



Salamander Shores Hotel and Residential Development Modification 2

Modifications to Concept Approval for Mixed Use Hotel and
Residential Development
Major Project Modification Assessment
(MP 06_0183 MOD 2)

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Glossary

Abbreviation	Definition
AHD	Australian Height Datum
BCA	Building Code of Australia
CPP	Community Participation Plan
Council	Port Stephens Council
Crown Lands	Crown Lands, DPIE
Department	Department of Planning and Environment
EESG	The former Environment, Energy and Science Group, DPE
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
FEAR	Future Environmental Assessment Requirement
Heritage	Environment and Heritage, DPE
LEP	Local Environmental Plan
Minister	Minister for Planning
RMS	Roads and Maritime Services, TfNSW
RFS	NSW Rural Fire Service
SEARs	Planning Secretary's Environmental Assessment Requirements
Planning Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy

Executive Summary

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

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

- revise the mix of hotel and residential apartments and remove the serviced apartment component
- reconfigure building footprints and amend building heights
- relocate the underground carparking location and increase the number of parking spaces (from 275 to 310 spaces)
- remove additional trees
- revise the gross floor area (GFA) allocated to certain uses.

The request was lodged by Anglicare Community Services (the Proponent) pursuant to section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act). The modification request was publicly exhibited and notified to adjoining landholders, Council and relevant State agencies. The Department received 93 submissions, comprising submissions from Council, 12 from special interest groups and 80 public submissions (64 objections, 12 comments and 17 support). Five NSW Government agencies provided advice on the modification.

The key issues raised in submissions related to the scale and visual impacts of the development, traffic and parking impacts, impacts to biodiversity and the natural environment, heritage impacts and cumulative impacts. The Proponent submitted a Response to Submissions (RtS) addressing the issues raised in submissions.

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

- it would not result in any material additional traffic impacts to the surrounding network compared to the Concept Plan as approved
- it would increase housing provision and diversity and would not increase the visual impact of the development
- it satisfies statutory requirements of relevant environmental planning instruments
- all other impacts including building design, landscaping, amenity, environmental and construction impacts would be considered in further detail by Council during the assessment of any future development applications.

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1 Introduction

This report provides the NSW Department of Planning and Environment's (the Department's) assessment of an application to modify the approved Concept Approval (**MP06_0138**) only for the Salamander Shores mixed use residential and tourist development (also known as Bannisters Port Stephens).

The modification application seeks approval for changes to the hotel and residential apartment mix, gross floor area (GFA) allocation, the reconfiguration and widening of building envelopes, increases to building heights, relocation of underground carparking and removal of additional trees.

The application was lodged on 23 November 2021 by Salamander Properties Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**) as called up by Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP) Regulation).

1.1 Site

The request relates to a hotel accommodation site within Soldiers Point, in the Port Stephens Local Government Area (LGA). The site is legally described as Lot 31 in DP529002, known as 147 Soldiers Point Road, Soldiers Point. The site is 12,000m² and contains a hotel with accommodation and restaurant facilities. The site is surrounded by a vegetation on most sides and is bounded by Soldiers Point Road to the west, low density residential to the north and south, and by a public reserve and Port Stephens to the east.

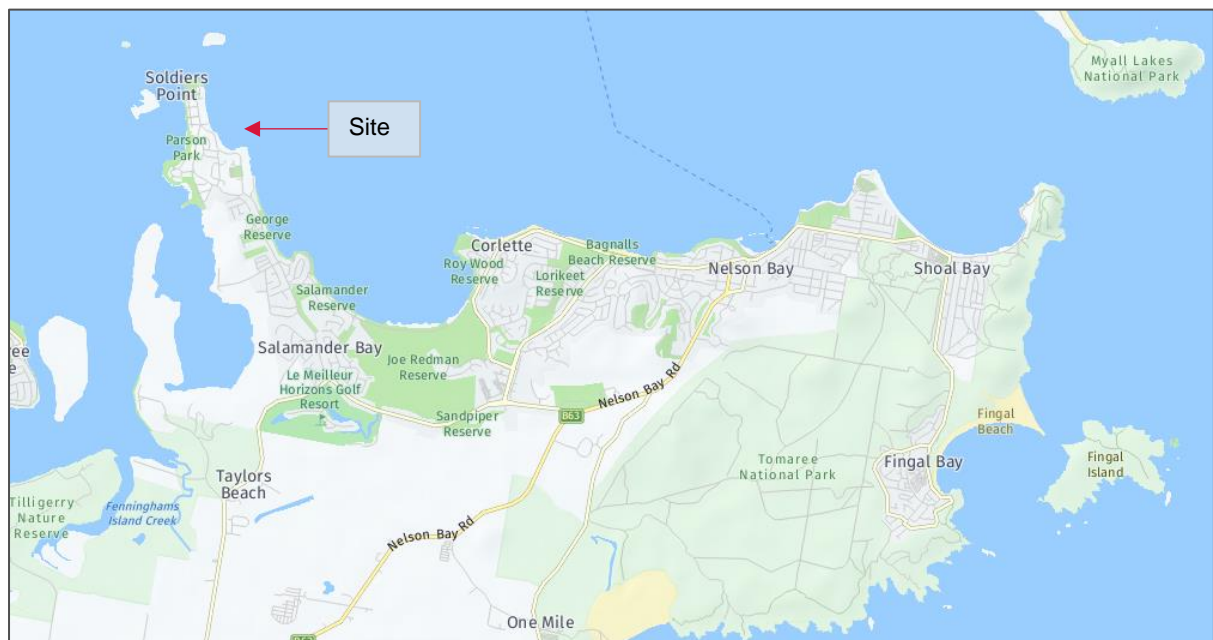


Figure 1 | Regional Context Map (Source: Nearmap 2022)



Figure 2 | Local Context Map (Source: Nearmap 2022)

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

1.2 Approval history

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

On 4 September 2011, a Project Approval was also approved by the then Deputy Director-General of the Department for the demolition of the existing hotel complex on the site and clearance of vegetation. The Concept Plan and Project Approval have been modified once (**Table 1**) and the Proponent has advised that partial clearing works have occurred on the site with the approvals active.

Table 1 | Summary of Modifications to both the Concept Plan and Project Approval

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Extension of approval lapsing condition to 7 years after the determination date	Department	75W	30 August 2016

2 Proposed modification

The section 75W modification request (MP06_0138 MOD 2) seeks to modify the Concept Plan approval in the following manner:

- revise the mix of hotel and residential apartments and remove the serviced apartments component
- reconfigure building footprints and amend building heights
- relocate the underground carparking location and increase the number of parking spaces (from 275 to 310 spaces)
- remove 28 additional trees (four native and 24 exotic landscape trees)
- revise the gross floor area (GFA) allocated to certain uses.

The Proponent has justified the modification to the mix of uses and building envelopes on the basis of increased interest in regional tourism and housing demand within the Hunter Region. The change in the maximum building height is proposed to ensure the buildings are capable of complying with required ceiling heights under the current Building Code of Australia and Australian Standards, and the relocation of the underground carpark is proposed in response to recent geotechnical investigations.

The key components and features of the modification request are provided in **Table 2** and are shown in **Figure 1** to **Figure 8**.

Table 2 | Main components of the modification request

Aspect	Approved Concept Plan	Proposed Modification
Hotel Apartment Mix	84 x Hotel Rooms	90 x Hotel Rooms
	40 x Residential Apartments	98 x Residential Apartments
	34 x Serviced Apartments	
Building Heights	Building A – RL 30.50	Building A – RL 30.60 (+0.1m)
	Building B – RL 34.00	Building B – RL 34.20 (+0.2m)
	Building C – RL 20.30	Building C – RL 20.50 (+0.2m)
	Building D – RL 24.50	Building D – RL 24.70 (+0.2m)
	Building E – RL 24.50	Building E – RL 24.70 (+0.2m)
	Building F – RL 24.50	Building F – RL 26.70 (+2.2m)
	Building G – RL 27.60	Building G – RL 26.70 (- 0.9m)
	Building H – RL 35.50	Building H – RL 36.10 (+0.6m)

Parking	275 spaces	310 spaces with revised underground parking area location
	75 spaces at ground floor for use by restaurant and retail patrons	50 spaces at ground floor for use by restaurant and retail patrons
Gross Floor Area Breakdown (m²)	Residential apartments – 5,950	Residential apartments – 11,349
	Hotel Rooms – 4,000	Hotel Rooms – 4,261
	Serviced apartments – 4,455	
	Bar – 570	Bar/cafe – 350
	Restaurant – 400	Restaurant – 500
	Pre-Function – 115	Pre-Function – 70
	Conference – 550	Conference – 300
	Café/Retail – 260	Conference bar – 250
	Gym/Spa/Rec – 430	Gym/Spa/Rec – 190
	General Back of House/Storage – 1,900	General Back of House/Storage – 1,360
	Non-residential misc. - 970	Non-residential misc. – 970
	TOTAL: 19,600	TOTAL: 19,600

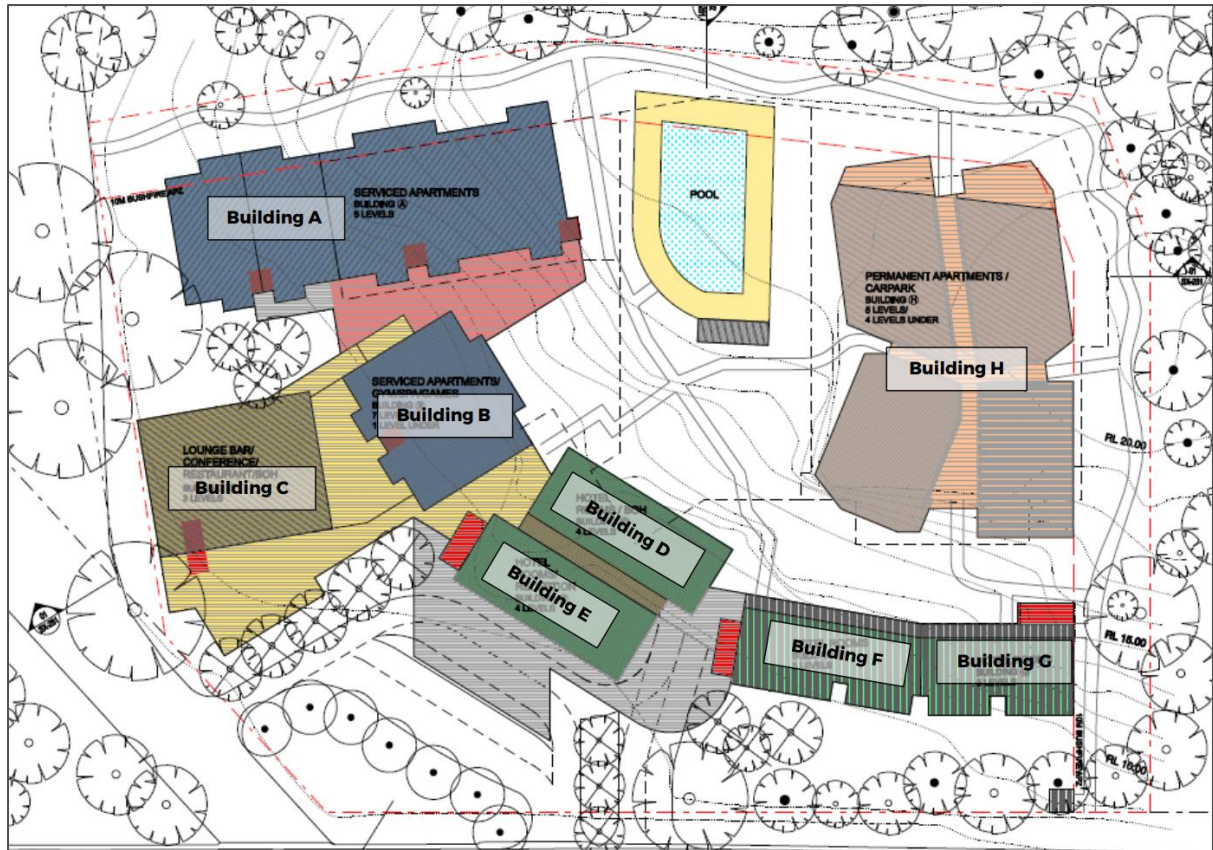


Figure 3 | Approved Concept Plan Layout (Source: Proponent's Modification Report)

