe and bar, and an overall visual improvement with facilities for residents and the local community. <p>The MOD 2 proposal continues to provide a mixed-use residential and tourist development the community was in support of as identified in 2010. Further assessment has also been undertaken by the consultant team and concludes the extent of impact from the modified proposal will be consistent with that of the approved.</p> </li> <li>2. Division 2 of the EP&amp;A Regulation 2021, outlines requirements for the notification of modification applications. Clause 106 (2) states: <p><i>(2) As soon as practicable after a modification application is lodged, the Consent Authority must—</i></p> <p><i>(a) publish a notice on its website that contains the following information—</i></p> <p><i>(i) a brief description of the development consent, the land to which it relates and the details of the modification sought,</i></p> <p><i>(ii) a statement that written submissions about the modification may be made to the Consent Authority during the public exhibition period required under the Act,</i></p> <p><i>(iii) a statement that, if the application is approved, there is no right of appeal to the Court by an objector, and</i></p> <p><i>(b) give the notice to each person who made a submission in relation to the original development application.</i></p> <p>It is not a requirement of the Consent Authority to publish a notification within local newspapers. The Consent Authority is only required to publish a notice on its website, which occurred.</p> </li> </ol>



			<ol style="list-style-type: none"> <li>3. The Environmental Assessment Report for the approved concept was exhibited for 30 days from 8 October to 8 November 2010. In response to the public exhibition, six submissions were received from State government agencies, one from Port Stephens Council, and 15 public submissions, eight of which were in support. Further details can be found on NSW Government's State Significant Projects website.</li> <li>4. The exhibition period of the MOD 2 application considered the interference of the Christmas, New Year and Summer holidays period. On 1 December 2021, it was originally advised by Emma Butcher, Senior Planner, at the Department that MOD 2 would be publicly notified for a period of two weeks between 3 December 2021 and 16 December 2021. On 8 December 2021, Ms Butcher advised of the need to extend the exhibition period for MOD 2 until 21 January 2022, based on a request from some community representatives due to the initial exhibition period being over the Christmas period. Therefore, MOD 2 was publicly exhibited for a period of seven weeks.</li> </ol>
PS5	Visual Impact and Building Height	<ol style="list-style-type: none"> <li>1. Proposal is too bulky and high for the surrounding area and is not acceptable when viewed from the water.</li> <li>2. Photomontages showing the design relative to the tree line from various viewpoints should be provided</li> <li>3. A photomontage of what the external elevations of the building will look like should be provided.</li> </ol>	<ol style="list-style-type: none"> <li>1. The MOD 2 has been visualised within the existing context of the site and compared to the approved concept within the Visual Impact Statement dated March 2022 prepared by DJRD Architects (refer to <b>Attachment E</b>). The Report concludes there is a strong similarity between the approved envelope and that of MOD 2, with some differences apparent at the roof level. Considering that the tree canopy height and density has increased from 2010 to 2021 from most viewpoints, the updated analysis indicates a negligible change from the approved in terms of visual impact. In conclusion, the perceivable impacts are a minimal loss of sky and therefore, altering of the approved roof level will not result in adverse visual impact to the surrounding context.</li> <li>2. Detailed photomontages cannot be provided with the MOD 2 application, being this is only the concept stage of the development. Massing imagery has been provided within the Updated Visual Impact Statement to give an impression of the proposed development on the site as viewed from various public vantage points. Detailed photomontages will be provided at the DA Stage when the design is more realised.</li> <li>3. As this is the concept stage, detailed external elevations of the building are yet to be fully realised and nor are they required.</li> </ol>

