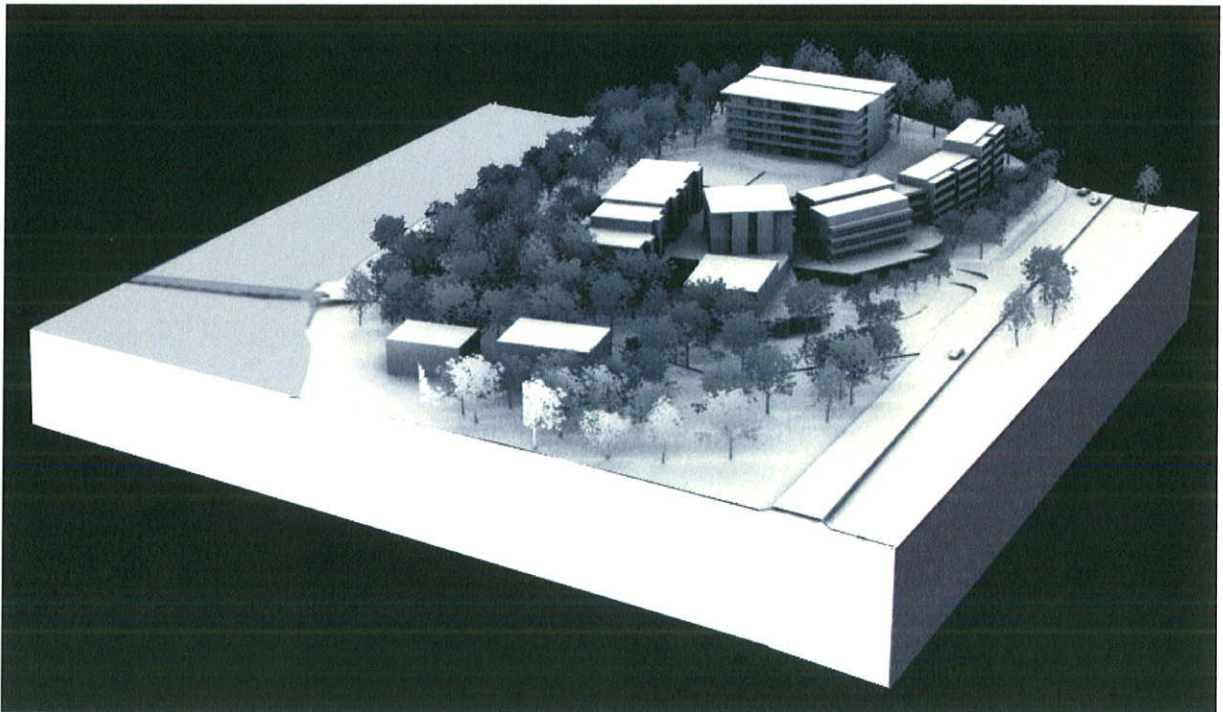




Planning &
Infrastructure

MAJOR PROJECT ASSESSMENT:
Mixed Use Development, 147 Soldiers
Point Road, Soldiers Point
(06_0183)



Director-General's
Environmental Assessment Report
Section 75I of the
Environmental Planning and Assessment Act 1979

August 2011

ABBREVIATIONS

CIV	Capital Investment Value
Department	Department of Planning and Infrastructure
DGRs	Director-General's Requirements
Director-General	Director-General of the Department of Planning and Infrastructure
EA	Environmental Assessment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
MD SEPP	State Environmental Planning Policy (Major Development) 2005
Minister	Minister for Planning and Infrastructure
PAC	Planning Assessment Commission
Part 3A	Part 3A of the <i>Environmental Planning and Assessment Act 1979</i>
PPR	Preferred Project Report
Proponent	Salamander Shores Hotel Pty Ltd

Cover Photograph: Model view of the proposal looking south east

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EXECUTIVE SUMMARY

This report assesses a concept plan application for a mixed use residential and tourist development, and project application for demolition of existing buildings and structures ("the proposal"), at 147 Soldier's Point Road, Soldier's Point ("the site") by SAKE Development Pty Ltd and Daryl Jackson Robin Dyke Architects Pty Ltd on behalf of Salamander Shores Hotel Pty Ltd ("the Proponent").

The concept plan will guide future development of the site by setting parameters for:

- Building envelopes (indicating heights);
- Land uses within approved building envelopes (residential and tourist);
- Total gross floor area;
- Pedestrian and internal road networks; and,
- Car parking (number of spaces and location).

The capital investment value of the project is \$113 million, and the proposal will create 250 full time equivalent construction and 150 full time equivalent operational jobs.

During the exhibition period, the Department received 9 submissions from public authorities and 16 submissions from the public including 9 in support. Key issues considered in the Department's assessment include:

- Height, Bulk and Scale;
- Traffic, access and parking; and
- Environmental constraints.

The Department has assessed the merits of the proposal. It is satisfied that its impacts have been addressed via the Statement of Commitments and the Department's recommended terms of approval, and can be suitably mitigated and/or managed to ensure a satisfactory level of environmental performance. The proposal will provide on-going social and economic benefits to the Port Stephens area.

Port Stephens Council made submissions on the Environmental Assessment and Preferred Project Report and identified factors they believed should be considered in the assessment. The factors for consideration include assessment of threatened flora species, drainage and traffic. These matters are considered in the report and are dealt with via future assessment requirements.

The Proponent has declared that no reportable political donations have been made.

The Minister for Planning and Infrastructure has delegated his function to approve concept and project applications to the Deputy Director-General in circumstances where there are less than 25 public submissions in the nature of objections, the project is consistent with the regional strategy, no political donation has been made and Council does not object. Both applications satisfy these criteria and accordingly the Deputy Director-General may exercise his delegation.

It is recommended that the applications be **approved** subject to further assessment requirements as specified in the Instrument of Approval pursuant to Part 3A of the Environmental Planning and Assessment Act 1979 ('the Act').

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1. BACKGROUND

1.1 Site Description

The site is legally described as Lot 31 - DP 529002 and its street address is 147 Soldiers Point Road, Soldiers Point. It is located on the Tomaree Peninsula on the southern side of Port Stephens. The Tomaree Peninsula contains a series of small townships, which sit amongst vegetated areas and rocky peaks (Refer to **Figure 1** for regional context and **Figure 2** for site locality plan).

Development along the foreshore of Port Stephens is generally characterised by low-density, detached buildings and recreational facilities. High-density urban housing and commercial development is mainly limited to the centres of Nelson Bay and Shoal Bay.

Figure 1: Regional Context



Figure 2: Site Locality Plan (site in red)

1.2 Site features

The site is 1.2ha in area and rises approximately 14 metres from Soldiers Point Road (RL 7 AHD) to a vegetated knoll in its southeast corner (RL 21 AHD).

It is occupied by the Salamander Shores Hotel which was built in 1969. It contains 91 hotel rooms, a pub and restaurant on the ground floor and pool and conference facilities. It ranges in height from 1 to 4 storeys (RL 29.7 AHD). **Figures 3 and 4** are aerial photos of the subject site.

Figure 3 – View of the site looking west



Figure 4 - View of the site looking east



1.3 Surrounding development

To the north the site adjoins a public reserve. Further to the north is a loop road, which provides access to the foreshore and its facilities.

To the east the site also adjoins a public reserve. Further to the east is Port Stephens, which is the largest Marine Park in NSW. There a number of water based facilities in the vicinity of the site, including a wharf, sailing club and boat ramp.

To the south the site also adjoins a public reserve. This reserve shares part of the knoll of the hill with the subject site and is heavily vegetated.

To the west the site has frontage to Soldiers Point Road. On the opposite side of the road is a park, with the Soldiers Point Holiday Park further beyond to the west. Soldiers Point Bowling Club is located to the north of the Holiday Park.

The residential development located further to the north, south and west is generally characterised by detached housing, 1-3 storeys in height.