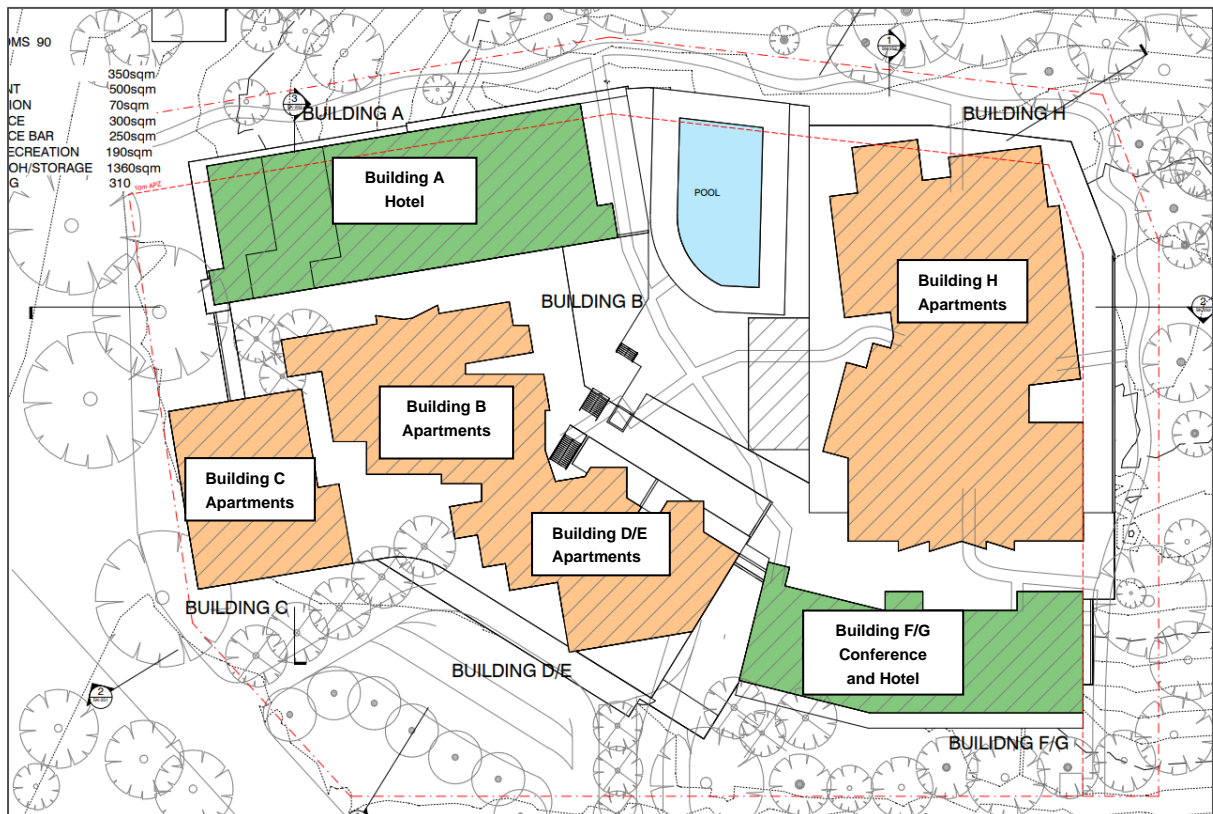


Figure 4 | Proposed Concept Plan Layout (Source: Proponent's Modification Report)

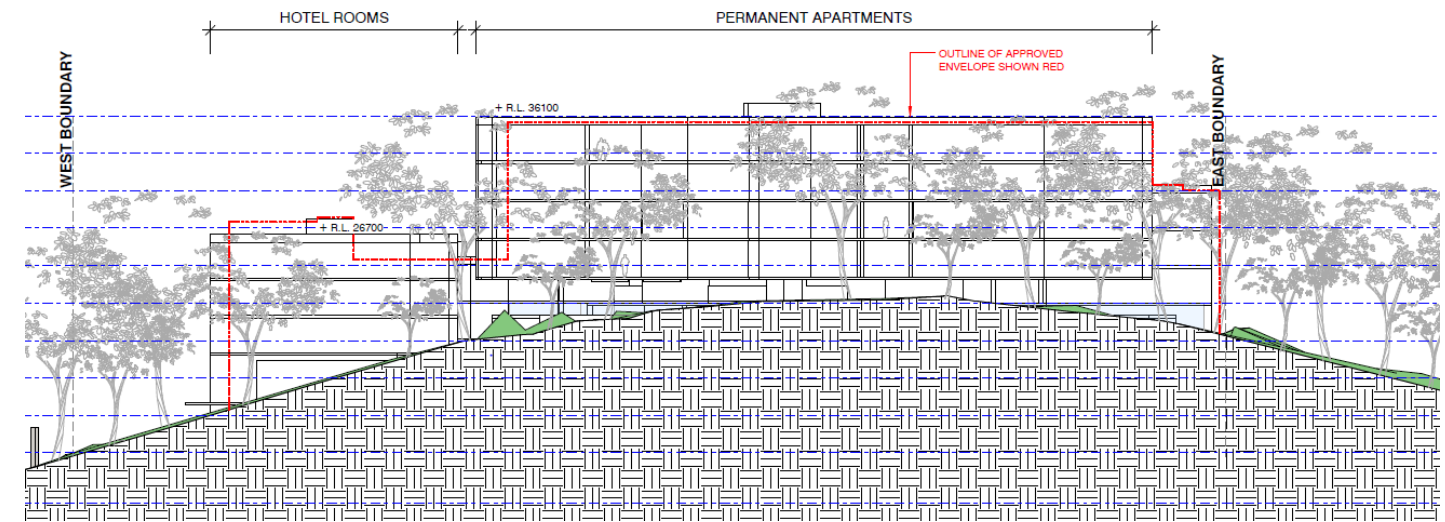
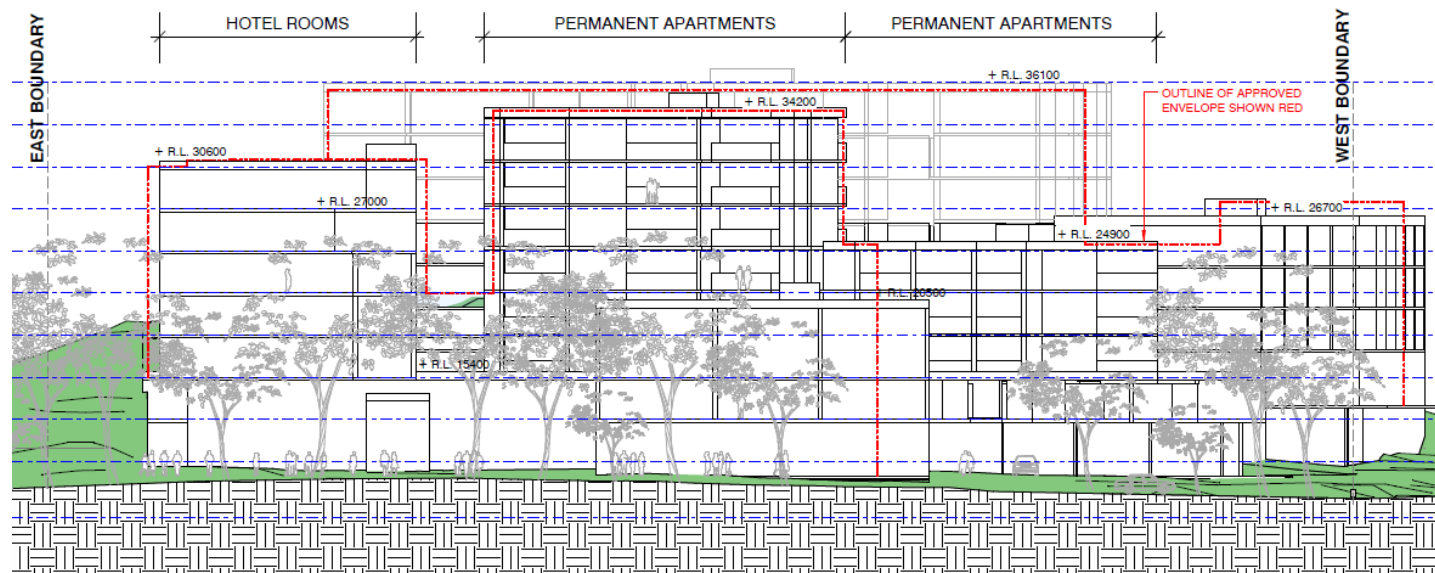
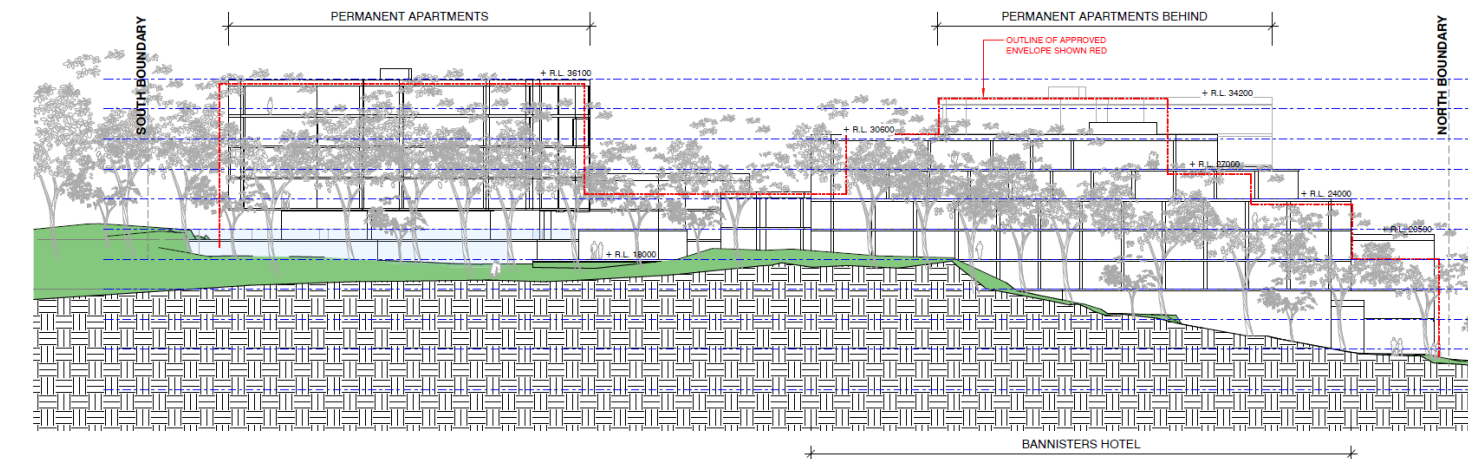
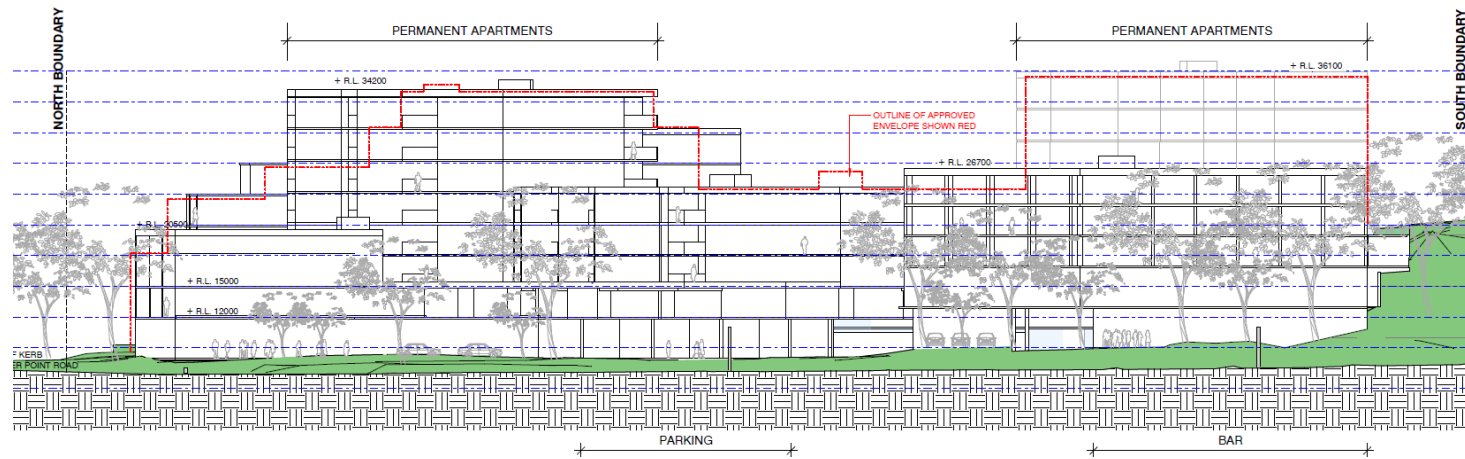