			Detailed elevations and schedule of materials and finishes will be provided at the DA stage to enable an assessment of the development to ensure the external façade of the building is in line with the desired character of the locality.
PS6	Lapsing of Concept Approval	<ol style="list-style-type: none"> <li>Usually, modification applications cannot be made if a consent has not been acted upon within 5 years. The consent lapses after 5 years if physical commencement has not commenced. The Minister granted an extension of time to 4 September 2018. The applicant has not adequately demonstrated that the consent has not lapsed.</li> </ol>	<ol style="list-style-type: none"> <li>A Legal Submission dated 10 August 2018 was prepared by Addisons providing advice on conditions relating to the lapsing of consent of the Concept Approval and Project Approval (MP06_0183).  The Project Approval was granted for the “<i>demolition of existing buildings and structures and general site clearance at 147 Soldiers Point Road, Soldiers Point</i>”. It is noted within the Legal Submission that at the time it was prepared, demolition works had commenced on the site in accordance with the Demolition Plans dated 22 November 2010 outlined within Condition A2 of the approval. As such, the Project Approval No. MPO_0183 has been activated.</li> </ol>
PS7	Overdevelopment	<ol style="list-style-type: none"> <li>The new development, if it proceeds, is going to make it much larger and a much more imposing presence. Totally out of character with the area.</li> <li>The size and scope of this project will destroy the amenity of the area and will be of little benefit of the local community.</li> <li>There has been significant development resulting in additional residential density and resulting vehicular congestion during the 12 years.</li> <li>The proposal does not increase employment opportunities as the request to change the 98 apartments to permanent residences does not have employment opportunities to employ people to service the rooms.</li> </ol>	<ol style="list-style-type: none"> <li>The approved Concept Plan has a maximum ridge line of RL35.50. The modified scheme will have a minor increase to the maximum ridge line of 0.6m, being RL36.10. The updated Visual Impact Statement dated March 2022 compares the massing of the approved scheme and that of MOD 2, as well as identifies areas of tree canopy height and density growth, concluding MOD 2 presents similar bulk and scale that the approved scheme.</li> <li>The redevelopment of the site will create new jobs within the local economy and provide state-of-the-art facilities that will not only increase amenity within the Soldiers Point area, but also stimulate further tourism opportunity.</li> <li>It is acknowledged density and traffic volumes have increased in the area since previous assessment of the concept proposal in 2011. In response to this, the Traffic and Parking Assessment Report dated March 2022 (refer to <b>Attachment F</b>) analyses current traffic information published by TfNSW. The report concludes the modified concept will continue to provide an acceptable level of traffic volume and maintain a Level of Service (LoS) rating of ‘A’ for the main access way in and out of the site from Soldiers Point Road. Therefore, MOD 2 will continue to be of minimal impact like that of the approved concept.</li> </ol>

			<p>4. The MOD 2 Concept Plan has an increase in the number of hotel rooms when compared to the approved and also retains all tourist amenities and conference facilities as detailed within with approved Concept Plan. Therefore, local employment opportunity will still be generated from the proposal. Within the Traffic and Parking Assessment Report dated June 2010, the approved Concept Plan had a model based on 30 staff members for the development, whereas MOD 2 provides a model for a maximum of 67 staff.</p> <p>Accordingly, tourism and employment opportunity continue as a key component within the MOD 2 Concept Plan.</p>
PS8	Apartment Mix	<p>1. Concerned that the proposed modifications will not effectively meet either the demand for housing or the demand for tourist accommodation and facilities. The change in allocation between permanent residential units and tourism units reduces the focus on tourism within the development.</p>	<p>1. Although there is an increase in permanent residential apartments within MOD 2, the modified Concept Plan also proposes additional hotel rooms to enhance meeting tourism demand. Other tourist and conference facilities are also retained as already approved.</p> <p>Therefore, the MOD 2 Concept Plan will continue to effectively meet the tourism demand.</p>
PS9	Services and Local Infrastructure	<p>1. Additional housing and jobs will create additional pressure on essential services in the area that are already strained.</p> <p>2. A Carrying Capacity Study on population density should be undertaken as part of the approvals process</p> <p>3. The applicant has not demonstrated that there is sufficient infrastructure in the area, especially the road structure.</p>	<p>1. Letters of support have been received by essential services directly, for example <i>Bay Doctors and Skin Cancer Clinic, Salamander Bay</i>, expressing support for the redevelopment and the boost in employment and tourism opportunity it will bring to the locality. Support is also shown within a submission from <i>PRD Real Estate</i> for the increase in housing stock by the development to meet increasing demand.</p> <p>2. A Carrying Capacity Study is undertaken in order to assess the potential impact of human activity that can take place in an area without degrading its environment below an acceptable level. The approved concept is considered to have acceptable levels of environmental impact by the Consent Authority. In the Environmental Assessment Report prepared by the Director-General dated August 2011, the concept proposal was recommended for approval, stating:</p> <p><i>The proposed development will have long term social and economic benefits in the Port Stephens area including employment opportunities during construction and the operation of the development, increased housing supply and diversity in choice, an upgraded tourist facility to</i></p>

