

Modification of Concept Plan

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I modify the Concept Approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Executive Director Regional and Key Sites Assessments

SCHEDULE 1

Development consent:	MP 06_0183 granted by the then Deputy Director-General of Development Assessment & Systems Performance on 4 September 2011
For the following:	Concept Approval for a mixed use residential / tourist development
Applicant:	Salamander Shores Hotel Pty Ltd
Consent Authority:	Minister for Planning
The Land:	147 Soldiers Point Road (Lot 31 DP 529002)
Modification:	MP 06_0183 CP MOD 2: the modification includes amendments to the hotel and commercial development, including: <ul style="list-style-type: none">• reconfigure building footprints and amend building heights• revise the mix of hotel and residential apartments and remove the serviced apartment component• 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.

SCHEDULE 2

The above approval is modified as follows:

- (a) Schedule 2 – Part A, Term of Approval A1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

A1 Development description

Concept approval is granted to the development as described below;

- (a) use of the site for residential and tourist purposes;
 - (b) indicative building envelopes for ~~8~~ **6** separate buildings comprising:
 - i. Building A containing ~~serviced apartments, café, gym and storage~~ **hotel rooms, restaurant, cafe and gym/spa**, maximum ~~5~~ **7** storeys **and 1 basement level**;
 - ii. Building B containing ~~serviced apartments, games, spa and back of house~~ **permanent residential apartments and back of house**, maximum ~~7~~ **8** storeys and 1 basement level;
 - iii. Building C containing ~~lounge bar, conference rooms, restaurant and retail~~ **bar, permanent residential apartments**, maximum 3 storeys **and 1 basement level**;
 - iv. Building ~~D/E~~ comprising **reception, permanent residential apartments**, maximum ~~4~~ **5** storeys **and 1 basement level**;
 - v. ~~Building E comprising reception and hotel rooms~~, maximum 4 storeys;
 - vi. Building ~~F/G~~ comprising **bar, conference room and** hotel rooms, maximum 5 storeys ;
 - vii. ~~Building G comprising hotel rooms~~, maximum 5 storeys;
 - viii. Building H comprising permanent residential apartments, maximum of 5 storeys and ~~4~~ **2** basement levels;
 - ix. Total ~~275~~ **310** parking spaces over ~~4~~ **5** levels, including coach/minibus/cycling parking and service vehicle areas;
 - x. vehicular and pedestrian access; and
 - (c) total gross floor area (GFA) of 19,600sqm, being an overall FSR of 1.6:1; and
 - (d) internal roads, pedestrian and cycle pathways and parking infrastructure.
- (b) Schedule 2 – Part A, Term of Approval A2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers 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, **and**
- (2) **Section 75W Modification Application to Modify Concept Plan MP06_0183 for a Mixed Use Residential/Tourist Development (MOD 2) dated November 2021, Response to Submissions dated 29 March 2022, Additional Information dated 22 April 2022 and 10 May 2022 and the following drawings:**

<i>Concept Plans by Daryl Jackson Robin Dyke Architects</i>			
<i>Drawing No.</i>	<i>Revision</i>	<i>Name of Plan</i>	<i>Date</i>
<u>SK-000</u>	<u>I</u>	<u>Cover Sheet and Site Plan</u>	<u>27/03/2022</u>
SK-001	B	Demolition Plan	22/12/2010
<u>SK-099</u>	<u>G</u>	<u>Basement</u>	<u>27/03/2022</u>
SK-101	C <u>IJ</u>	Level 1 <u>Ground Level</u> Plan <u>RL 8.00</u>	20/06/2011 <u>9/05/2022</u>