Figure 5 | Northern (left) and southern (right) elevations with proposed in black and as approved in red (Source: Proponent's Modification Report)



ON 01 SOLDIERS POINT ROAD

2 ELEVATION 02 EASTERN BOUNDARY
1:250

Figure 6 | Western (left) and eastern (right) elevations with proposed in black and as approved in red (Source: Proponent's Modification Report)

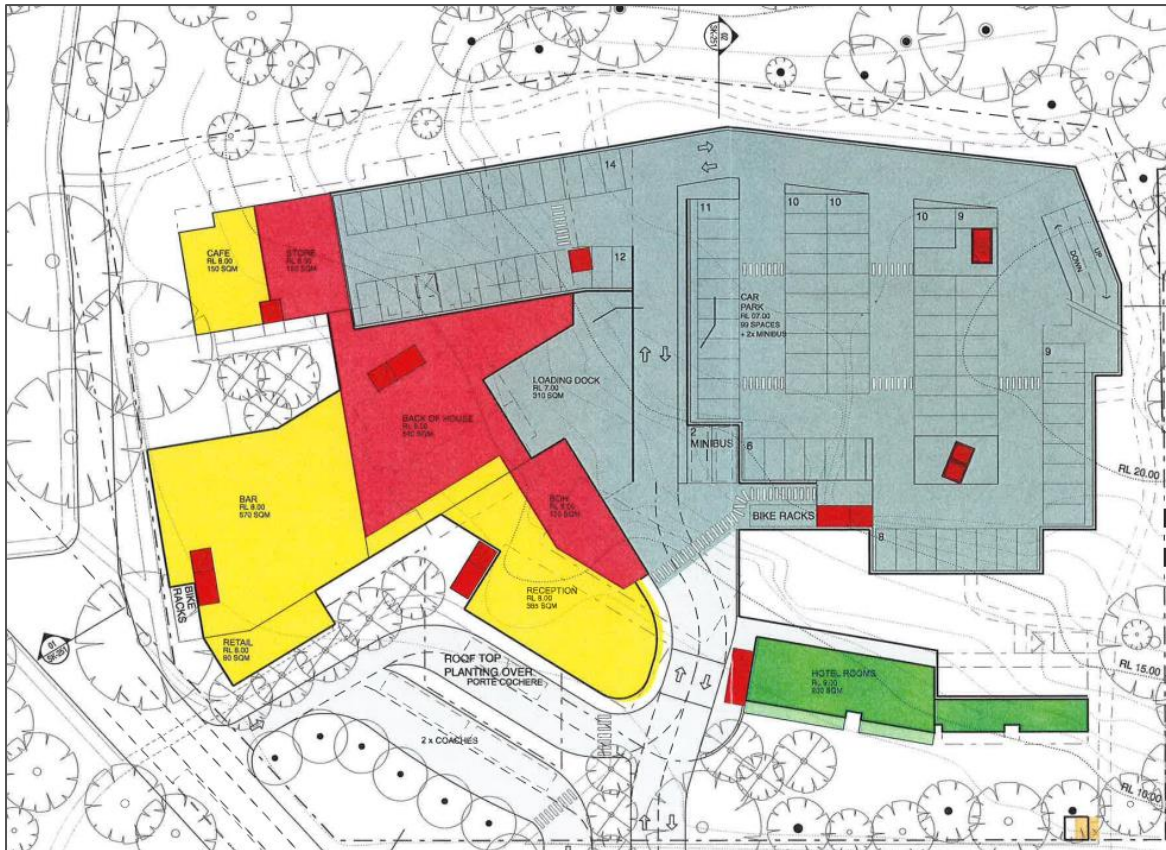


Figure 7 | Approved Concept Plan Ground Floor Plan (Source: Proponent's Modification Report)

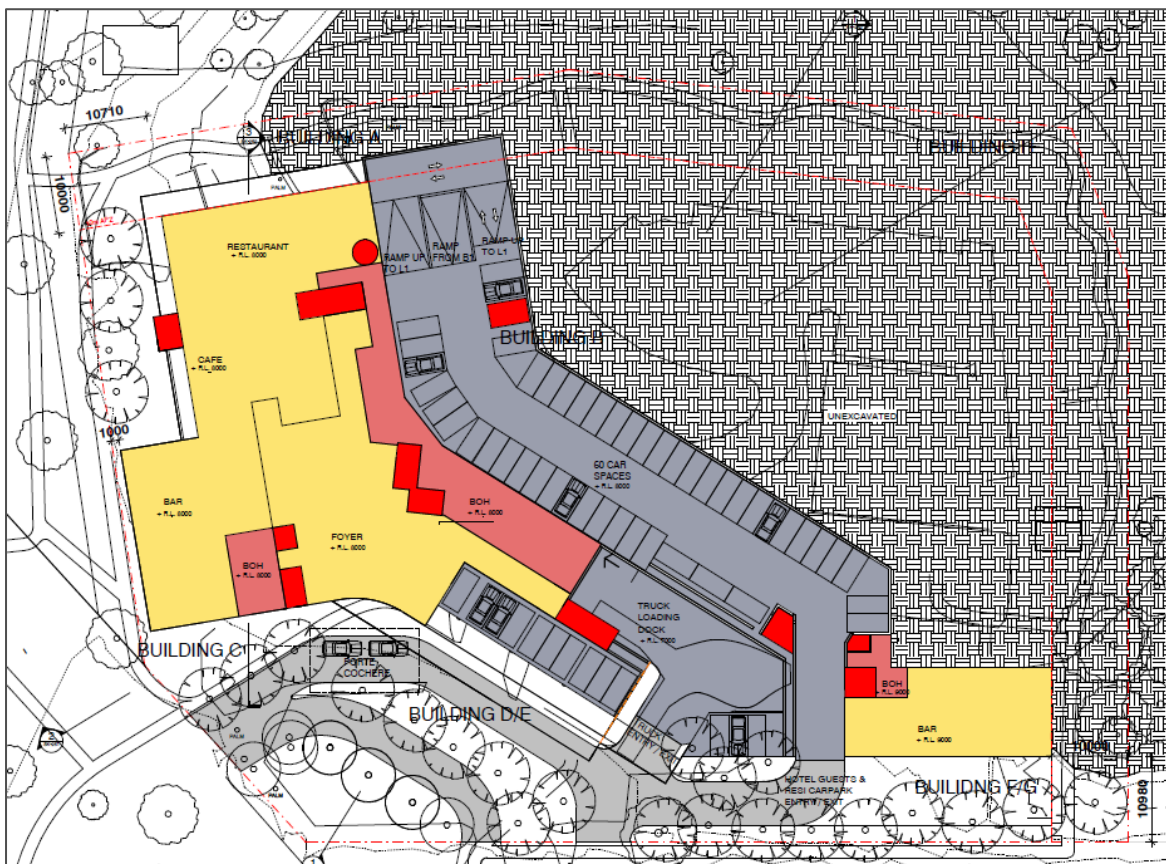


Figure 8 | Proposed Concept Plan Ground Floor Plan (Source: Proponent's RtS)

3 Strategic context

3.1 Hunter Regional Plan 2036

The Hunter Regional Plan 2036 sets the planning priorities for the Port Stephens, Mid-Coast, Newcastle, Lake Macquarie, Maitland, Cessnock, Singleton, Muswellbrook and Upper Hunter LGAs and provides guidance for regional and local planning decisions.

The Plan seeks to facilitate growth in the region and provide greater housing and job choice in existing and new communities that are close to jobs and services. It also seeks to protect the biodiversity-rich natural environment of the area. The Plan forecasts an increase of 11,050 dwellings and 5,665 jobs by 2036.

The modification, which responds to changes in market demand for regional tourism and housing, is consistent with the directions and actions outlined in the Regional Plan as it would:

- Enable economic diversity and new tourism opportunities that focus on reducing the impacts of the seasonal nature of tourism and its effect on local economies. (Action 6.3)
- Develop capacity for growth in food-based tourism. (Action 9.5)
- Provide greater housing choice by delivering diverse housing, lot types and sizes, including small-lot housing in infill and greenfield locations (Action 21.6)
- Encourage housing diversity, including studios and one and two-bedroom dwellings, to match forecast changes in household sizes. (Action 22.2).