2. PROPOSED PROJECT

2.1. Project Description

The **Environmental Assessment (EA)** seeks approval for the following:

Concept Plan: mixed use residential and tourist development; building footprints; heights and configuration within 8 envelopes with associated landscaping and car parking. The tourist components will comprise a hotel, serviced apartments providing short to medium term accommodation and associated elements including conference facilities, bar, café and gym. The residential component is proposed to comprise 40 permanent housing apartments contained within one dedicated building envelope.

Project Application: Demolition of existing buildings and structures on site, and general site clearance.

The proposed project layout in plan is at **Figure 5** and **Figure 6**, and the key project components are set out in **Table 1**.

Figure 5 – Project Layout

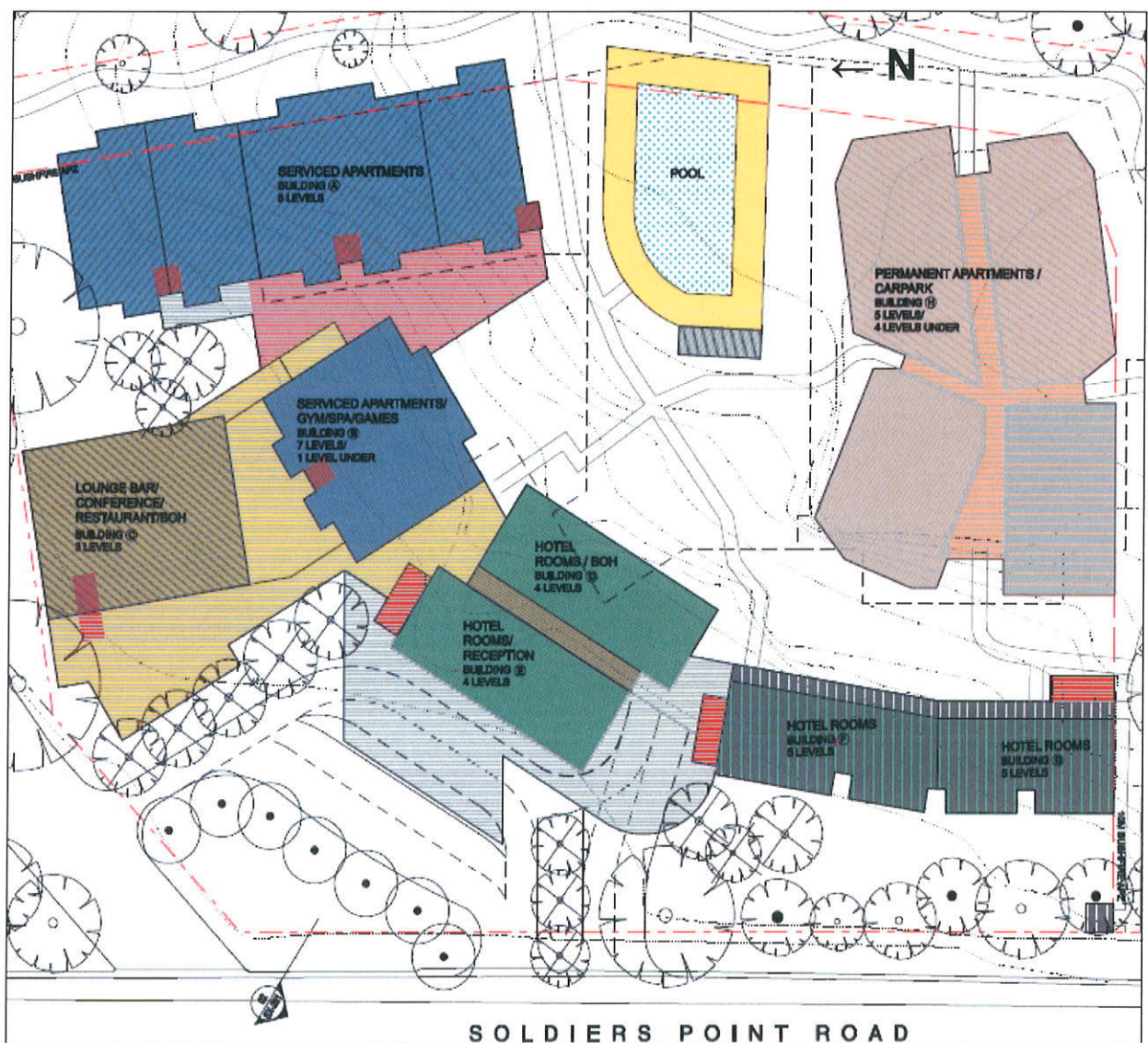


Figure 6 – Model view of the proposal looking south east – NB: Building H (freestanding building in far corner of site) is modified by the PPR – see Figure 5 for revised Building H envelope (

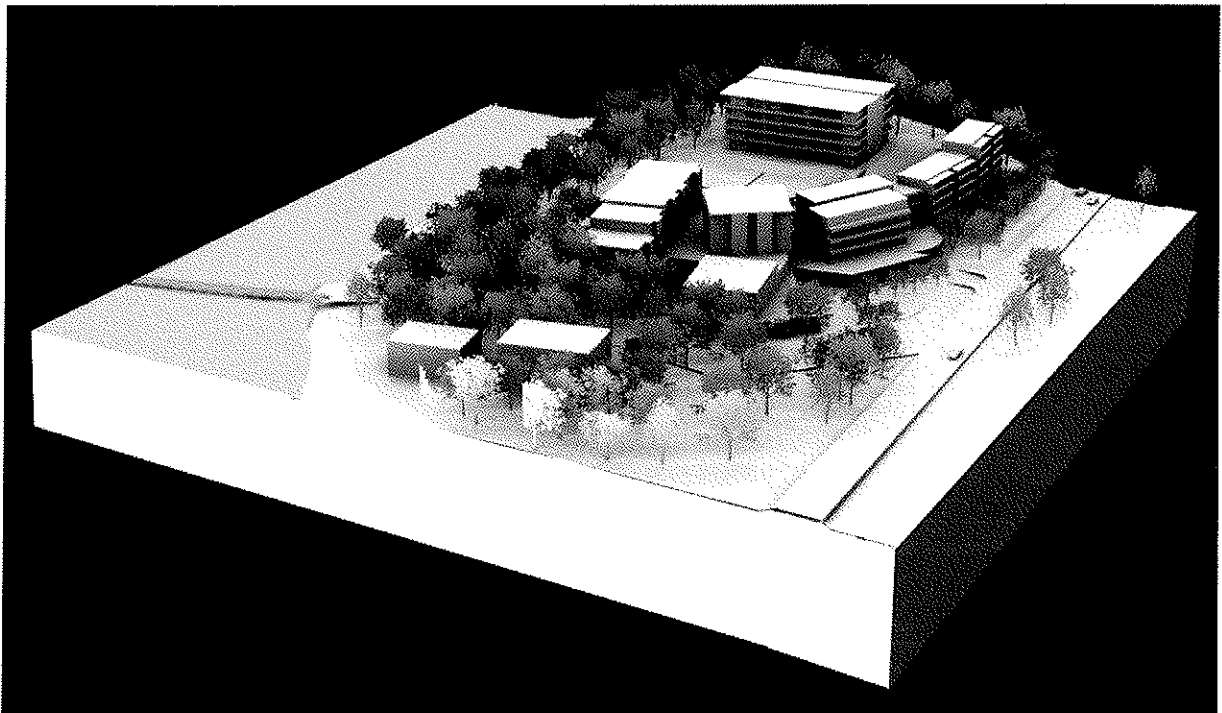


Table 1: Key Project Components

Aspect	Description
Project Summary	<ul style="list-style-type: none"> A mixed use tourist and residential development comprising: <ul style="list-style-type: none"> A maximum total GFA of 19,600m², giving an overall FSR of 1.6:1. A total of 40 permanent residential apartments; 34 serviced apartments; 84 hotel rooms, associated tourist facilities and 275 parking spaces.
<i>Building A</i>	Serviced apartments, café, gym and storage, 5 storeys.
<i>Building B</i>	Serviced apartments, games, spa and back of house, 7 storeys and 1 basement level.
<i>Building C</i>	Lounge, bar, conference rooms, restaurant and retail 3 storeys.
<i>Building D</i>	Hotel rooms and back of house, 4 storeys.
<i>Building E</i>	Reception and hotel rooms, 4 storeys.
<i>Building F</i>	Hotel rooms, 5 storeys.
<i>Building G</i>	Hotel rooms, 5 storeys.
<i>Building H</i>	40 permanent residential apartments, 5 storeys and 4 basement levels.
<i>Car parking</i>	Total 275 parking spaces over basement 4 levels, including coach/minibus/cycling parking and service vehicle areas.