SK-102	€ <u>J</u>	Level 2 <u>1</u> Plan <u>RL 12.00</u>	20/06/2011 <u>27/03/2022</u>
SK-103	B <u>J</u>	Level 3 <u>2</u> Plan <u>RL 15.00</u>	22/12/2010 <u>27/03/2022</u>
SK-104	B <u>I</u>	Level 4 <u>3</u> Plan <u>RL 18.00</u>	19/01/2011 <u>27/03/2022</u>
SK-105	B <u>I</u>	Level 5 <u>4</u> Plan <u>RL 21.00</u>	22/12/2010 <u>27/03/2022</u>
SK-106	€ <u>I</u>	Roof <u>Level 5</u> Plan <u>RL 24.00</u>	20/06/2011 <u>27/03/2022</u>
SK-107	€ <u>J</u>	Elevations — Sheet 01 <u>Roof Plan</u>	20/06/2011 <u>27/03/2022</u>
SK-201	€ <u>J</u>	Elevations Sheet 02 <u>01</u>	20/06/2011 <u>27/03/2022</u>
<u>SK-202</u>	<u>J</u>	<u>Elevations Sheet 02</u>	<u>27/03/2022</u>
SK-251	€ <u>K</u>	Sections Sheet 01	20/06/2011 <u>27/03/2022</u>
SK-L01	€ <u>E</u>	Landscape Plan	20/06/2011 <u>27/03/2022</u>
SK-MD01	A <u>H</u>	Movement Diagram Vehicles	22/12/2010 <u>27/03/2022</u>
SK-MD02	A <u>H</u>	Movement Diagram Pedestrian and Cycle	22/12/2010 <u>27/03/2022</u>

(c) Schedule 2 is amended by the insertion of the new Term of Approval A6 as follows:

A6 Document Consistency

In the event of an inconsistency between:

- The conditions of this approval and any document listed at Term of Approval A2, the conditions of this approval shall prevail to the extent of the inconsistency; and**
- The Statement of Commitments and the conditions of this approval, the conditions of this approval shall prevail to the extent of any inconsistency.**

(d) Schedule 3 – Future Environmental Assessment Requirement 1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words / numbers as follows:

1 Urban Design and Sustainability

- Future applications for buildings must demonstrate a high level of energy efficiency in design and materials and at a minimum achieve compliance with BASIX.
- Future applications must be accompanied by a comprehensive waste management strategy which addresses the use of recycled materials for construction and operation of development on the site, and a reduction in emissions associated with natural materials extraction.
- Future applications for buildings must provide details of the proposed external materials and finishes, including schedules and a sample board of materials and colours including glazing treatments. All materials, colours and finished must be consistent with the *Coastal Design Guidelines for New South Wales*.
- Future applications must demonstrate how the design, colour and palettes of the hotel and permanent residential buildings are to be used to integrate and**

identify the various uses and provide an overall colour and design theme for the development.

- (e) Future applications must include a Crime Prevention through Environmental Design (CPTED) Report demonstrating how CPTED principles have been incorporated into the design of the development.

- (e) Schedule 3 – Future Environmental Assessment Requirement 2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

2 Traffic, parking and access

The first future application for a building shall be accompanied by a Traffic and Pedestrian Management Plan providing for:

- a) A total number of ~~275~~ **310** on-site car space. Of these, ~~75~~ **50** spaces at ground level designed for use by lounge bar/**café and** restaurant and retail patrons.
- b) Minimisation of internal conflict points between Soldiers Point Road, the port cochere, internal driveways, pedestrians, cycle movement and the car park.
- c) Internal access to loading and unloading areas, logical access to all relevant buildings for service and delivery vehicles; and resolution of any conflict points with other vehicles, pedestrians and cyclists.
- d) Allocation of spaces between the residential flat building and tourist uses.
- e) Details for lawful access to the residential flat building and associated parking area to reflect future land titling arrangements.

- (f) Schedule 3 is amended by the insertion of the new FEAR 2A as follows:

2A Parking Operational Management Plan

The first future application for a building shall be accompanied by a Parking Operational Management Plan including 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.

The Parking Operational Management Plan must include a program for ongoing monitoring and review of the measures. The program must include a review following 18 months of operation. This review must be provided to the Planning Secretary for information upon completion. If the review following 18 months of operation identifies that parking demand for uses on the site have not been accommodated when the hotel is at full occupancy, the measures outlined in the Parking Operational Management Plan must be revised and resubmitted to the satisfaction of the Planning Secretary within 6 months.

Future applications must be consistent with this plan.

- (g) Schedule 3 is amended by the insertion of the new FEAR 2B as follows:

2B Traffic Impact Assessment

The first future development application for development on the site shall be accompanied by a Traffic Impact Assessment addressing any potential traffic safety, impacts, road congestion or parking implications of the entire development.