3.2 Draft Hunter Regional Plan 2041

The draft Hunter Regional plan 2041 (the draft plan) identifies new priorities for the next five years within the Hunter region, and sets the strategic land use framework for continued economic transformation.

It builds on the Hunter Regional Plan 2036 and responds to this era of rapid change to promote sustainable growth, connected communities, resilience and a region that all residents have a stake in. The draft plan was on public exhibition from 6 December 2021 until 4 March 2022.

The proposal is consistent with the objectives of this plan, including Objective 4: Plan for “Nimble Neighbourhoods”, diverse housing and sequenced development.

The subject site is within the Coastal district and is consistent with the goal for this area to have future growth in existing urban areas and provide diverse housing choices through the provision of additional residential apartments within the existing Soldiers Point area.

4 Statutory context

4.1 Scope of modifications

The concept plan was originally approved under Part 3A of the EP&A Act, which has been repealed. The power to modify concept plans approved under Part 3A of the EP&A Act under the former section 75W of the EP&A Act is being wound up.

Clauses 3BA(5) of Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP) Regulation) provides that an approved concept plan can only be modified under section 75W in response to a request lodged after 1 March 2018 if the Minister is satisfied that:

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

The Department is satisfied the proposed changes are within the scope of clause 3BA(5)(b) and (c) as it is a minor modification with minimal environmental impact, and is substantially the same as the approved project. Further consideration of the environmental impacts is provided at **Section 5**.

4.2 Consent authority

The Minister for Planning is the consent authority for the modification request. However, the Executive Director, Key Sites and Regional Assessments, may determine the request under delegation dated 9 March 2022 as:

- the relevant local council has not made an objection,
- a political disclosure statement has not been made, and
- less than 50 unique objections from the public were received.

4.3 Relevant matters for consideration

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

- relevant environmental planning instruments (EPIs)
- objects of the EP&A Act
- Environmental Planning and Assessment Regulation 2000

Environmental Planning Instruments (EPIs)

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

- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy (Biodiversity & Conservation) 2021
- State Environmental Planning Policy (Resilience & Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

Since the lodgment of the Modification Report, all NSW State Environmental Planning Policies have been consolidated into 11 policies. The consolidated SEPPs commenced on 1 March 2022, with the exception of State Environmental Planning Policy (Housing) 2021, which commenced on 26 November 2021.

The SEPP consolidation does not change the legal effect of the repealed SEPPs, as the provisions of these SEPPs have simply been transferred into the new SEPPs. Further, any reference to an old SEPP is taken to mean the same as the new SEPP. For consistency, the Department has considered the modification against the relevant provisions of the SEPPs that were in force when the Modification Report was submitted.

The Department is satisfied that the proposed modification does not result in any significant changes that would alter the conclusions made as part of the original assessment, and is consistent with the above State Environmental Planning Policies. The Proponent provided an assessment of the proposal against the updated provisions of the Koala Habitat Protection requirements and notes that it is consistent with the requirements of the Port Stephens Comprehensive Koala Plan of Management. An assessment against State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development is provided at **Appendix E**.

Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment the objects should be considered to the extent that they are relevant.

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

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

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

h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	N/A. No construction approved by the Concept Plan. Construction matters would be assessed as part of future development applications.
i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department notified the modification request, which included consultation with Port Stephens Council (Section 5) and consideration of their responses (Section 6).
j) to provide increased opportunity for community participation in environmental planning and assessment.	The Department notified the application as outlined in Section 5 .

Environmental Planning and Assessment Regulation 2000

As the application was originally lodged on 23 November 2021, the proposed modification has been assessed having regard to the requirements of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). Since lodgement, the EP&A Regulation has been repealed by the Environmental Planning and Assessment Regulation 2021 (EP&A Regulation 2021). Under Schedule 6(3) of the 'savings, transitional and other provisions' of the EP&A Regulation 2021, the EP&A Regulation continues to apply (instead of the new EP&A Regulation 2021) to an application made but not finally determined before 1 March 2022.

5 Engagement

5.1 Department's engagement

The Department notified the modification request for a period of 14 days between 2 December and 16 December 2021, in accordance with the notification period required by the EP&A Regulations and the Department's Community Participation Plan. The request was made publicly available on the Department's website and written notice was provided to Biodiversity Conservation Division (of the then DPIE), Port Stephens Council, the former DPIE Water, the NSW Rural Fire Service, the Worimi Local Aboriginal Land Council, and the former DPIE Crown Lands.

In response to community requests for a longer period of notification, the Department extended the notification until 21 January (a total period of 50 days) to accommodate the Christmas break.

5.2 Summary of submissions

During the exhibition period, the Department received a total of 93 submissions on the proposal. Of these, one was from the local council, 12 were from special interest groups and 80 were from members of the community. Four NSW Government agencies provide advice on the modification.

As detailed below, 17 submissions were in support of the proposal (of which 17 were unique), 64 submissions objected to the proposal (of which 37 were unique) and 12 submissions provided comments only. A total of 27 objections were submitted as form letters that have been counted as four unique submissions, resulting in a total of 41 unique objections to the proposal.

Table 4 | Summary of Submission Types

Objection	Support	Comment
64 (comprising 37 unique objections)	17	12

A summary of the submissions is provided in **Table 3** **Table 5** below, and a link to the full copy of the submissions is provided in **Appendix D**.

Table 5 | Summary of Council, Special Interest Group and Community Submissions

Submitter	Number	Position
Local Council		
Port Stephens Council	1	Comment
Special Interest Groups		
Human Brand Story	1	Support

Port Stephens Packaging	1	Support
Destination Port Stephens	1	Support
Mambo-Wanda Wetlands Conservation Group	1	Object
Marlin Exhibitions	1	Support
Tomaree Ratepayers and Residents Association	1	Object
Koala Koalition EcoNetwork Port Stephens	1	Object
Bay Doctors and Skin Cancer Clinic	1	Support
CEASSA	1	Support
PRD Port Stephens	1	Support
Soldiers Point Community Group Inc	1	Object
Armana Resort	1	Support
Community Members		
< 5 km	44	Object
	7	Support
	6	Comment
5–100 km	9	Object
	2	Support
	1	Comment
Unknown location	11	Object
	1	Comment
TOTAL	93	

5.3 Key issues raised in Council and Agency submissions

Key issues raised by Council and Government Agencies are summarised in **Table 66**.

Table 6 | Summary of Council and Agency Advice

Port Stephens Council

Council did not object to the proposal but provided the following comments and recommendations:

- the updated drainage plan appropriately addresses the current principles of the Australian Rainfall and Runoff guideline.
- the traffic assessment does not include suitable numerical analysis of traffic volumes and consideration of the suitability of access. The numerical analysis or assumptions should be provided.
- requested consideration of overflow parking if full occupancy were to occur.
- noted the change in apartment mix and requested further consideration and planning for noise impacts from the daily operations of the hotel, restaurant, and café for future development applications.
- the provision of an updated report addressing relevant Acid Sulfate Soil criteria as part of a future development application.
- noted that monitoring of stormwater and groundwater should occur to identify Acid Sulfate Soils or other pollutants during construction. Neutral or beneficial water quality should be achieved during all stages of development.
- requested that detailed soil and water management plans be prepared prior to commencement of demolition and construction respectively.
- the conditions of the Concept Approval are sufficient for environmental health matters.

Biodiversity Conservation Division (BCD) of DPE

BCD did not object to the proposal but provided the following comments and recommendations:

- a Biodiversity Development Assessment Report (BDAR) or a BDAR waiver should be submitted as part of the Concept Plan modification, rather than being deferred to later development applications.
- the proposed modification was not affected by and does not affect coastal processes, and that it does not impact upon flood behaviour or increase flood risk.

NSW Rural Fire Service

RFS did not object to the proposal but provided the following comments:

- as the land is no longer mapped as bush fire prone land, Requirement 13 of the Future Environmental Assessment Requirements (as listed in the Instrument of Approval) could be deleted, with Requirement 12 amended to include “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’.

DPE Water

DPE Water did not object to the proposal but requested that the Proponent:

- quantify the maximum annual volume of water take due to aquifer interference activities required for the project
- provide a statement of impact against the 'minimal impact considerations' as defined in the NSW Aquifer Interference Policy (2012)
- prepare a Water Management Plan and include monitoring, metering and management measures to address groundwater take due to the project
- 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' (DPIE 2021), in consultation with DPIE Water
- re-evaluate the need for an Acid Sulfate Soils Management Plan
- incorporate tanked-basement designs where basements are likely to intersect groundwater.

DPE – Crown Lands

Crown Lands did not have any comments on the proposal.

5.4 Key issues raised in submissions

Public submissions raised a number of issues. Key issues related to:

- Parking impacts resulting from the existing development and exacerbation of impacts on the surrounding streets
- Capacity of Soldiers Point Road to accommodate increased traffic
- Traffic impacts generally
- Impacts to biodiversity, koala habitat and the adjacent Council reserve
- Requirement for a Biodiversity Development Assessment Report to be prepared
- Lack of consideration of the sites Aboriginal and non-aboriginal heritage
- Visual impacts of the development
- Character and scale of the development
- Construction impacts of excavation due to geotechnical constraints
- Cumulative impacts of developments on the Soldiers Point peninsula
- Impacts on climate change
- Notification of the proposed modification close to holiday period.

5.5 Response to submissions

Following the notification of the application, the Department placed copies of all submissions received on its website and requested the Proponent provide a response to the issues raised in the submissions.

On 29 March 2022, the Proponent provided a Response to Submissions (RtS) on the issues raised during the notification of the proposed modification, including:

- An updated survey plan showing existing vegetation and subsequent updated architectural plans
- A breakdown of proposed GFA and apartment mix
- An updated Visual Impact Report, Traffic and Parking Assessment, Water Management Report, Bushfire Addendum Letter and Geotechnical Report
- A Biodiversity Development Assessment Report.

The RtS was made publicly available on the Department's website and was referred to the relevant public authorities for comment.

Council was satisfied with the Proponent's approach in addressing the matters raised in Council's submission during the notification period and made no further comments.

BCD noted the inclusion of the BDAR as part of the RtS that responded to the issues raised in its previous submission, and that the proposal would not likely result in a significant impact and that the BAM 2020 had been correctly applied.

RFS advised that the recommendations outlined in the updated Bush Fire Addendum letter are supported.

DPE Water reiterated its concerns regarding the possible waterflows from the proposed car park excavation and noted that NSW Geological Survey mapping shows that the proposed car park location is underlain by Quaternary sands which has a greater potential for inflows than the potential identified in the RtS. DPE Water requested that lithological geotechnical bore logs and a map of log locations be provided to confirm if the Quaternary sands would be intercepted. It was also requested that a condition requiring a Water Access Licence be obtained to ensure that sufficient water entitlements are obtained before water take occurs.