2.2. Project Need and Justification

The proposal will provide long term social and economic benefits to the Port Stephens area, creating employment opportunities during construction and operation, increasing the supply and variety of housing, and encouraging tourism, including conferences.

Replacing and upgrading the hotel will improve the site's interface with the street and together with the neighbouring Holiday Park and Bowling Club will strengthen the locality's character as a mixed use tourism/recreation and residential precinct.

NSW State Plan

The aims of the NSW State Plan include improving urban environments and promoting sustainable development. The plan recommends that additional tourist facilities be created in NSW. The proposal will contribute positively to the urban environment being a high quality design. The development has been designed to be sustainable and makes use of existing services and infrastructure. It will create additional tourist facilities in NSW.

Lower Hunter Regional Strategy

The Lower Hunter Regional Strategy (the Strategy) sets the context for development in the Lower Hunter towards 2031. The Strategy defines the Nelson Bay precinct as a specialised regional tourist and growth area, with targets of 1200 additional dwellings by 2031. The proposal will assist in meeting the dwelling target and reinforcing the area as a tourist centre.

3. STATUTORY CONTEXT

3.1. Major Project

On 14 September 2006, the Director-General, as delegate of the Minister formed the opinion that the project was development of a kind described in *State Environmental Planning Policy (Major Projects) 2005* (as it existed), specifically Schedule 1(17)(b) - a tourist related facility employing more than 100 people and was therefore a project to which Part 3A of the Act applied.

On 16 June 2011, the NSW Government introduced a Bill into the Parliament to repeal Part 3A of the EP&A Act and replace it with an alternative system for the assessment of projects of state significance. As this project is at an advanced stage it will continue to be assessed by the Department.

3.2. Permissibility

Port Stephens Local Environmental Plan 2000

The site is zoned 3(a) Business General "A" zone under the *Port Stephens Local Environmental Plan 2000* ('LEP'). Urban housing and tourist facilities including hotels and serviced apartments are permissible with consent.

The zone objectives seek to "provide for a range of commercial and retail activities, and uses associated with, ancillary to, or supportive of, retail and service facilities, including tourist development and industries compatible with a commercial area" and "to provide for waterfront-associated commercial development whilst protecting and enhancing the visual and service amenity of the foreshores".

The LEP does not contain height or floor space ratio restrictions for this zone. Further provisions of the LEP relevant to the proposal seek to ensure consideration of the aesthetic appearance of new buildings which will be visible from the foreshore including consideration of height and location.

Port Stephens Development Control Plan 2007

Part B4 of the Port Stephens Development Control Plan 2007 (the DCP) specifies controls for commercial and mixed use developments. Development on the site is limited to 2 storeys and 8m in height and a maximum FSR of 1.8:1. The proposal exceeds the height control and complies with the FSR. The proposal's compliance with these controls is further discussed in Section 5 of this report.

3.3. Environmental Planning Instruments

The Department's consideration of relevant SEPPs and other EPIs is at **Appendix D**.

3.4. Objects of the EP&A Act

Decisions made under the EP&A Act must have regard to the objects of the Act, as set out in Section 5. The relevant objects are:

- (a) to encourage:
 - (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,

- (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
- (iii) *the protection, provision and co-ordination of communication and utility services,*
- (iv) *the provision of land for public purposes,*
- (v) *the provision and co-ordination of community services and facilities, and*
- (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats, and*
- (vii) *ecologically sustainable development, and*
- (viii) *the provision and maintenance of affordable housing, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *to provide increased opportunity for public involvement and participation in environmental planning and assessment.*

The objects under s.5 (a)(i)(ii) and (vii) are of particular relevance to the proposal. The proposal is an orderly and economic use of the land being consistent with the zoning and strategic intentions for the site. It responds to the site's landform and character and will have limited ecological impacts.

The proposal is consistent with the principles of Ecologically Sustainable Development (ESD) as discussed below.

3.5. Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle,*
- (b) *inter-generational equity,*
- (c) *conservation of biological diversity and ecological integrity,*
- (d) *improved valuation, pricing and incentive mechanisms.*

The project is consistent with the key principles of ESD as discussed below:

(a) the precautionary principle,

There is the potential for threatened orchid species to occur on the site. The Office of Environment and Heritage (OEH) has recommended that surveying for the orchids be undertaken prior to works. This recommendation has been adopted and is included in the Instrument of Approval. Ecological issues are discussed further in Section 5.3.

The proposal has the potential to impact on the adjacent marine environment through an increase in sedimentation and erosion and stormwater discharge. Specialist studies indicate that the site is located on an elevated outcrop of high strength volcanic rock and as such, erosion and recession will not impact the site. Future assessment requirements have been recommended requiring further assessment of stormwater runoff, water quality, and wastewater to ensure that there are no negative impacts.

There is no threat of serious or irreversible environmental damage as a result of the development.

(b) *inter-generational equity,*

The development will deliver economic benefits for the Port Stephens area by providing additional conference and meeting facilities which are identified as being needed by the *Port Stephens Economic Development Strategy 2007*.

The environmental impacts will be sufficiently managed through appropriate measures and recommended terms of approval.

(c) *conservation of biological diversity and ecological integrity,*

Implementation of measures including retention of hollow bearing and other significant trees on site, koala proof pool fencing, revegetation works and compliance with recommended terms of approval will result in the maintenance of biological and ecological diversity on the site.

(d) *improved valuation, pricing and incentive mechanisms.*

The environmental impacts of the proposal and identified appropriate management measures have been assessed. The cost of implementing mitigation measures has been considered in the total project cost.

3.6. Statement of Compliance

In accordance with section 75I of the EP&A Act, the Department is satisfied that the Director-General's environmental assessment requirements have been complied with.

4. CONSULTATION AND SUBMISSIONS

4.1. Exhibition

Under section 75H(3) of the EP&A Act, the Director-General is required to make the EA publicly available for at least 30 days. The EA was publicly exhibited from 8 October 2010 until 8 November 2010 (32 days) on the Department's website, and at the following locations:

- Department of Planning and Infrastructure – Sydney and Newcastle offices
- Tomaree Library and Community Centre, Salamander Bay
- Port Stephens Council – Raymond Terrace
- Nature Conservation Council - Newtown

The Department advertised the public exhibition in the Port Stephens Examiner and notified landholders, residents, local community groups and relevant State and local government authorities.

There were 25 submissions received - 9 from public authorities and 16 from the general public (6 in objection) including one from a special interest group. A summary of the issues raised in submissions is provided below.

The Department has considered all issues raised in the agency and public submissions in its assessment of the proposal.

4.2. Public Authority Submissions

Submissions were received from the Office of Environment and Heritage (former Department of Environment, Climate Change and Water); Department of Primary Industries (former NSW Office of Water); Port Stephens Council; Port Stephens Great Lakes Marine Park Authority; Department of Rural Fire Service (RFS); Department of Defence; Department of Primary Industries (former Industry and Investment – Fisheries, Agriculture, Forestry, Minerals, Hunter Office); NSW Roads and Traffic Authority; and Worimi Local Aboriginal Land Council

Nur-Run-Gee Ptd Ltd, Mur-Roo-Ma Inc., Land and Property Management Authority (LPMA) and Nature Conservation Council were also notified but did not respond.