- (h) Schedule 3 – Future Environmental Assessment Requirement 4 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

4 Water Management and Groundwater

- a) Future applications shall comply with the requirements, objects and management principles of the *Water Management Act 2000* and the rules of any water sharing plan for the locality, or the *Water Act 1912* where no water sharing plan is in force.
- b) **Prior to any groundwater interception as part of future applications, a Water Access Licence (WAL) under the Water Management Act 2000 should be held unless the take is less than or equal to 3ML of water per year for any aquifer interference activities listed in Clause 7 of Schedule 4 of the Water Management (General) Regulation 2018.**
- c) **The first future application for a building or excavation works must:**
- i. **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.**
 - ii. **provide a statement of impact against the ‘minimal impact considerations’ as defined in the NSW Aquifer Interference Policy (2012).**
 - iii. **provide a Water Management Plan and include monitoring, metering and management measures to address groundwater take due to the project.**
 - iv. **include 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), prepared in consultation with DPE Water.**
 - v. **incorporate tanked-basement designs where basements are likely to intersect groundwater.**

- (i) Schedule 3 is amended by the insertion of the new FEAR 5A as follows:

5A Biodiversity

Future applications for development on the site are to be accompanied by an 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.

- (j) Schedule 3 – Future Environmental Assessment Requirement 7 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

7 Retention of reserve trees

Future applications shall demonstrate to the satisfaction of the consent authority that all existing trees (including emergent trees) shown to be protected on approved drawing ‘SK-0010, described as ‘Demolition Plan’ **SK-L01 dated 27/03/2022** will not be adversely impacted by their proposed works.

Should any hollow bearing trees need to be removed, a management plan is to be developed addressing what will happen to the displaced fauna and submitted to Council for approval.

- (k) Schedule 3 – Future Environmental Assessment Requirement 11 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

11 Staging for future applications

Provide a development staging plan **for construction staging and staging of works** with the first future application for a building.

- (l) Schedule 3 – Future Environmental Assessment Requirement 12 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words / numbers as follows:

12 Landscaping Plan

The first future application for a building or excavation shall be accompanied by a Landscape Plan applicable to 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 of canopy forming type vegetation. In particular deep soil planting should occur to create pockets/ fingers of vegetation to enhance views and lines of site to the Port Stephens water body.
- e) **The maintenance of the entire site as an inner protection area and landscaping compliant 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.

- (m) Schedule 3 – Future Environmental Assessment Requirement 13 is amended by the insertion of the **bold and underlined** words / numbers the deletion of the ~~struck-out~~ words / numbers as follows:

13 Bushfire

- a) ~~The first application for the first building shall be accompanied by evidence that a legally formed easement has been created over the Asset Protection Zone (APZ) on adjoining land to ensure that the APZ is maintained in perpetuity, together with the adjoining land owner's consent.~~
- b) ~~If future environmental assessment requirement 13(a) cannot be met, future applications shall include further details of the development's compliance with the requirements of 'Planning for Bushfire Protection 2006' such as the introduction of higher construction standards in accordance with AS3959 for relevant buildings.~~
- c) ~~Future applications must demonstrate that the NSW Fire Brigade emergency vehicles can adequately access the site, buildings and structures in the event of an emergency via the internal perimeter access road.~~

Future applications must demonstrate that all recommendations of the Bushfire Addendum- Response to Public submissions to MP06 0183 MOD 2, prepared by BEMC dated 22 February 2022 have been incorporated into the development.

- (n) Schedule 3 – Future Environmental Assessment Requirement 15 is amended by the insertion of the **bold and underlined** words / numbers as follows:

15 Building Design

Future application shall demonstrate compliance with the provisions of the State Environmental Planning Policy 65- Design Quality of Residential Flat Development (SEPP 65) and the accompanying Residential Flat Design Code 2002-**Apartment Design Guide 2015 and that highlight windows (or other measures to increase solar access) are provided to the hotel rooms along the eastern façade of Building F/G.**

SCHEDULE 4

REVISED STATEMENT OF COMMITMENTS

Source: PPR dated February 2011

Section 75W Modification Application to Modify Concept Plan MP06_0183 for a Mixed Use Residential/Tourist Development (MOD 2) dated November 2021

Prepared by: SAKE Development Pty Ltd and Daryl Jackson Robin Dyke Architects Pty Ltd
Milestone (AUST) Pty Limited

End of modification
(MP 06_0183 CP MOD 2)