Following additional consultation with the Department and the Applicant, DPE Water advised that the information provided as part of the RtS is appropriate, and that the previous recommendations (made at the exhibition stage) should be imposed as conditions.

5.6 Additional Information

On 22 April 2022 and 10 May 2022, the Proponent provided additional clarification and information in response to a request from the Department, including:

- An updated Traffic Response providing further justification for the modification of FEAR 2 requiring 75 public spaces at the ground level
- An updated Bushfire Response providing further justification for the removal of FEAR 13(c) requiring an internal perimeter access road
- A statement from Bannisters Hotels dated outlining operational details of the hotel and restaurant
- A revised GFA and apartment mix breakdown
- Details of the proposed private and communal open space
- Solar access diagrams.

6 Assessment

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

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

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

- Traffic and Transport
- Visual Impact and Built Form
- Bushfire Risk and Access

An assessment of all other issues is set out in **Section 6.4** at **Table 4**.

6.1 Traffic and Transport

A key concern raised by Council and community submissions was that the proposed development would worsen impacts on the surrounding road network and that patrons of the existing development on the site would use an adjacent park as overflow parking.

Traffic Generation

The traffic assessment for the approved development identifies the following traffic movement breakdown.

Table 7 | Approved Project Traffic Generation

	AM		PM		Saturday	
	IN	OUT	IN	OUT	IN	OUT
Hotel/Service Apartments	26	10	21	27	39	39
Residential	4	12	12	4	6	6
Other (service vehicles, coaches)	4	4	4	4	2	2
Total	34	26	37	35	47	47

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

MP 06_0138 MOD 2 proposes an additional 6 hotel rooms, additional 58 residential apartments and removal of 34 serviced apartments and (resulting in an overall increase of 24 apartments). Changes to the GFA of other uses on the site such as the café, restaurant and function space are also proposed. However, due to their ancillary nature, these were not considered separately for traffic generation, consistent with the original approval. The Traffic Impact Assessment (TIA) notes that traffic generation would be comparable to the approved development, despite the increased number of apartments.

Council raised concerns with the traffic assessment submitted as part of the modification and queried the conclusions regarding traffic generation. Community submissions also raised concerns about the increased traffic since the original approval and the need for an updated traffic assessment.

As part of the RtS, the Proponent provided an updated TIA which identified traffic generation for the hotel component based on an 82% occupancy, consistent with the original TIA. The Proponent suggested that the RTA Development Guidelines for traffic generation of residential apartments (0.4 vehicles trips per hour) would not be suitable as the expected characteristics of the occupants would be retirees, holiday homeowners or lease occupants. The updated TIA has proposed a rate of 0.25 vehicle trips per hour for the residential apartments, and notes that traffic generation from the proposed retail and hospitality outlets would be reduced as many of the patrons would also be occupants of the apartments or visitors staying at the hotel. Based on this rate, the traffic generation outlined at **Table 8** is expected.

Table 8 | Proposed Modification Traffic Generation

	AM		PM		Saturday	
	IN	OUT	IN	OUT	IN	OUT
Hotel/Serviced Apartments	20	8	16	22	39	39
Residential	4	20	20	4	10	10
Other (service vehicles, coaches)	4	4	4	4	2	2
Total	28 (-6)	32 (+6)	40 (+3)	30 (-5)	51 (+4)	51 (+4)

The TIA also notes that the operational performance of the main access driveway has been assessed using SIDRA and the results indicate a satisfactory operational performance with significant spare capacity.

The Department acknowledges community concerns about the traffic capacity during peak holiday periods along Soldiers Point Road and potential impacts from the additional traffic generated by the development. However, the TIA demonstrates that the additional trips created by the proposed development are minor, and unlikely to result in adverse impacts on the surrounding road network.

Council reviewed the updated TIA and did not raise any concerns regarding the trip generation rates or the overall traffic generation and did not request any road upgrades. Noting the above, the Department is satisfied that the proposal is acceptable and would result in negligible additional traffic impacts.

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

Parking

The approved development provides a total of 275 car parking spaces on site, with 75 of these required to be provided at the ground level for bar, restaurant and retail patrons. The proposed modification seeks to provide a total of 310 car parking spaces on the site, with 50 of these provided on the ground level for bar, café and restaurant patrons to use.

The requirement for a Traffic and Pedestrian Management Plan showing 75 spaces at ground level for public uses (FEAR 2(a)) was originally imposed by the Department to mitigate parking impacts from visitors to the site. The modification request, as originally lodged, sought to reduce the 75 spaces required by FEAR 2(a) to 20 spaces.

A breakdown of the approved and proposed parking rates against the DCP requirements is provided at **Appendix F**.

Council reviewed the proposed parking provision and requested that consideration be given to overflow parking if full occupancy were to occur. Several community submissions noted that patrons of the existing pub on the site use the adjacent parks and verges as overflow parking.

In response, the Proponent amended the proposal to increase the allocation of spaces proposed at the ground level for public uses from 20 to 50 (75 originally approved), without increasing the proposed 310 spaces on the site. An updated parking assessment was provided outlining that the 50 spaces would comprise 11 excess spaces previously allocated to the residential apartments, the 20 spaces allocated for the restaurant and 19 spaces redistributed from the hotel use.

The updated Parking Assessment notes that the reallocation of the 19 spaces from the hotel is appropriate and would not result in adverse impacts, as:

- the hotel would only have 100% occupancy on very few occasions per year
- a proportion of guests occupying rooms will travel together
- there will be a hotel shuttle bus service provided
- valet parking will enable "stack" parking at peak times.

The Department considers the proposed allocation of hotel spaces is appropriate, given the likely guest travel and occupancy patterns. The Department also notes that the approved parking provision

for the hotel and residential component is 10% less than the Port Stephens Development Control Plan (DCP) requirement, and the proposed variation is 7% less, as outlined at **Appendix F**.

The Proponent also provided a statement from Bannisters confirming that the proposal is designed and will be marketed to promote the use of the restaurant by those staying at the hotel. Given this partnership between the hotel and restaurant components, the DCP requirement for 1 space per 25m² floor area within a commercial premises has been applied, whereas the original approval used the rate of 15 spaces per 100m² of GFA for restaurants outside of a commercial area.

The Department considers the proposed parking calculation rate appropriate, given the restaurant will not operate as a standalone use, there will be a high occurrence of multi-visitation/use by patrons and residents between the hotel rooms, restaurant, bar and café on the site. Based on this rate, the proposed 50 spaces at the ground floor exceeds the DCP requirement for the restaurant, bar and café spaces, and overall parking provision is generally consistent with the DCP requirements, with 313 spaces required overall and 310 proposed.

Although the Department supports the flexible approach to car parking provision and notes the complementary nature of the hotel, restaurant and other uses on the site, it is considered the reduction in number of spaces at the ground level for public uses has the potential to result in increased parking demand during peak holiday periods. As such, a new FEAR 2A is recommended, requiring a Parking Operational Management Plan to include details of how valet service, stacked parking, shuttle buses and other measures will be utilised during peak holiday periods. It must demonstrate how the measures will ensure that parking demand for uses on the site can be accommodated when the hotel is at full occupancy and include monitoring provisions. This approach is consistent with the RTA Guide to Traffic Generating Developments which notes that stacked parking can be used for hotel developments where valet services are available.

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

6.2 Visual Impact and Built Form

Visual Impact

The proposal seeks to modify the building envelopes resulting in a minor increase in the highest building on the site. Some public submissions raised concerns regarding the visual impact of the development and that the visual impact assessment provided with the modification report did not illustrate the proposed massing.

The proposed changes in building envelope heights vary from the reduction in height of Building G by 0.9m and the increase of 2.2m at Building F as outlined at **Table 9**.

Table 9 | Proposed Building Heights

Building	Approved Height		Proposed Height		Change	
A	RL 30.5	5 storeys	RL 30.6	7 storeys	+0.1m	+2 storeys
B	RL 34	7 storeys	RL 34.2	8 storeys	+0.2m	+ 1 storey
C	RL 20.3	3 storeys	RL 20.5	3 storeys	+0.2m	-
D	RL 24.5	4 storeys	RL 24.7	5 storeys	+0.2m	+ 1 storey
E	RL 24.5	4 storeys	RL 24.7	5 storeys	+0.2m	+ 1 storey
F	RL 24.5	5 storeys	RL 26.7	5 storeys	+2.2m	-
G	RL 27.6	5 storeys	RL 26.7	5 storeys	-0.9m	-
H	RL 35.5 RL 35*	5 storeys	RL 36.1	5 storeys	+0.6m +1.1m*	-

* Height approved under Statement of Commitments

The discrepancy between the approved and proposed number of storeys for Buildings A, B D and E and the respective RL increase are a result of a change in the way in which the rise in storeys has been counted, taking into consideration the stepped design of the building, and is not increase in the actual number of storeys.

The current building on the site sits at RL 30 in the southwestern corner, with the lift overrun extending to RL 32. The only proposed building envelopes that would extend over the current development's height are Building A (+0.6m existing, +0.1m approved), Building B (+4.2m existing, +0.2m approved) and Building H (+6.1m existing, +1.1m approved).

In the Department's original assessment of MP 06_0138, the provision of vegetation screening was identified as assisting in mitigating adverse visual impact. It was also noted that the separation of buildings would provide an improved visual outcome when compared to the existing single building.

The Proponent provided updated visual impact assessment as part of the RtS (as shown in **Figures 9** and **Figure 0**).



Figure 9 | Top: 2010 Visual Impact Assessment – View from the south, Bottom: 2021 Visual Impact Assessment – View from the south (Source: Proponent's RtS)

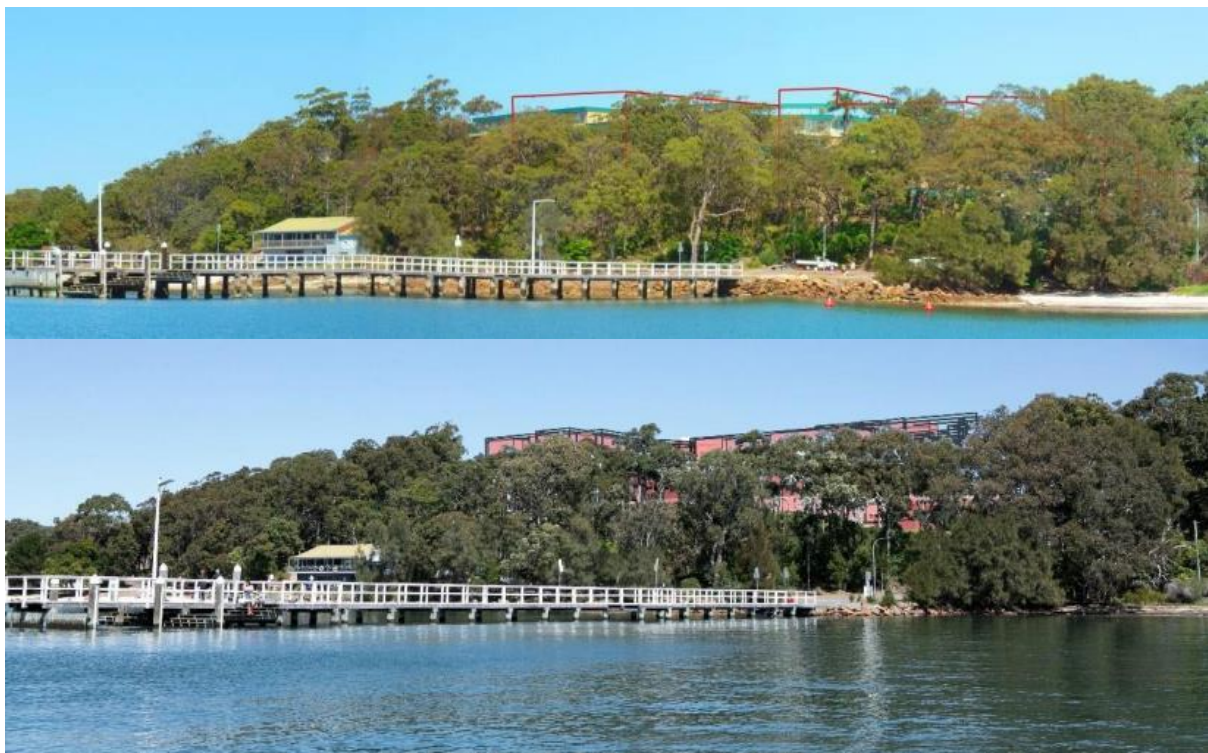


Figure 10 | Top: 2010 Visual Impact Assessment – View from the north-west, Bottom: 2021 Visual Impact Assessment – View from the north-west (Source: Proponent's RtS)