4.2.1 Department of Environment and Heritage (formerly Department of Environment, Climate Change and Water)

Issues

- Lack of targeted surveys for certain orchids classified as threatened at the right time of year.
- Potential for displacement of fauna if hollow bearing trees are removed from site.
- Additional comments are requested from the Worimi LALC for the Aboriginal Cultural Heritage Assessment.

Comment

- To address its concerns the Office of Environment and Heritage has recommended the imposition of modifications and conditions.
- Further assessment requirements are recommended which require the undertaking of surveys for the orchids prior to construction or demolition; and preparation of an Aboriginal Cultural Management plan.

- The proponent has committed to preparing a fauna management plan, in consultation with OEH, if trees with hollows are to be removed.

4.2.2 Port Stephens Council (PSC)

Issues

- Height exceeds DCP 2007; finished heights of buildings should be consistent with tree canopy heights in the adjoining foreshore reserve.
- Parking – number of spaces proposed does not fully comply but 275 spaces is adequate. Bar/café visitor spaces should be readily accessible.
- Stormwater/ drainage – pumping/draining intercepted groundwater into sewer questioned.
- Construction management plan required.

Comments

- See discussion regarding height and parking at sections 5.1 and 5.3 below.
- Future environmental assessment requirements for applications require detailed consideration of stormwater management issues.
- A number of conditions are recommended to manage the demolition works as part of the project approval.
- See discussion regarding flora and fauna in section 5.3.

4.2.3 Port Stephens Great Lakes Marine Park Authority

Issue

- Water quality improvement solutions e.g. bio-retention pods and trenches, pollutant traps, and green strips.

Comment

- Further assessment requirements for future applications relating to stormwater management including water quality improvement measures have been included in the approval.

4.2.4 Department of Rural Fire Service (RFS)

Issue

- Require details about on-going management of reserve to east and south and whether can be included in the Asset Protection Zone (APZ) – may affect construction requirements.
- Buildings A and H encroach into 10m internal APZ.
- Perimeter access way within 10m internal APZ needs direct access to Soldiers Point Road at south-west corner of site.
- Entire site needs maintaining as inner protection area; and
- Landscaping must comply with Appendix 5 of *Planning for Bushfire Protection 2006*.

Comment

- The Proponent responded to the RFS concerns in their PPR. This is discussed further in section 4.4.

4.2.5 Department of Defence

No objections because the site is outside the ANEF20 and Defence Area Control Regulations.

4.2.6 Department of Primary Industries (former Industry and Investment – Fisheries, Hunter Office)

No issues of concern in relation to their areas of responsibility.

4.2.7 Department of Primary Industries (former NSW Office of Water)

Issues

- A licence is required for groundwater extraction and dewatering.
- Demonstration of stormwater treatment methods, rubbish and hydrocarbon pollutant mitigation.

Comment

- Future application requirements have been recommended in the Instrument of approval to address both concerns raised by the former NOW.

4.2.8 NSW Roads and Traffic Authority (RTA)

No concerns regarding the project. The project was referred to the Hunter Regional Development Committee, which determined the development would not significantly impact the classified road network. The RTA advised that the local road network is within Council's jurisdiction.

4.2.9 Worimi Local Aboriginal Land Council (LALC)

Advised that the archaeological report is all-inclusive and an accurate assessment of potential impacts. The LALC is also supportive of recommendations and expect they will be implemented by the proponent.

4.3. Public Submissions

There were 16 submissions received from the public. This included a submission from the Tomaree Ratepayers Association which is a special interest group. Of the 16 public submissions, 6 (38%) objected to the project, 9 (56%) supported the project and 1 (6%) did not object but raised concerns. The key issues raised in public submissions are listed in Table 2.

Table 2: Summary of Issues Raised in Public Submissions

Issue	Proportion of submissions (%)
<i>Existing Salamander Shores Hotel supports community activities</i>	44% (7)
<i>Height and density</i>	38% (6)
<i>Traffic, parking and access</i>	38% (6)
<i>The development will be a community asset</i>	31% (5)
<i>Urban Design</i>	19% (3)
<i>Impact on flora and fauna/clearing</i>	19% (3)
<i>Additional facilities/increase tourism</i>	13% (2)
<i>Viability of permanent residential development</i>	13% (2)

Issue	Proportion of submissions (%)
<i>Contribution to existing overcrowding of the area during holiday periods</i>	6% (1)
<i>Capacity of existing services</i>	6% (1)

Other issues raised in single submissions include; the development will create precedence for development of this scale, will adversely impact on aboriginal heritage and cause overcrowding in holiday periods.

4.4. Preferred Project Report

The proponent submitted a Preferred Project Report (PPR) including a response to the issues raised in submissions (refer **Appendix C**). Key changes made in the PPR include:

- the reduction of the height of Building H by 500mm to a maximum of RL 35m;
- the redesign of Building H, which splits the building envelope into 4 components to break up its bulk;
- design changes to the vehicular entrance and car park areas; and
- the provision of additional pedestrian links at the hotel entry.

The PPR was not formally exhibited but was placed on the Department's website and referred to Port Stephens Council and the Rural Fire Service for review. Comments received were as follows:

Port Stephens Council

Issue

- A seven part test as per s.5A of the EP & A Act should be undertaken on the threatened orchids before determination.
- On-site detention of stormwater may be possible, subject to a detailed design assessment.
- Kerb returns are required on beach access road and a pedestrian island is required on Soldiers Point Rd.

Comment

- DECCW has reviewed the proponent's ecological assessment and requires additional surveying to occur but that this can occur prior to construction. Flora and Fauna issues are discussed in section 5.3.
- Road design matters can be adequately catered for in future applications.

Rural Fire Service

Issue

- APZs outside the site boundary are required to be covered by an easement to ensure their maintenance for the life of the development.
- Construction requirements cannot be determined until APZ widths are known.
- Internal perimeter access should be wide enough for tanker access.

Comment

- Council has provided a letter advising that it does not have an objection to considering a proposal for an APZ on its land, but it would need to go through the proper process. The future assessment requirements deal with this issue and what must occur if the APZ cannot be located on Council land.

- Consultation with the RFS will be required on future applications to determine construction requirements.
- Further assessment requirements require the applicant to demonstrate that access is available for emergency vehicles.

5. ASSESSMENT

The Department considers the key environmental issues to be:

- Height, Bulk and Scale;
- Traffic, access and parking; and
- Environmental issues.

5.1. Height, Bulk and Scale

The Department, Council and the public had concerns with the original proposal's visual impact, including its height, bulk and scale. The Proponent responded to these concerns by reducing the height of Buildings A and H, and articulating the envelope of Building H. The Department has assessed visual impacts in the context of the existing building, the local planning controls and view impacts both from Port Stephens waterways and the streetscape.

Existing Building

The Salamander Shores Hotel was constructed in 1969 and is described in the EA as “an outdated and monolithic building with limited public benefits”. It has a narrow footprint and generally extends along the site's southern and eastern boundaries. It generally reaches a height of RL 30 in its southwestern corner (with the lift overrun reaching RL 32) and steps down towards the north (refer to **Figure 7** below).

Figure 7 – Existing Hotel Footprint and height



Council controls and Coastal design principles

Part B4 of the Port Stephens Development Control Plan 2007 (the DCP) contains controls for commercial and mixed use developments. The DCP specifies that development on the site must have a maximum floor space of 1.8:1 and not exceed 2 storeys and 8m in height. The proposal complies with the FSR control but exceeds the height control (refer to **Table 3**).