			<p><i>encourage additional visits and associated commercial activity in the area and conference facilities to accommodate mixed business/tourist functions.</i></p> <p>The Consent Authority has acknowledged the benefits of redeveloping the site to provide further tourist activity and employment, as well as increase housing stock and diversity within Soldiers Point. The Consent Authority was further satisfied that any potential environmental and amenity impacts were properly addressed and were acceptable.</p> <p>This RtS Report has provided further analysis undertaken by the consultant team, which concludes the extent of impact is consistent with that of the approved scheme. Therefore, a Carrying Capacity Study is not considered to be required at this stage, as the analysis provided within this RtS Report and supporting documentation is generally consistent to that of the approved.</p> <p>3. The Parking and Traffic Assessment Report dated March 2022 confirms that the existing road network can support the proposed development. Assessment of the proposal against current traffic information identifies that the expected traffic generation from MOD 2 will still result in acceptable traffic levels on the surrounding road network. Details on the use of road infrastructure during construction will be outlined in the Construction Management Plan provided at the CC stage.</p>
PS10	Geotechnical Constraints	<ol style="list-style-type: none"> <li>1. No figures are provided to indicate the reduction of the excavation on site from the MOD 2.</li> <li>2. Geotechnical constraints that require modifications to the approved concept, which is significant.</li> <li>3. Excavation for the basement car park will cause stress to the neighbouring properties.</li> </ol>	<ol style="list-style-type: none"> <li>1. As this is the concept stage, a numeric figure of the excavation volume on site cannot be accurately provided until a more realised design is produced. The reduction in volume within the MOD 2 is derived from the reconfiguration of the basement, which has a reduced floorplate.</li> <li>2. The requirement to make refinements to the proposed development at the concept stage in response to expert analysis forms part of the process to developing a detailed design. Certain constraints associated with the site such as the extremely hard rhyodacite subsurface needs to be comprehensively considered within the design process, which has since led to the redesign of the basement layout. The applicant has ensured minimal disruption to the surrounding development by undertaking the necessary steps to have a fully realised development scheme that appropriately responds to the constraints of the site.</li> </ol>