Overall, the Department considers that:

- as the modified heights would only reach 1.1m above the highest point of the approved envelopes as illustrated at **Figures 6 and 7**, the visual impacts of the modified envelopes would be minor compared to the approved development
- the vegetation growth since the original approval provides a comparable level of mitigation for the increased building heights, consistent with the original requirement for development to be generally limited to the height of the tree canopy
- the separation of buildings still provides an improved outcome compared to the existing single building, and the combining of buildings would have minimal impacts given the vegetation screening
- solar access diagrams indicate that the proposed building envelopes would result in negligible additional shadowing to communal open space on the site and adjoining public open space
- the principles of having taller buildings located in the centre of the site and stepping down buildings in accordance with the topography to minimise visual impacts are maintained.

The Department is therefore satisfied that the changes are minor and largely consistent with the approved project, would not result in adverse overshadowing impacts and that the vegetation growth since the past approval would mitigate the minor increase in ridge height.

Bulk and Scale

In the original assessment of MP 06_0138, it was noted that the separation of the site (both visually and physically) from surrounding buildings makes it capable of having buildings of a different height to surrounding development that are setback from the street without disrupting the streetscape pattern.

The modification proposes the reconfiguration and widening of the approved development envelopes to increase solar access, views and cross-ventilation and to accommodate the increase of permanent residential apartments. The changes also feature the rationalisation of building lines and the grouping of Buildings D, E and B, Buildings F and G, and the four towers of Building H (shown at **Figure 11**).

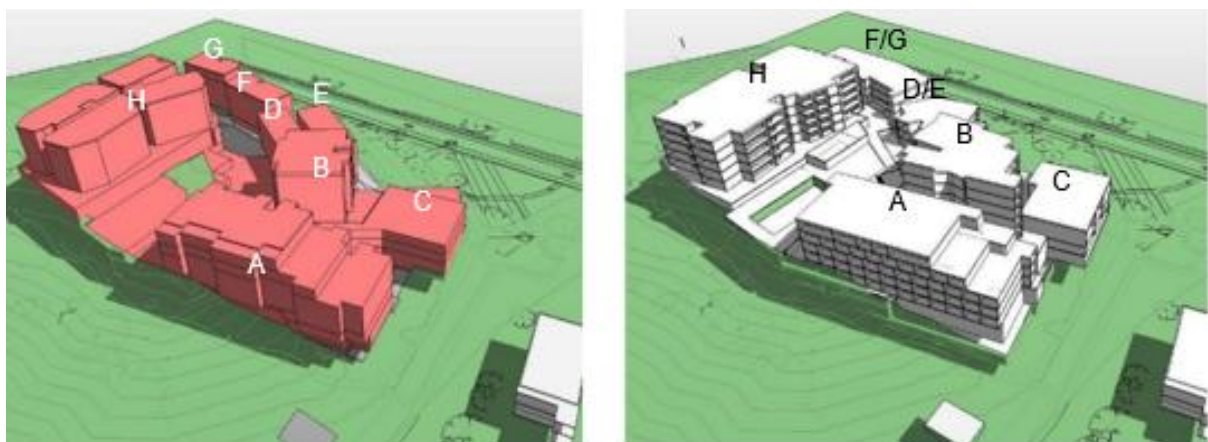


Figure 11 | Left: Approved Development Envelope, Right: Proposed Development Envelope (Source: Proponent's RtS)

Community submissions raised concerns that the proposed building envelopes are too bulky in form, do not consider the local character, and would impact upon the amenity of the area. The Proponent's RtS notes that the proposed modification is similar to the approved proposal and that it would only result in minor changes to the building envelopes.

The Department acknowledges the community's concerns regarding the scale and form of the development, however, notes that the concerns raised largely related to the change from the existing development onsite, rather than the change from the approved proposal. The changes to the building footprint are supported as they would enhance the dwelling spaces within the buildings through increased solar access and cross-ventilation. While the combination of building envelopes reduces the articulation, the Department is satisfied that the proposed envelopes would not increase impacts to the streetscape through the proposed landscaped setbacks, adequate vegetation screening from the reserve to the east and the variation in building height responding to the topography of the site. It is also noted that further articulation of the buildings can be achieved through detailed design as part of future development applications.

6.3 Bushfire Risk and Access

At the time of the original approval, the subject site was classified as bushfire prone land, and FEAR 13 was imposed to manage bushfire impacts.

The proposal initially sought to remove FEAR 13(c) requiring future applications to demonstrate that the NSW Fire Brigade emergency vehicles can adequately access the site via an internal perimeter access road.

RFS reviewed the proposal and recommended that as the site is no longer considered bushfire prone (as illustrated at **Figure 12**) that the entire FEAR 13 can be deleted and FEAR 12 – Landscaping modified to require the site to be maintained as an inner protection area with landscaping compliant with Appendix 4 of *Planning for Bushfire Protection 2019*.

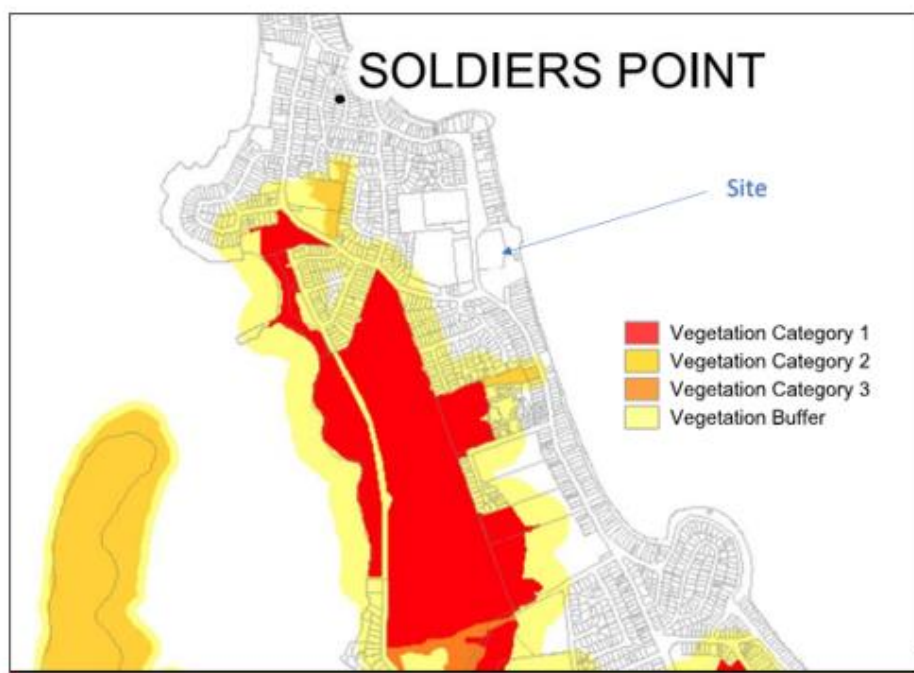


Figure 12 | Bushfire Prone Land Map (Source: Port Stephens Council Bushfire Zones Maps)

Several community submissions recommended that whilst the land was no longer considered bushfire prone, an APZ should be provided within the site, fire resistant building materials are required, and emergency vehicle access should be maintained on the site.

The Department sought further clarification from the Proponent as to the justification for the removal of the perimeter access for emergency vehicles. An Addendum Bushfire Report was provided, confirming that the proposed layout still provides vehicular access along the grass verges from the north, and the eastern and western boundaries. It also noted that providing access along the southern boundary in accordance with FEAR 13(c) would not provide a significant advantage to firefighting efforts. The Addendum Bushfire Report also included a number of recommendations relating to water services, asset protection and Bushfire Attack Level 29 construction. RFS reviewed this report and advised that these recommendations are supported. For clarity, FEAR 13 has been amended to require future applications to incorporate these recommendations.

The Department is satisfied that the removal of the requirement for the APZ and perimeter access (FEAR 13 (a) and (c)) would not cause undue risk as the site is no longer bushfire prone, and that subject to the amended FEAR 12 and 13 adequate measures to address any remaining bushfire risk on site would be incorporated into future development.

6.4 Other Issues

Table 4 | Assessment of other issues

Issue	Findings	Recommendations
Land Use Mix	<p>The proposal seeks to remove 34 serviced apartments to allow for the provision of additional hotel rooms and residential apartments.</p> <p>Public submissions raised concerns that the modification would not effectively meet the demand for housing and tourist accommodation and that the change in apartment mix would reduce the development's focus on tourism.</p> <p>The Proponent responded, noting the proposed increase in hotel rooms and that other features of the development (conference facilities, restaurant) retain the tourism focus of the development.</p> <p>The proposal would also increase housing provision and diversity within the area by providing a mix of 1, 2 and 3 bedroom units, and an overall additional 58 residential apartments.</p>	No additional conditions or amendments to existing conditions necessary.

Despite the deletion of serviced apartments, the Department considers the increased number of hotel rooms and the increased GFA for the restaurant would retain the key elements of the proposal as tourism and employment generator, whilst also increasing housing provision and diversity.

Biodiversity

The approved proposal included requirements for future applications to retain certain trees on the site and to undertake further threatened species surveys. The proposed modification identified 28 trees (four native) which will be removed and that the removal of these trees is unlikely to have a greater than negligible impact to local biodiversity values.

BCD requested that a BDAR be provided as part of the RtS to determine the credits required and fully assess the impacts to biodiversity values from the modification.