Table 3: Height & FSR Compliance (Port Stephens DCP 2007)

Building	DCP control	Proposed	Variation (storeys)
Building A	2 storeys / 8 metres	5 storeys / 16 metres	3
Building B		7 storeys / 25 metres	5
Building C		3 storeys /14 metres	1
Building D		4 storeys / 16 metres	2
Building E		4 storeys / 16 metres	2
Building F		5 storeys / 17 metres	3
Building G		5 storeys / 15 metres	3
Building H		5 storeys / 17 metres	3
Floor Space Ratio			
All buildings	1.8:1	1.6:1	Nil

Council's commercial and mixed use development controls promote a form of development that is best located within town centres (i.e. street edge buildings, reduced setbacks). The subject site is not part of a centre, being an island (i.e. surrounded by land zoned open space), in a prominent coastal location. In this regard it is considered that a strict application of Council's controls will not achieve the best environmental or future development outcomes for the site.

The Proponent has undertaken an urban design analysis (including an opportunities and constraints analysis and visual impact assessment) to create a concept which best fits the site. This approach is consistent with the *NSW Coastal Design Guidelines* which recommend that development on prominent coastal sites stay within existing building envelopes unless urban design characteristics generate an alternate solution which responds to a site's significant characteristics and the desired future character of the area.

An assessment of the height, overshadowing, visual impact, bulk and scale, streetscape and landscape impacts is detailed below.

Height, overshadowing and visual impacts

Coastal impacts

A key finding of the Proponent's opportunities and constraints analysis is that the development's visual impacts can be mitigated if building heights are generally limited to the height of the tree canopy. The Department generally concurs with this design approach as the benefit of the vegetation screen is apparent under the existing conditions. An analysis of whether the proposed building envelopes sit within the vegetation screen is made below.

Figure 8 identifies sensitive viewpoints of the site from Port Stephens, these being: the public jetty (A), Port Stephens waterbody (B) and Wanda headland.

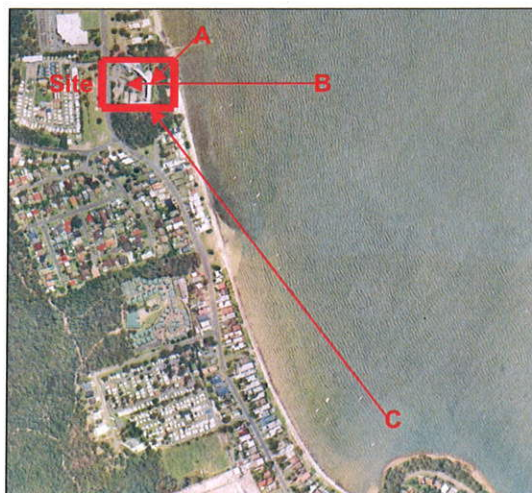
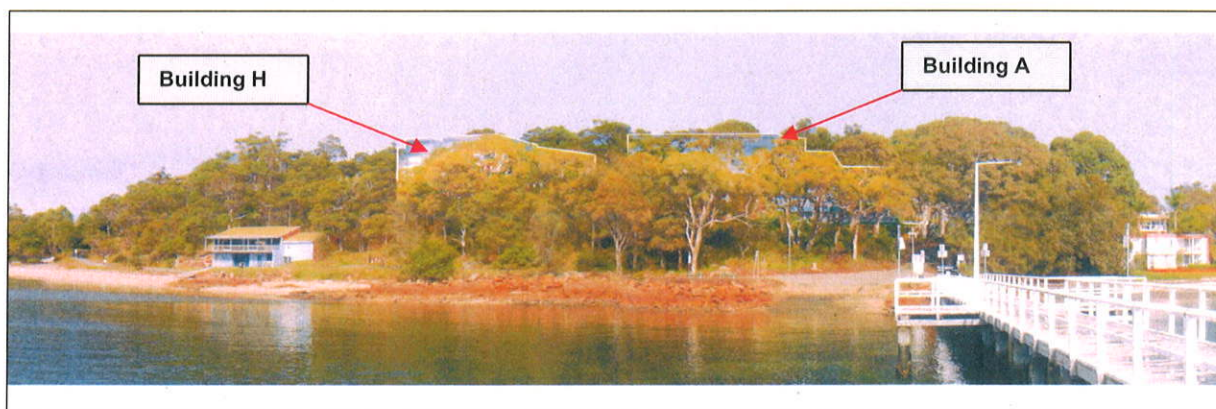
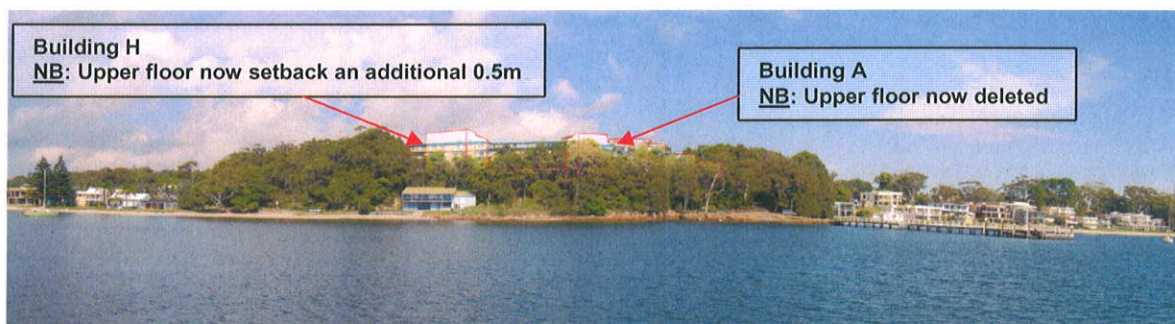
Figure 8 - Sensitive viewpoints

Figure 9 illustrates the visual impact from Viewpoint A. The vegetation in the public reserve significantly screens the development from this viewpoint. The upper floors of the buildings protrude above the canopy, but are not visually dominant or significantly more visible than the existing hotel.

Figure 9: Proposed development from viewpoint A

The tree canopy dips at the midpoint of the eastern boundary making Building H more prominent when observed from Viewpoint B (refer to **Figure 10**). The existing hotel has an elongated and unrelieved form from this viewpoint. The proposed development has two building envelopes (Building H) and (Building A) separated by 32m (approx). The separation provides relief in the built form and an improved visual outcome when compared to the existing building.

Figure 10: Photomontage from viewpoint B

The site is prominent when viewed from Wanda headland (refer to **Figure 11**). However, most views of the buildings will be filtered or heavily screened both by vegetation along the outer edge of Wanda headland and vegetation in the foreshore reserve facing the headland. In addition, the views from headland will be approximately 1 kilometre away which will assist in mitigating any adverse visual impact.

Figure 11 - View from Wanda headland – Viewpoint C



Potential overshadowing of the foreshore area is an important consideration when considering height. The development will not create any greater overshadowing of the foreshore than currently occurs from the existing building. There will be small changes in the overshadowing of the adjoining reserve (some areas gain and others lose sunlight); however the overall impact is considered neutral.

