

Concept Approval

Section 750 of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation executed on 25 January 2010 (confirmed on 28 May 2011), I under the *Environmental Planning and Assessment Act 1979* determine:

- (a) pursuant to Section 750 of the *Environmental Planning and Assessment Act, 1979*, to approve the Concept Plan referred to in Schedule 1, subject to the Terms of Approval in Schedule 2 and the Statement of Commitments in Schedule 4;
- (b) pursuant to Section 75P(1)(a) of the *Environmental Planning and Assessment Act 1979*, the further environmental assessment requirements for approval to carry out the future stages as set out in Schedule 3; and,
- (c) pursuant to Section 75P(1)(b) of the *Environmental Planning and Assessment Act 1979*, all future stages of the Concept Plan approval are to be subject to Part 4 of the *Environmental Planning and Assessment Act 1979*.

Deputy Director-General
Development Assessment & Systems Performance
Department of Planning and Infrastructure

Sydney, _____ 2011

The Department has prepared a consolidated version of the consent which is intended to include all modifications to the original determination instrument.

The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.

CONSOLIDATED CONSENT

SCHEDULE 1

Application No.: MP 06_0183

Proponent: Salamander Shores Hotel Pty Ltd

Approval Authority: Minister for Planning and Infrastructure

Land: Lot 31 - DP 529002, 147 Soldiers Point Road, Soldiers Point

Project: Mixed use residential/tourist development.

NOTES RELATING TO THE DETERMINATION OF MP 06_0183

Responsibility for other approvals/ agreements: The Proponent is solely responsible for ensuring that all additional approvals and agreements are obtained from other authorities, as relevant.

Appeals: The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

Legal notices: Any advice or notice to the approval authority shall be served on the Director General.

CONSOLIDATED CONSENT

DEFINITIONS

The Act	<i>Environmental Planning and Assessment Act, 1979</i>
Concept Plan	The concept plan the subject of this approval
Council	Port Stephens Council
The Department	Department of Planning and Infrastructure
Primary Industries	the Department of Department of Primary Industries (former NSW Office of Water and former Industry and Investment – Fisheries, Agriculture, Forestry, Minerals)
The Director General	Director General of the Department of Planning and Infrastructure (or delegate).
Director General's Approval	A written approval from the Director General (or delegate).
Environmental Assessment	Environmental Assessment Report prepared by SAKE Development Pty Ltd and Daryl Jackson Robin Dyke Architects Pty Ltd, dated September 2010, including all its Appendices
The Minister	Minister for Planning and Infrastructure
The Office of Environment and Heritage	Former Department of Environment, Climate Change and Water
PPR/RTS	Preferred Project Report/Response to Submissions prepared by SAKE Development Pty Ltd, and Daryl Jackson Robin Dyke Architects Pty Ltd, dated February 2011, including all Appendices.
Project	Development as described in the Concept Plan
Project Approval	Approval granted for a project in accordance with section 75J of <i>the Act</i> .
Proposal	Concept plan approval for a mixed use residential and tourist development at 147 Soldier's Point Road, Soldier's Point
Proponent	Salamander Shores Hotel Pty Ltd
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
NSW RTA	Roads and Traffic Authority
Site	Lot 31 in DP 529002, 147 Soldiers Point Road, Soldiers Point

CONSOLIDATED CONSENT

SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
MP 06_0183 MOD 1	30 AUGUST 2016	Director, Modification Assessments	Modification to extend the approval lapse date by two years.
MP 06_0183 MOD 2	28 JUNE 2022	Executive Director, Key Sites and Regional Assessments	<p>Modification to:</p> <ul style="list-style-type: none">• revise the mix of land uses, by increasing the number of hotel rooms (from 84 to 90) and residential apartments (from 40 to 98) and removing all the (34) serviced apartments• reconfigure building footprints and amend building heights• relocate the underground carparking and increase the number of parking spaces (from 275 to 310 spaces)• remove 28 additional trees• revise the gross floor area (GFA) allocated to certain uses, without increasing the GFA.

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SCHEDULE 2

PART A- TERMS OF APPROVAL

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.

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:**

Concept Plans by Daryl Jackson Robin Dyke Architects			
Drawing No.	Revision	Name of Plan	Date
SK-000	I	Cover Sheet and Site Plan	27/03/2022
SK-001	B	Demolition Plan	22/12/2010
SK-099	G	Basement	27/03/2022
SK-101	C J	Level 1 Ground Level Plan RL 8.00	20/06/2011 9/05/2022
SK-102	C J	Level 2 1 Plan RL 12.00	20/06/2011 27/03/2022
SK-103	B J	Level 3 2 Plan RL 15.00	22/12/2010 27/03/2022
SK-104	B I	Level 4 3 Plan RL 18.00	19/01/2011 27/03/2022