In response, the Proponent provided a BDAR, which identified that the development footprint has largely been maintained in order to avoid and minimise biodiversity impacts and that 3 credits would be required to offset unavoidable impacts of the development on PCT 1626 - Smooth-barked Apple - Broad-leaved Mahogany - Red Bloodwood heathy low open forest on hills at Nelson Bay. The BDAR also noted that the areas of vegetation removal do not contain preferred feed trees for this species, as per Port Stephens Council Koala Plan of Management.

BCD reviewed the BDAR and were satisfied that the BAM 2020 was correctly applied, and that the development would not result in any significant impacts.

The Department recommends a new FEAR 5A requiring future applications to be accompanied by a Biodiversity Assessment in accordance with requirements of the Biodiversity Conservation Act 2016, generally in accordance with the Biodiversity Development Assessment Report prepared by Eco Logical Australia dated 28 March 2022.

This would ensure an appropriate biodiversity credits are provided, whilst allowing for flexibility at the detailed design stage.

Groundwater

The proposed modification seeks to relocate the underground carpark to accommodate geotechnical constraints of the site and notes that there may be groundwater interception. The assessment documentation provided as part of the original approval did not identify significant groundwater impacts.

DPE Water requested that the Proponent quantify the annual volume of water take from aquifer interference, provide a statement of impact and prepare a Water Management and Dewatering Management Plan. Advice was also received suggesting that the basements be tanked where interception with groundwater is expected.

The Proponent provided additional information as part of the RtS which confirmed that the groundwater inflows would be limited, and the carpark would not require tanking as it is not expected to impact the perched aquifer on the site.

DPE Water reviewed the RtS and requested further assessment of the site to confirm if the excavation would intercept Quaternary sands which could result in more groundwater impacts than those identified by the Proponent. Following additional consultation, DPE Water confirmed that additional information is not required at this stage, but the recommended management plans and basement designs should be provided as part of future applications.

DPE Water also requested that a condition requiring a Water Access Licence be obtained.

Subject to the recommended future environmental assessment requirements, the Department is satisfied the

The Department recommends FEAR 4- Water Management and Groundwater be updated to require future applications to provide the management plans and basement designs in accordance with DPE Water recommendations.

groundwater impacts of the proposal will be appropriately managed.

Aboriginal Cultural Heritage	<p>Several community submissions raised concerns that Aboriginal cultural heritage values were not considered in the modification application and included requests for a full Aboriginal Cultural Heritage Assessment Report to be prepared.</p> <p>As part of the RtS, the Proponent included correspondence from Worimi Local Aboriginal Land Council confirming the Council's opinion that the Aboriginal Cultural Heritage of the site would not be impacted by the modification.</p> <p>The Department notes that an Aboriginal Cultural Heritage Report was prepared as part of the original initial assessment of MP 06_0138 and that the modification would not increase impacts to the cultural heritage of the site. The future environmental assessment requirements also require the preparation of a Cultural Management Plan to outline ongoing consultation with the relevant LALC.</p>	<p>No additional conditions or amendments to existing conditions necessary.</p>
Noise	<p>Some public submissions raised concerns with potential noise impacts during construction and operation.</p> <p>The Proponent advised that detailed acoustic assessments and proposal of mitigation measures would occur as part of any future development applications.</p> <p>The Department considers this is appropriate given the proposal relates to a Concept Plan, and is satisfied that acoustic impacts can be addressed at the detailed approval stage.</p>	<p>No additional conditions or amendments to existing conditions necessary.</p>
Open Space	<p>The Proponent provided additional information regarding the breakdown of open space provided as part of the</p>	<p>The Department is satisfied that the modified development would be able</p>

development in line with *Apartment Design Guideline* (Department of Planning and Environment 2015).

The Guideline requires a minimum area equal to 25% of the site area and the Communal Open Space Plan provided by the Proponent indicates that the 3,062.5m² required for the 12,250m² site will be achieved.

to provide suitable open space which has appropriate solar access.

Crime Prevention Through Environmental Design

The proposal seeks to amend the layout of buildings on the site, resulting in consolidated envelopes.

The Department considers the proposed building layouts would not result in unacceptable safety impacts, and would still allow for passive surveillance to public spaces in accordance with the principles of Crime Prevention through Environmental Design (CPTED).

It is noted that further assessment regarding siting of windows, balconies and pathways will be undertaken at the detailed design stage. Subject to a FEAR requiring a CPTED Report to be submitted with future DA's, the Department is satisfied the proposal will result in development consistent with CPTED principles.

The Department recommends FEAR 1 be updated to require a CPTED Report to be submitted with future applications.

Statement of Commitments

An updated Statement of Commitments (SoC) was provided with the proposal, referencing updated documents and deleting a number of commitments.

The Department has reviewed the SoC and where commitments have been removed without adequate justification, has included the requirements in the FEARs.

A new Term of Approval A6 has also been recommended clarifying that in the event of an inconsistency between the SoC and

The Department recommends:

FEAR 1- Urban Design and Sustainability be updated to include commitments related to building design and colours.

FEAR 7- Retention of Reserve Trees be updated to include commitments related to hollow bearing tree management

FEAR 15- Building Design be updated to include commitments for high light windows on Building F/G.

the conditions, the conditions prevail to
the extent of the inconsistency.

7 Evaluation

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

- it would not result in any material additional traffic or parking impacts to the surrounding network compared to the Concept Plan as approved
- it would increase housing provision and diversity and would not increase the visual impact of the development
- it complies with statutory requirements of relevant environmental planning instruments
- all other impacts including building design, landscaping, amenity, environmental and construction impacts would be considered in further detail by Council during the assessment of future development applications.

The Department's assessment concludes the modification request can be approved, subject to the recommended amended conditions (**Appendix B**).

8 Recommendation

It is recommended that the Executive Director, Regions, Industry and Key Sites, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application MP 06_0138 MOD 2 falls within the scope of section 75W of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent MP 06_0138
- **signs** the attached approval of the modification.

Recommended by:



Louise Starkey
Team Leader
Regional Assessments

Recommended by:



Kendall Clydsdale
Acting Director
Regional Assessments

9 Determination

The recommendation is **Adopted / Not adopted** by:

Anthea Sargent

Executive Director

Key Sites and Regional Assessments

as delegate of the Minister for Planning

Appendices

Appendix A – Modification report

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10703

Appendix B – Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10703

Appendix C – Response to Submissions

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10703

Appendix D – Notice of modification

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10703

Appendix E – Statutory Considerations

Table 5 | Consideration of the Design Quality Principles of SEPP 65

SEPP 65 Principle	Department Response
1. Context and Neighbourhood Character	The Department is satisfied that the proposal is consistent with Design Quality Principle 1 as the development appropriately responds to the quality of the area (refer to Section 6.2) and enhances the provision of tourist accommodation on the site.
2. Built Form and Scale	The Department is satisfied that the design features incorporated into the modified development ensure that the built form and scale of the development is sympathetic to the surrounding built forms and scale. The modified development also employs the screening of existing vegetation to manage visual impacts from the revised built form and scale.
3. Density	The Department is satisfied that the revised building envelopes proposed achieve an acceptable level of amenity for residents (subject to further planning approvals) and results in a density which is appropriate to the site.
4. Sustainability	The Department is satisfied that the proposal meets Design Quality Principle 4 as the proposal achieves cross ventilation in accordance

with the ADG design criteria and provides for satisfactory solar access to units within the development.

5. Landscape	The Department considers that the proposed revised landscaping plan is suitable, relates to the built form and the surrounding natural environment and is consistent with Design Quality Principle 5.
6. Amenity	The Department considers the proposed development will result in satisfactory amenity for future residents, as the proposal achieves adequate access to sunlight, natural ventilation, and acoustic privacy.
7. Safety	The Department is satisfied that the revised building envelopes would enable apartment orientation to provide passive surveillance of both public and communal spaces.
8. Housing Diversity and Social Interaction	The proposal provides a range of different dwelling types, including a variety of unit sizes. The Department is satisfied that the proposal provides suitable housing diversity and opportunities for social interaction.
9. Aesthetics.	The Department is satisfied that the revised building envelopes proposed would be able to achieve an acceptable level of aesthetics during detailed design (subject to further planning approvals).

Table 6 | Consideration of the Apartment Design Guideline

Objective	Department Response
3A-1 Site Analysis Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context.	Satisfactory. The site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context. Further details of how the development would interact with the site will be addressed in further detailed planning applications.
3B-1 Orientation Building types and layouts respond to the streetscape and site whilst optimising solar access within the development.	Satisfactory. The building envelopes provide suitable setback from the street and retain solar access within both public and private areas within the development.

<p>3B-2 Orientation</p> <p>Overshadowing of neighbouring properties is minimised during mid-winter</p>	<p>Satisfactory.</p> <p>The solar access diagrams illustrate minimal additional overshadowing to neighbouring properties.</p>
<p>3C-1 Public Domain Interface</p> <p>Transition between private and public domain is achieved without compromising safety and security.</p>	<p>Satisfactory.</p> <p>The building envelopes provide suitable transitions from the public and private domain within the development.</p> <p>Further detail regarding the interface with public domain would be detailed in further detailed planning applications.</p>
<p>3C-2 Public Domain Interface</p> <p>Amenity of the public domain is retained and enhanced.</p>	<p>Satisfactory.</p> <p>Overall, the Department is satisfied that the amenity of the public domain is retained and enhanced.</p>
<p>3D-1 Communal and Public Open Space</p> <p>An adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping.</p>	<p>Satisfactory.</p> <p>The modified development would be able to provide 3062.5m² of communal open space which equates to 25% of the total site area.</p>
<p>3D-1 Communal and Public Open Space - Design Criteria</p> <p>Communal open space has a minimum area equal to 25% of the site area. Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of two hours between 9am and 3pm on 21 June (mid-winter).</p>	<p>Satisfactory.</p> <p>The modified development would not increase the solar impacts to the communal open space.</p>
<p>3D-2 Communal and Public Open Space</p> <p>Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting.</p>	<p>Satisfactory.</p> <p>The communal areas retain a range of passive recreation areas including, pool facilities, communal gardens, and open areas for congregation and social gathering.</p>
<p>3D-3 Communal and Public Open Space</p> <p>Communal open space is designed to maximise safety.</p>	<p>To be addressed in future planning applications. An amended FEAR has been recommended requiring future DA's to include a CPTED Report.</p>

3D-3 Communal and Public Open Space

Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood.

Satisfactory.

The modified development retains public space that enables connection to the street.

3E-1 Deep Soil Zones

Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.

Satisfactory.

Adequate space for deep soil is provided.

3E-1 Deep Soil Zones - Design Criteria

Deep soil zones are to meet the following minimum requirements: Site area >1,500m² Minimum dimensions of 6m and 7% of site area. Site area >1,500m² with significant existing tree cover Minimum dimensions of 6m and 7% of site area.

Satisfactory

Approximately 27% of the site acts as a Deep Soil Zone. Zones are located along the boundary perimeter, rear setbacks and the street front landscaped area.

3F-1 Visual Privacy

Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.

Satisfactory.

The site features significant tree growth around the edges of the site which enhance visual privacy.