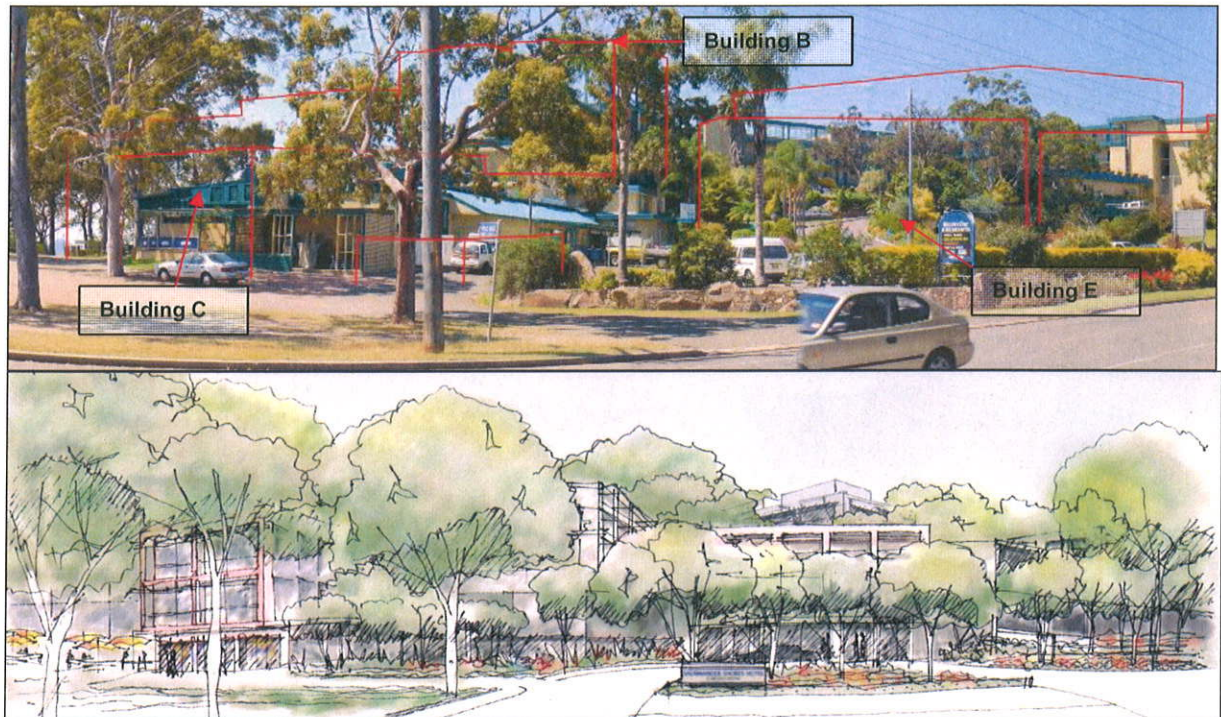
Streetscape Impacts

Council's height control seeks to achieve development of a scale and height consistent with the existing and desired character of the street. The DCP does not nominate a specific desired future character for this area. The height of existing development in the area varies, with buildings on the subject site having a greater height (4 storeys) than the surrounding development (generally 1 – 2 storeys).

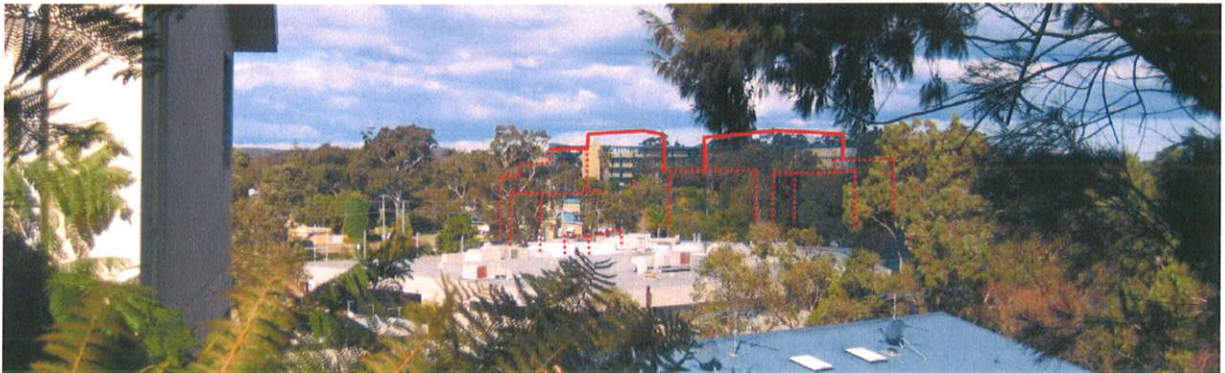
Scale is a relative measure of a building's height in relation to the height of other nearby buildings. The separation of the site (both visually and physically) from surrounding buildings makes it capable of having buildings of a different height to surrounding development, without disrupting the streetscape pattern.

Figure 12 shows the proposed development from the north. Building C is setback 1 metre from the northern boundary and is three storeys in height. It has been placed to activate the street edge. The height of the building is acceptable for a street edge in a commercial zone. Its visual impact will be mitigated by the existing screening vegetation.

Building B is the tallest building in the development. It is centrally located and surrounded by the other buildings in the development. Its visual impacts will be adequately mitigated by its setbacks, and the screening provided by the surrounding buildings and vegetation.

Figure 12: Photomontage and artist's impression looking south east from Soldiers Point Road

The western portion of the site is currently occupied by open car parking. These will be replaced by Buildings D – G, which are 5 storeys in height. The buildings have an articulated form, step in response to the topography, and will be separated from the street by a landscaped buffer. Figure 13 shows the visual impact of these buildings from the northwest. The impact from this viewpoint is lessened as it is viewed across a built up area, which includes the large roof of the bowling club.

Figure 13: Photomontage of the site from the northwest

Bulk and Scale

The site has a number of characteristics which assist in mitigating the development's bulk and scale, these are:

- It is setback from the water;
- It is surrounded by land zoned open space containing native bushland; and
- It is well screened by dense vegetation.

The Department considers the bulk and scale acceptable because:

- the proposed setbacks are reasonable in a business zone context;

- the larger buildings are shielded by landscape screening available;
- the larger buildings are behind other buildings as is the case for Building B;
- the hotel buildings fronting Soldiers Point Road will be setback a minimum of 12 metres and stepped in response to the landform; and
- future applications will be required to consider building articulation and appropriate landscaping of sufficient height and maturity to assist in screening and breaking up the bulk.

Landscaping and site coverage

The existing hotel has a modest site coverage, with the buildings largely contained on the eastern portion of the site. The proposed development increases site coverage, as it includes buildings on the eastern and western portions of the site.

Although the development will increase site coverage, significant open areas are proposed, with 30% of the site deep soil landscaping. In addition to the deep soil landscaping, other landscaped areas, such as the central courtyard will be provided. The extent of site coverage is reasonable for a business zone.

The deep soil landscaping is largely located in a strip around the perimeter of the site. This landscaping strip provides a buffer to the adjoining reserve and allows for screen planting.

Conclusion

The Department has assessed the height, bulk and scale on its merits in the context of the existing building, the location of the site and its immediate surrounds, and visual impacts from the street and water. The proposal is considered to be appropriate for the site.

5.2 Traffic, access and parking

Traffic and access

The surrounding road network (refer to **Figure 14**) consists of the following:

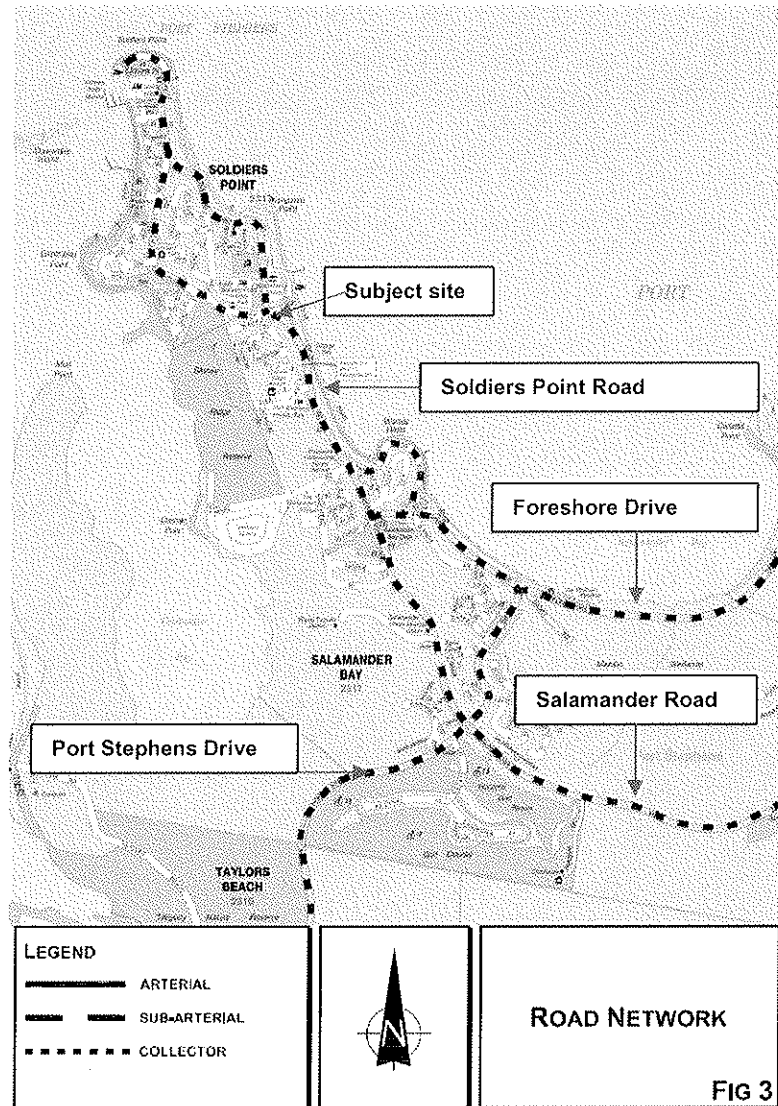
- Nelson Bay Road - This is a sub-arterial road linking Port Stephens and the Pacific Highway. This is a state road under the control of the RTA;
- Port Stephens Drive - a collector road between Salamander Bay and Nelson Bay Road;
- Salamander Road - a collector road between Nelson Bay Road and Soldiers Point; and
- Foreshore Drive - Sandy Point Road – Government Road - a collector road which extends along the foreshore.

The proposed development will generate the following traffic:

Table 4 – Proposed Traffic Generation

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

Figure 14 – Road network



Council did not raise any concerns relating to traffic impacts on its road network. The RTA's Hunter Region Development Committee considered the project and advised that it would not significantly impact the classified road network. The Proponent modelled the existing and proposed performance of the road network and found that it would function satisfactorily at peak times following full development.

Table 4 illustrates that the hotel and serviced apartments generate the majority of traffic for the proposal. The proposed hotel/serviced apartments are not significantly larger than the existing hotel and as such will have a similar traffic impact. The traffic increase from the new uses (the residential/other) is minor. Accordingly, the overall increase in traffic resulting from the proposal is considered relatively minor.

It is proposed to have 3 vehicle access points to the site, these being:

- A combined ingress/egress driveway on Soldiers Point Road for the carpark and service vehicles;
- An ingress driveway on the road reserve (on the northern boundary) for porte-cochere and coach access; and,
- An egress driveway on Soldiers Point Rd for the porte-cochere and coach egress.

In the vicinity of the site, Soldiers Point Road is relatively straight and flat. The entry points will have good sight distances providing safe access and egress.

Parking

It is proposed to provide 275 parking spaces, which is less than the 282 spaces required by the DCP. The proponent's traffic engineer has argued that the shortfall is acceptable as the development will attract multiple users (i.e. visitors staying in accommodation will visit the restaurant/lounge bar) which will reduce the demand for car parking. This argument is supported by the Department and Council's Traffic Engineer.

To respond to concerns regarding parking for visitors using the public elements such as the bar, café and retail, the proponent has committed to dedicating 75 spaces on the ground floor level of the parking area to these uses.

The proposed car parking sits under various buildings. There is a need for the proponent to demonstrate how the parking area will operate if the buildings are held in separate ownership in the future. In this regard, subsequent applications will be required to prepare a Traffic and Pedestrian Management Plan which needs to address car parking arrangements.

Internal road and pedestrian network

Amendments have been made to internal circulation and access arrangements to remove conflict points and improve access around the site. The amendments include providing pedestrian crossing points near the reception, increasing the width of the walkway near the reception and providing a pedestrian access from the residential building to Soldiers Point Road.

To ensure that internal traffic movement issues are dealt with strategically across the site in future applications, a future environmental assessment is required to develop a Traffic and Pedestrian Management Plan.

Conclusion

On balance, it is considered that traffic, access and parking for the development can be managed to mitigate any adverse impacts on the surrounding road network and the amenity of surrounding residents. Future environmental assessment requirements are recommended to ensure on-going management of traffic once the site is operational.

5.3 Environmental Issues

Bushfire

The site is classified as bushfire prone because of the vegetation within the adjoining public reserve and must comply with the requirements of *Planning for Bushfire Protection 2006* (PBP 2006). The key requirement of PBP 2006 is the need to create and maintain a buffer between the development and bushfire hazard.

Asset Protection Zones (APZ) of various widths are proposed around the site. Part of the public reserve is proposed to be maintained as a part of the APZ. Council has advised that it does not have an objection to considering a proposal for an APZ on its land, but it would need to go through the reclassification process, which involves the preparation of a Planning proposal under Part 3 of the EP & A Act and the undertaking of a public meeting. Future environmental assessment requirements are recommended to require that an easement is created prior to any future determinations being issued for the site.

If an easement or suitable APZ cannot be created over adjoining land, higher construction standards for buildings closest to the hazard will need to be employed or the project amended in accordance with the requirements for PBP 2006 and the relevant Australian Standard.

Coastal processes

The lowest sections of the site have a height of around 6.5m AHD. The Port Stephens Flood study identifies the current 100 year (ARI) flood level as being RL 2.4 m AHD. The Department's Sea Level Rise Policy requires that allowance be made for a sea level rise of 0.9m. A flood level of RL 3.8 AHD can therefore be adopted (including 0.5m freeboard). Given the lowest natural ground level is RL 6.5m AHD, the site will not be subject to flooding or impacted by sea level rise.

Coffey Geotechnics undertook a geotechnical investigation and found that the site is an elevated outcrop of high strength volcanic rock. As a result, coastline hazards such as erosion and recession will not affect the site.

Water cycle management

The Proponent has prepared a Stormwater Concept Plan which shows that existing and proposed infrastructure and Water Sensitive Urban Design measures can accommodate proposed discharges of stormwater.

NOW and Council have raised concerns regarding proposed methods of treatment and discharge, and have recommended further assessment requirements be applied requiring the preparation of a Stormwater Management Plan and adoption of Water Sensitive Urban Design measures. Future environmental assessment requirements are recommended to address this issue.

Aboriginal Cultural Heritage

The Proponent carried out consultation in accordance with the Office of Environment and Heritage guidelines. Although no further studies are required, future environmental assessment requirements require the preparation of a Cultural Management Plan which details on-going consultation with relevant LALC and authorities if required during the construction of the project.

Flora and fauna

The Office of Environment and Heritage (OEH) reviewed the Proponent's ecological assessment report and generally agrees with its conclusion that the development is unlikely to have a detrimental impact on threatened species and ecological communities.

The flora and fauna assessment report considered the impact of the development on two threatened orchid species, these being the Red Helmet and Leafless Tongue orchids. The report concluded that there was unlikely to be an occurrence of these species, due to a lack of suitable habitat and site disturbance. OEH acknowledged that the site is predominantly disturbed and offers only a small area of intact vegetation, but is of the view that there is still potential for the orchids to occur and has recommended that a further assessment requirement be imposed that requires surveying to be undertaken for these species prior to commencement of construction. It is Council's view that the surveying should occur prior to determination of the current Concept Plan and Project Application for demolition.

Figure 15 below shows the forest area which is the likely potential habitat for the orchids and the section of the proposed footprint which falls within that area.

The Department supports the approach recommended by the OEH, for the following reasons:

- the Proponent will be required to undertake the necessary surveying prior to any construction or demolition. If a large population of orchids is found, in-situ preservation may be required;
- the likely area of potential habitat for the orchids is limited and as such, if in-situ preservation is required, amendments can be made to the concept plan which are unlikely to affect its overall integrity; and
- the potential habitat is small in area and has been subject to disturbance, which limits the likelihood of the orchids occurring.