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SK-105	B I	Level 5 4 Plan RL 21.00	22/12/2010 27/03/2022
SK-106	G I	Roof Level 5 Plan RL 24.00	20/06/2011 27/03/2022
SK-107	G J	Elevations Sheet 01 Roof Plan	20/06/2011 27/03/2022
SK-201	G J	Elevations Sheet 02 01	20/06/2011 27/03/2022
SK-202	J	Elevations Sheet 02	27/03/2022
SK-251	G K	Sections Sheet 01	20/06/2011 27/03/2022
SK-L01	G F	Landscape Plan	20/06/2011 27/03/2022
SK-MD01	A H	Movement Diagram Vehicles	22/12/2010 27/03/2022
SK-MD02	A H	Movement Diagram Pedestrian and Cycle	22/12/2010 27/03/2022

A4 Lapsing of Approval

Approval of the Concept Plan shall lapse 5 7 years after the determination date in Part A of Schedule 1 unless a Project Application for approval to carry out all or part of the project the subject of this Concept Plan Approval has been submitted.

A5 Determination of Future Applications

Future applications are to be generally consistent with the terms of approval of Concept Plan MP06_0183 as described in Part A of Schedule 1.

A6 Document Consistency

In the event of an inconsistency between:

- a. 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
- b. The Statement of Commitments and the conditions of this approval, the conditions of this approval shall prevail to the extent of any inconsistency.

End of Schedule 2

SCHEDULE 3

FUTURE ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Relevant details of the following requirements are to be submitted to the satisfaction of the relevant consent authority with future applications.

1 Urban Design and Sustainability

- (a) Future applications for all buildings must demonstrate a high level of energy efficiency in design and materials and at a minimum achieve compliance with BASIX.
- (b) 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.
- (c) Future application 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 finishes must be consistent with the *Coastal Design Guidelines for New South Wales*.
- (d) 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.**

2 Traffic, parking and access

The first 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 spaces. Of these, ~~75~~ **50** spaces at ground level designated for use by lounge bar, restaurant and retail patrons;
- b) Minimisation of internal conflict points between Soldiers Point Road, the port cohere, 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 areas to reflect future land titling arrangements.

Future applications must be consistent with this plan.

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.

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.

3 Storm water management

Future applications for all buildings shall be accompanied by a detailed site-specific storm water management plan prepared by a qualified practicing Civil Engineer and in accordance with the requirements of Council which addresses the following:

- a) details on how a reduction of rubbish or hydrocarbon pollutants will be achieved prior to discharge to Port Stephens;
- b) any structural works, including works for stormwater capture and treatment are required to be located outside riparian areas.

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.**

a) 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.**

5 Threatened Species

Prior to any disturbance of the area of Nerong Smooth Bark Apple forest in the southwestern corner of the site, evidence must be provided that targeted threatened species surveys have been undertaken at the appropriate time of the year for *Corybas dowlingii* (i.e. late June to late July) and *Cryptostylis hunteriana* (i.e. November to January). Should these orchids be detected on site, a management plan must be developed in consultation with the Office of Environment and Heritage and be approved by the Director General of the Office of Environment and Heritage.

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.

6 Protection of reserve trees

The first future application for excavation or building works shall be accompanied by a tree management plan, prepared by a suitably qualified and experienced arborist (Australian Qualification Framework Level 5 or above), which assesses the impact of proposed excavation and construction works on the root zones of screening trees in the public reserve. Recommendations should be made to ensure the longevity of all of screening trees in the public reserve during the life of the development.

7 Retention of existing trees on site

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-001~~' **SK-L01 dated 27/03/2022**, described as 'Demolition Plan' will not be adversely affected 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.

8 Water and Sewerage

Future relevant applications shall be accompanied by a water supply and sewerage which addresses required augmentations to these services to accommodate the development.

9 Acoustic impacts

Future relevant applications shall be accompanied by Noise Management Plans which demonstrate:

- a) Details of on-going noise management during operation of the site for the life of the development to ensure adequate amenity levels for all users of the site;
- and b) Mitigation measures to minimise noise disturbance to the permanent residential apartment building (and future management when the building is subject to separate land titling) or to adjoining or adjacent properties.

10 Aboriginal Cultural Heritage

The first future application shall be accompanied by a Cultural Management Plan which addresses the following:

- a) Opportunities for fair, equitable and reasonable opportunities for the registered local Aboriginal community to monitor any soil disturbance/earth moving activities associated with the approved project area will be provided;
- b) Procedures in the event that surface disturbance by the proponent identifies a new Aboriginal site; and
- c) An Aboriginal Cultural Education Program for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted, and the date it occurred, for the duration of the project. The program should be developed and implemented in collaboration with the relevant Aboriginal communities.

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.

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.
- a) 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.

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.

14. Equitable Access

Future applications shall be accompanied by an access audit which details compliance with Disability (Access to Premises- Buildings) Standards 2010.

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.**

End of Schedule 3

CONSOLIDATED CONSENT

SCHEDULE 4

REVISED STATEMENT OF COMMITMENTS

REVISED STATEMENT OF COMMITMENTS

Source: ~~PPR dated February 2014~~

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

FOR INFORMATION