3F-1 Visual Privacy - Design Criteria

Separation distance between windows and balconies is provided to ensure visual privacy is achieved. Minimum requires separation distance from buildings to the side and rear boundaries are as follows: Building up to 12m (4 storeys) 6m between habitable rooms and balconies, 3m between non-habitable rooms. Building up to 25m (5-8 storeys) 9m between habitable rooms and balconies, 4.5m between non-habitable rooms. Building over 25m (9+ storeys) 12m between habitable rooms and balconies, 6m between non-habitable rooms. Separation distances between buildings on the same site should combine required building separations depending on the type of room. Gallery access circulation should be treated as habitable space when measuring privacy separation distance between neighbouring properties.

Envelopes are satisfactory. Further details regarding visual privacy to be addressed in future planning applications.

3F-2 Visual Privacy

Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space.

Satisfactory.

The modified development has been designed to increase privacy without comprising access to light and air.

3G-1 Pedestrian Access and Entries Building entries and pedestrian access connects to and addresses the public domain.	To be addressed in future planning applications.
3G-2 Pedestrian Access and Entries Access, entries and pathways are accessible and easy to identify	To be addressed in future planning applications.
3H-1 Vehicle Access Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Satisfactory. Vehicle access points have been designed to achieve safety and create high quality streetscaped.
3J-1 Bicycle and Car Parking Car parking is provided based on proximity to public transport in metropolitan Sydney and centres in regional areas.	Satisfactory. The parking provided is in accordance with the Port Stephens DCP.
3J-2 Bicycle and Car Parking Parking and facilities are provided for other modes of transport.	Adequate space for buses and bicycles is available, the detailed location will be addressed in future planning applications.
3J-3 Bicycle and Car Parking Car park design and access is safe and secure.	To be addressed in future planning applications.
3J-4 Bicycle and Car Parking Visual and environmental impacts of underground car parking are minimised.	Satisfactory. Modified development has considered groundwater impacts, and future environmental assessment requirements have been imposed to manage impacts.
4A-1 Solar and Daylight Access To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space.	Satisfactory. The modified development has sought to optimise solar access from habitable rooms and private open space.
4A-1 Solar and Daylight Access - Design Criteria Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of two hours direct sunlight between 9am and 3pm at midwinter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas. A maximum of 15% of apartments in a building receive no	The modified development has sought to optimise solar access from habitable rooms. Further details to be addressed in future planning applications.

direct sunlight between 9am and 3pm at mid-winter. Achieving the design criteria may not be possible on some sites. This includes: • where significant views are oriented away from the desired aspect for direct sunlight

4B-1 Natural Ventilation

All habitable rooms are naturally ventilated

The proposed building envelope changes allow for increased cross-ventilation for residential apartments.

4B-2 Natural Ventilation

The layout and design of single aspect apartments maximises natural ventilation.

To be addressed in future planning applications.

4B-3 Natural Ventilation

The number of apartments with natural cross ventilation is maximized to create a comfortable indoor environment for residents.

To be addressed in future planning applications.

4B-3 Natural Ventilation - Design Criteria

At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be naturally ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.

To be addressed in future planning applications.

4C-1 Ceiling Heights

Ceiling height achieves sufficient natural ventilation and daylight access.

Satisfactory.

The proposed building envelopes have been modified to achieve minimum ceiling heights that meet the minimum requirements outlined in the design criteria below

4C-1 Ceiling Heights - Design Criteria

Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

Habitable rooms

2.7m.

Non-habitable rooms

2.4m.

Two storey apartments

2.7m for main living area floor.

Satisfactory.

The proposed building envelopes have been modified to achieve minimum ceiling heights.

2.4m for second floor, where its area does not exceed 50% of the apartment area

4C-2 Ceiling Heights

Ceiling height increases the sense of space in apartments and provides for well-proportioned rooms.

The proposed building envelopes have been modified to achieve minimum ceiling heights that meet the minimum requirements outlined in the design criteria above.

4D-1 Apartment Size and Layout

The layout of rooms within an apartment is functional, well organised and provides a high standard of amenity

To be addressed in future planning applications.

4D-1 Apartment Size and Layout - Design Criteria

Apartments are required to have the following minimum internal areas:

Studio 35m².

One bedroom 50m².

Two bedroom 70m².

Three bedroom 90m²

The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.

A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.

Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms

The proposed GFA allocation for residential apartments would allow for the minimum internal areas to be achieved. Further detail will be provided in future planning applications.

4D-2 Apartment Size and Layout

Environmental performance of the apartment is maximized.

To be addressed in future planning applications.

4D-3 Apartment Size and Layout - Design Criteria

Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layout (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.

To be addressed in future planning applications.

4D-3 Apartment Size and Layout - Design Criteria

Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space), Bedrooms have a minimum dimension of 3m (excluding wardrobe space). Living rooms or combined living/dining rooms have a minimum width of:

One bedroom apartments

3.6m.

Two or three bedroom apartments

4m.

The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.

To be addressed in future planning applications.

4E-1 Private Open Space and Balconies

Apartments provide appropriately sized private open space and balconies to enhance residential amenity.

To be addressed in future planning applications.

4E-1 Private Open Space and Balconies - Design Criteria

All apartments are required to have primary balconies as follows:

Studio apartments

4m².

One bedroom apartments

8m² with a minimum depth of 2m.

Two bedroom apartments

10m² with a minimum depth of 2m.

Three+ bedroom apartments

12m² with a minimum depth of 2.4m.

For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.

To be addressed in future planning applications.

4E-2 Private Open Space and Balconies

Primary private open space and balconies are appropriately located to enhance liveability for residents.

To be addressed in future planning applications.

4E-3 Private Open Space and Balconies

Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.

To be addressed in future planning applications.

4E-4 Private Open Space and Balconies

Private open space and balcony design maximizes safety.

To be addressed in future planning applications.

4F-1 Common Circulation and Spaces

Common circulation spaces achieve good amenity and properly service the number of apartments.

To be addressed in future planning applications.

4F-2 Common Circulation and Spaces

Common circulation spaces promote safety and provide for social interaction between residents.

To be addressed in future planning applications.

4G-1 Common Circulation and Spaces

Adequate, well designed storage is provided in each apartment.

To be addressed in future planning applications.

4G-1 Common Circulation and Spaces - Design Criteria

In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:

Studio apartments

4m³.

One bedroom apartments

6m³.

Two bedroom apartments

8m³.

Three+ bedroom apartments

10m³. At least 50% of the required storage is to be located within the apartment.

To be addressed in future planning applications.

4G-2 Common Circulation and Spaces

Additional storage is conveniently located, accessible and nominated for individual apartments

To be addressed in future planning applications.

4H-1 Acoustic Privacy

Noise transfer is minimized through the siting of buildings and building layout.

Satisfactory.

The modified development has sought to optimise acoustic privacy.

<p>4H-2 Acoustic Privacy</p> <p>Noise impacts are mitigated within apartments through layouts and acoustic treatments.</p>	<p>Satisfactory.</p> <p>Noise impacts will be mitigated through apartment layouts and acoustic treatments.</p>
<p>4J-1 Noise and Pollution</p> <p>In noisy or hostile environments, the impacts of external noise and pollution are minimized through the careful siting and layout of buildings.</p>	<p>N/A – The site is not located within a noisy or hostile environment. Surrounding development is residential only.</p>
<p>4J-2 Noise and Pollution</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p>The site is not located within a noisy or hostile environment. Surrounding development is residential only. Noise attenuation measures for uses within the site will be provided as part of future applications.</p>
<p>4K-1 Apartment Mix</p> <p>A range of apartment types and sizes is provided to cater for different household types now and into the future</p>	<p>Satisfactory.</p> <p>The development provides a variety of apartment types.</p>
<p>4K-2 Apartment Mix</p> <p>The apartment mix is distributed to suitable locations within the building.</p>	<p>To be addressed in future planning applications.</p>
<p>4L-1 Ground Floor Apartments</p> <p>Street frontage is maximized where ground floor apartments are located.</p>	<p>N/A –no ground floor apartments addressing the street proposed.</p>
<p>4L-2 Ground Floor Apartments</p> <p>Design of ground floor apartments delivers amenity and safety for residents.</p>	<p>To be addressed in future planning applications.</p>
<p>4M-1 Facades</p> <p>Building facades provide visual interest along the street while respecting the character of the local area.</p>	<p>To be addressed in future planning applications.</p>
<p>4M-2 Facades</p> <p>Building functions are expressed by the façade.</p>	<p>To be addressed in future planning applications.</p>
<p>4N-1 Roof Design</p> <p>Roof treatments are integrated into the building designed and positive respond to the streets.</p>	<p>To be addressed in future planning applications.</p>

4N-3 Roof Design Roof design incorporates sustainability features.	To be addressed in future planning applications. Roof top gardens are proposed.
4O-1 Landscape Design Landscape design is viable and sustainable.	Satisfactory. Landscaping design is generally sustainable.
4O-2 Landscape Design Landscape design contributes to the streetscape and amenity.	To be addressed in future planning applications.
4P-3 Planting on Structures Planting on structures contributes to the quality and amenity of communal and public open spaces	To be addressed in future planning applications.
4Q-1 Universal Design Universal design features are included in apartment design to promote flexible housing for all community members.	To be addressed in future planning applications.
4Q-2 Universal Design A variety of apartments with adaptable designed are provided.	To be addressed in future planning applications.
4Q-3 Universal Design Apartment layouts are flexible and accommodate a range of lifestyle needs.	To be addressed in future planning applications.
4U-1 Energy Efficiency Development incorporates passive environmental design	To be addressed in future planning applications.
4U-2 Energy Efficiency Development incorporates passive solar design to optimize heat storage in winter and reduce heat transfer in summer.	To be addressed in future planning applications.
4U-3 Energy Efficiency Adequate natural ventilation minimises the need for mechanical ventilation.	Satisfactory.

Appendix F – Car Parking Breakdown

	DCP Requirement	GFA/ Unit Breakdown	Required spaces	Approved	GFA/ Unit Breakdown	Required spaces	Proposed
Residential apartments	1 car space for one and two bedroom dwellings	5 x one-bedroom	89	200 spaces, allocation to be confirmed as part of future applications	19 x One Bed	155	155
		9 x two-bedroom			55 x Two Bed		
	2 car spaces for three > bedroom dwellings	30 x three-bedroom			24 x Three Bed		
	1 visitor space for every three dwellings	44 apartments	222		98 apartments	279	260
Hotel rooms/ serviced apartments	1 car space for each accommodation unit	84 hotel rooms	133	10% less than DCP requirement	90 hotel rooms	124	105
	1 car space per 2 employees	34 serviced apartments			Max 67 staff		7% less than DCP requirement
		30 staff					
Restaurant	1 car space per 25m ² floor area within commercial premises*	400	60*	75	500	20**	34**
	15 car spaces per 100m ² floor area or 1 car space per 3 seats outside of commercial premises**		83				
Bar/cafe	1 car space per 25m ² floor area within commercial premises*	570	23**		350	14**	50
	15 car spaces per 100m ² floor area or 1 car space per 3 seats outside of commercial premises**						
Total			282 (excluding bar/café)	275		313**	310
Ground floor spaces for public use (restaurant, café, bar, retail)				75			50

*Rate used for approved development

**Rates used for MOD 2