OEH further requested that a condition be imposed to require preparation of a hollow bearing tree removal plan to ensure that any disturbed fauna are properly protected. The Proponent has committed to preparing a plan in consultation with OEH prior to construction.

Figure 15 – Potential orchid habitat



5.4 Development Contributions

The proposed development will generate the need for future development contributions. The extent of contributions will be determined in the assessment of future development applications and levied through appropriate conditions of consent.

5.5 Residential Amenity

A SEPP 65 Statement has been provided by Daryl Jackson Robin Dyke Architects stating that future project applications for the site will meet SEPP 65 design quality principles. The scheme in the revised PPR is generally consistent with the SEPP 65 guideline: Residential Flat Design Code (RFDC).

The indicative apartment layout would provide 50% (20) of apartments with 3 hours of access to direct sunlight in midwinter, which is less than the 70% sought by the RFDC. The envelope has been developed to make best use of the site's orientation and available views. The non-compliance amounts to 8 apartments. The level of direct sunlight received by the apartments on the southern side of the building can be improved during the detailed design, by amending the width of the apartments on the northeastern and western corners. A further assessment requirement is proposed which requires compliance with SEPP 65.

6. RECOMMENDATION

The Department has assessed the merits of the proposal taking into consideration the issues raised in the submissions and is satisfied that the impacts have been addressed in the PPR, the revised statement of commitments and recommended terms of approval.

The Department is satisfied that the changes to the proposed development both in the PPR and as required by recommended terms of approval satisfy the Department's concerns.

The proposed development will have long term social and economic benefits for the Port Stephens area including employment opportunities during construction and operation of the development, increased housing supply and diversity in choice, an upgraded tourist facility to encourage additional visits and associated commercial activity in the area and conference facilities to accommodate mixed business/tourist functions.

The Department recommends approval of the concept plan for a mixed use residential and tourist development providing for 8 building envelopes and their uses, respective building heights, total gross floor area, access and parking, together with the project approval for demolition and site clearance works. The proposal in concept has largely demonstrated compliance with relevant environmental planning instruments. It has been modified to respond to concerns regarding visual impact and urban design, traffic and access and is now assessed to be acceptable for approval, subject to terms of approval.



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Director - Metropolitan and Regional Projects South



Chris Wilson
**Executive Director
Major Projects Assessment**

1/9/2011
2.9.11

APPENDIX A ENVIRONMENTAL ASSESSMENT

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX B SUBMISSIONS

See the Department's website at <http://majorprojects.planning.nsw.gov.au>

APPENDIX C PROPONENT'S RESPONSE TO SUBMISSIONS

See the Department's website at <http://majorprojects.planning.nsw.gov.au/>

APPENDIX D CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (Major Development) 2005

See section 3.1 in assessment report.

State Environmental Planning Policy (Infrastructure) 2007

The project falls under Schedule 3 of the ISEPP and was referred to the NSW Roads and Traffic Authority (RTA). The RTA (see section 4.2.8) had no objections to the proposal.

State Environmental Planning Policy No. 44 – Koala Habitat Protection

Port Stephens Council has prepared a Comprehensive Koala Plan of Management for the Port Stephens LGA which provides performance based criteria to be used for assessment.

The proponent's flora and fauna assessment concludes that preferred koala tree species will not be adversely affected given that the project is infill development, and involves retention of trees wherever possible. The proponent has committed to providing fencing which excludes koalas from the pool, to planting additional feed trees, and to suitably designing perimeter fencing to prevent it be a barrier to koala movement.

State Environmental Planning Policy No. 55 – Remediation of Land

The site was historically used for agricultural purposes; and the Salamander Shores hotel built on the site in 1969. Occurrences of fill, storage areas (including general and pool storage) and maintenance shed/fuel storage areas on site present the potential for contamination.

Assessment for contamination on site has occurred in accordance with SEPP 55 and involved a Phase 1 and 2 Environmental Assessment. Areas of environmental concern underwent further testing. Based on laboratory testing, the proponent's assessment concluded that the likelihood for contamination at the site was low and further investigations (including management or remediation) are not required.

State Environmental Planning Policy No. 65 – Design of Residential Flat Buildings (SEPP 65)

The proposed development in concept has been assessed in accordance with the provisions of SEPP 65 and the *Residential Flat Design Code* accompanying the SEPP. The building envelope for the apartment building has generally been designed and located in consideration of those principles.

The indicative apartment layout would provide 50% (20) apartments with 3 hours of access to direct sunlight in midwinter, which is less than the 70% sought by the rules of thumb. The envelope has been placed to make best use of the sites orientation and available views and is acceptable. Further detail including a detailed SEPP 65 Design Statement and Architect's Verification Statement will be supplied with the future DA for the residential flat building.

State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71)

SEPP 71 applies as the site is located within the coastal zone. The proposal is consistent with the relevant controls in that it represents an improved redevelopment of an existing tourist facility, maintain public access to the foreshore, conserve biodiversity, avoid land subject to coastal processes and hazards, protect Aboriginal and European heritage, represents infill development within an existing urban area and responds to site characteristics to mitigate visual impact.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The SEPP's principles, against which future applications will be assessed, have been incorporated into the proposal.

The following Acts are also relevant to the proposal:

Environmental Protection and Biodiversity Conservation Act, 1999 (Cth)

Approval from the Commonwealth Environment Minister is required under the EPBC Act if the action will, or is likely to, have a significant impact on matters considered to be of national environmental significance. The following species were assessed for impacts under EPBC Act guidelines in the Flora and fauna assessment report: Grey-headed flying-fox (*Pteropus poliocephalus*); Large-eared Pied bat (*Chalinolobus dwyeri*); Satin Flycatcher (*Myiagra alecto*). The Flora and Fauna Assessment Report prepared found that the proposal is unlikely to have significant impacts on these species based on the criteria of assessment and approval from the Commonwealth Environment Minister is not required.

Threatened Species Conservation Act 1995 (NSW)

The proposal is considered as consistent with the Threatened Species Conservation Act (TSC Act) objects to protect and encourage the recovery of threatened species, populations and communities listed under the Act. The Flora and Fauna Assessment Report provided an assessment of the proposed project in relation to the Assessment Guidelines and conditions of approval have been recommended to ensure compliance with the TSC Act.

Other plans and policies considered in the assessment of the proposal:

NSW Coastal Policy 1997

The *NSW Coastal Policy 1997* responds to the fundamental challenge to provide for population growth and economic development without placing the natural, cultural, spiritual and heritage values of the coastal environment at risk. The Policy is based on the principles of ecologically sustainable development, and addresses a number of key coastal themes including population growth, coastal water quality issues and establishes a comprehensive and representative system of reserves.

NSW Coastal Design Guidelines

The *NSW Coastal Design Guidelines* aim to ensure that future developments and redevelopments are sensitive to the unique natural and urban settings of coastal places in NSW. The Guidelines provide an urban design focus for the coastal context. The coastal policies and guidelines are relevant legislation and planning provisions applicable to the site. The Guidelines recommend setbacks to protect the natural edges of coastal settlements: "For new developments the foreshore setbacks should be at least 50m wide as a precautionary measure where possible." The proposal will be setback approximately 80m from the foreshore and, given the site characteristics is considered satisfactory, and complies with the Guidelines.

Port Stephens Tourism Plan 2010 Action Plan

The proposal is consistent with the Action Plan's recommendations to 'improve the quality and range of accommodation' by providing a variety of accommodation types including a hotel and serviced apartments. Other key recommendations of the Action Plan seek to create and strengthen the conference and tourism market in Port Stephens which will be addressed by the proposal's inclusion of contemporary conference facilities.

Port Stephens Economic Development Strategy

Port Stephens Council has developed an Economic Development Strategy to identify opportunities for the economic growth of its region and develop a strategy to implement its short and medium term priorities. The proposal addresses a key weakness identified in the strategy,

which is the gap in large conference facilities which are needed to capture a share of the business visitor market.