			3. As mentioned above, redesign of the basement layout has considered the site constraints and geotechnical advice to ensure that minimal disruption is caused to the neighbouring properties.
PS11	Construction Impact and Required Infrastructure	1. Demolition will cause disruption to the residents by way of noise and traffic.	1. A detailed Construction Management Plan will be provided at the DA Stage to ensure appropriate management along with minimal impact to the surrounding properties and road network during demolition and construction.
PS12	Support Increased Tourism and Local Employment	1. This quality development will deliver a hero tourism product for the region which will contribute to growing visitor demand for Port Stephens.	1. The MOD 2 Concept Plan ensures tourism continues to be a key part of the redevelopment of the site with 90 hotel rooms and state-of-the-art tourist amenities and conference facilities to be provided under Bannisters Hotels.
PS13	Demand for Increased Housing Stock	1. The region will benefit from further high-end residential builds that aren't solely aimed at retirees.	<p>1. MOD 2 provides an increase in the number of permanent residential apartments on the site, whilst retaining the approved total GFA specified within Condition A1 of Concept Approval No. MP06_0183. One-, two- and three-bedroom apartments are intended to be available within the complex, to ensure diversity of stock to capture a range of demographics and household compositions.</p> <p>The proposed concept will provide a Bannister's managed complex containing high-end resort-style apartments, well-suited to retirees, families and younger singles or couples. The aim of this development will be to provide permanent housing, whilst also offering the flexibility for an owner to have their property managed and attended to by staff if not living at the site permanently or leasing for long-stay tenants.</p>
PS14	Substantial Change Proposed	1. The Part 3A Concept Plan Approval was for a mixed residential/ tourist use. The residential component of the development consisted of 40 units for permanent residential units in one building on the site. The majority of the development was for the purpose of tourism. The modification application seeks approval for a significant redistribution of land use with an increase	1. The Concept Plan approved in 2011 was for a <i>mixed use residential/tourist development</i> and despite the proposed changes in land use, the modified development will continue to be a <i>mixed use residential/tourist development</i> . It is acknowledged that an effect of the modified development outlined in MOD 2 is that it has changed the Concept Approval, however the overall nature of the proposed modifications will not result in any significant changes to the overall built form of the approved development. The proposed changes to the building design, scale or bulk are such that the final overall built form is substantially the

		in permanent residential units from 40 to 98 units.	<p>same as that approved. The important design elements remain within MOD 2 and the increased building height will not be discernible. The overall general building footprint and massing on the site will be retained, and the modified development continues to appropriately respond to the unique characteristics of the site.</p> <p>In any case, the proposed changes do not result in a material change to the original design philosophy for the redevelopment of the land, which will continue to deliver a significant tourist destination with conference facilities for mixed business and tourist functions, along with the provision of high amenity residential apartments. The impacts of the change to the overall built form, public domain, environment, traffic and parking and land use are such that the development as modified is substantially the same as that approved in the Concept Approval.</p>
PS15	Extent of Impact	<p>1. The Applicant has not demonstrated the impact the development will have on the planning of the area.</p>	<p>1. As per Clause 3BA(5)(b) of Schedule 2 of the EP&amp;A (Savings, Transitional and Other Provisions) Regulation 2017, the Minister must be satisfied the Concept Plan modification under Section 75W is of minimal environmental impact. Further analysis has been undertaken by Milestone and the expert consultant team to provide a comprehensive assessment of MOD 2 and its potential extent of impact.</p> <p>The consent authority can be satisfied that the environmental impacts of the proposed MOD 2 modification are very small or negligible when compared to the approved Concept Plan for the following reasons:</p> <ul style="list-style-type: none"> <li>• The proposed development will remain a mixed use residential and tourist development and intended outcomes for the future development of the site will remain the same.</li> <li>• The gross floor area of 19,600m<sup>2</sup> and floor space ratio of 1.6:1 will remain the same.</li> <li>• There is no significant adverse visual impact resulting from the MOD 2 due to the increased canopy height and plantings that have occurred since the Concept Plan was originally approved.</li> </ul>

			<ul style="list-style-type: none"> <li>• The impacts arising from the traffic and parking amendments are minor and whilst it will result in additional car parking there are no unsatisfactory traffic implications.</li> <li>• There will be no significant biodiversity impacts.</li> <li>• The overall scale of the development will remain generally the same as the key building footprints and general massing on the site is consistent with the Concept Approval and continues to respond to the unique character of the site.</li> <li>• There will be no adverse impacts on the groundwater arising from MOD 2.</li> <li>• There will be no additional bushfire risk arising from MOD 2.</li> </ul> <p>It is concluded that MOD 2 will continue to be of minimal impact overall, acknowledging the Concept Approval has been established for the redevelopment of the site. The impacts of the change to the overall built form, public domain, environment, traffic and parking and land use are such that the development as modified is substantially the same as that approved in the Concept Approval.</p>
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