

6 May 2024

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

Attention: Ryan Lennox Planning Officer, Regional Assessments

Dear Keiran,

**RE: MP06_0183 MOD 4 - SECTION 75W MODIFICATION APPLICATION TO MODIFY CONCEPT PLAN
MP06_0183 - MIXED USE RESIDENTIAL/TOURIST DEVELOPMENT
RESPONSE TO SUBMISSIONS REPORT
147 SOLDIERS POINT ROAD, SOLDIERS POINT (LOT 31 DP 529002)**

Milestone (AUST) Pty Limited (Milestone) acts on behalf of Salamander Properties Pty Ltd (Bannisters Hotel) in relation to the Section 75W Application to modify the Concept Plan Approval No. MP06_0183 approved by the Minister's Delegate on 4 September 2011, for a "*mixed use residential/tourist development*" for the property known as No. 147 Soldiers Point Road, Soldiers Point.

Section 75W Modification Application MP06_0183 MOD 4 (MOD 4) was publicly exhibited from 5 March 2024 to 18 March 2024. A total of two community submissions were received from anonymous individuals. In addition, a submission was also received from Port Stephens Council (Council) dated 3 April 2024 (held at **Attachment A**), as well as four submissions from NSW Government agencies, including.

- NSW Rural Fire Services dated 18 March 2024 (held at **Attachment B**).
- Department of Climate Change, Energy the Environment and Water (Biodiversity and Conservation Division) dated 20 March 2024 (held at **Attachment C**).
- Department of Climate Change, Energy the Environment and Water (Water Knowledge Division) dated 8 April 2024 (held at **Attachment D**).
- Crown Lands dated 20 March 2024 (held at **Attachment E**).

This letter provides a response to the two submissions received over the exhibition period and referral process undertaken by the Department of Planning, Housing and Infrastructure (Department). No further design development is proposed as part of this response, nor was there any requirement to prepare further consultant advice in response to the comments received.

1.0 RESPONSE TO SUBMISSIONS

1.1 Government Agency Submissions

NSW Rural Fire Service (RFS)

The submission from RFS dated 18 March 2024 accepts the recommendations to mitigate bush fire risk provided within the Bushfire Response to MOD 4, dated 5 December 2023 prepared by Bushfire Environmental Management Consultancy. This response from NSW Rural Fire Services is noted.

Department of Climate Change, Energy the Environment and Water (Biodiversity and Conservation Division)

The submission from Department of Climate Change, Energy the Environment and Water (Biodiversity and Conservation Division) (DCCEEW Biodiversity and Conservation) dated 20 March 2024 states that the modified proposal (MOD 4) has been reviewed for biodiversity, flooding, and coastal risk matters. DCCEEW Biodiversity and Conservation raise no issues or comment. This response from DCCEEW Biodiversity and Conservation is noted.

Department of Climate Change, Energy the Environment and Water (Water Knowledge Division)

The submission from Department of Climate Change, Energy the Environment and Water (Water Knowledge Division) (DCCEEW Water Knowledge Division) dated 8 April 2024 states that the previous advice raised by the then DPE Water under MOD 2 remain satisfied by the modified proposal (MOD 4). This response from DCCEEW Water Knowledge Division is noted.

Crown Lands

The submission from Crown Lands dated 20 March 2024 provides no comment. This response from Crown Lands is noted.

1.2 Port Stephens Council Submission

Ryan Falkenmire, Development Planning Coordinator of Council provided comment in relation to MOD 4 via email correspondence on 3 April 2024 to the Department (held at **Attachment A**). Council's Planning, Ecology and Engineering staff provided no further comments beyond those made in the previous Council submission dated 21 January 2022, relevant to Concept Approval MP06_0183 MOD 2 (MOD 2) (held at **Attachment F**).

Milestone has undertaken a review of the key issues raised in Council's previous submission for MOD 2 in consideration of the modified proposal (MOD 4) and respond as follows:

- **Issue:** Drainage
Response: A Flood Certificate will be obtained at the Development Application stage.
- **Issue:** Traffic
Response: Sufficient numerical traffic analysis has been provided to support the modified proposal under MOD 4 within the Traffic and Parking Assessment dated 27 November 2023 prepared by Colston Budd Rogers and Kafes Pty Ltd (CBRK). The traffic effects of MOD 4 will be similar to or less than the approved development (MOD 2).
- **Issue:** Parking
Response: The Traffic and Parking Assessment dated 27 November 2023 prepared by CBRK calculates the minimum required number of car parking spaces in accordance with Part B8 of *Port Stephens Development Control Plan 2014* (DCP 2014). The proposed provision of 320 car spaces under MOD 4 satisfies Council's requirements.
- **Issue:** Noise
Response: An acoustic assessment will be carried out by a suitably qualified consultant at the Development Application stage to ensure that the modified development on the site has suitable acoustic mitigation measures if required to ensure reasonable amenity for the permanent residential component.
- **Issue:** Acid Sulfate Soils
Response: The Geotechnical Review of MOD 4 dated 21 November 2023 prepared by Tetra Tech Coffey concludes that the previous findings, discussion and conclusions outlined in Tetra Tech Coffey's previous reports relevant to Concept Approval MP06_0183 (as modified) remain valid. Therefore, the likelihood for significant contamination to be present at the site continues to be low, and a further assessment will be obtained to accompany the future Development Application.
- **Issue:** Water Management
Response: Detailed Soil and Water Management Plans will be prepared prior to the commencement of any demolition and construction works.

1.3 Public Submissions

A total of two public submissions were received from anonymous individuals via the online submissions link provided by the Department during the public exhibition period from 5 March 2024 to 18 March 2024. These online submissions are summarised in **Table 1**.

Table 1: Summary of Public Submissions

	Position	Submission Extract
1	I support it	Hi Michael, We are a local family and cannot wait for this development to go ahead!
2	I am just providing comments	what effect will this create with traffic flow along soldiers point road and access to boat ramp? and will cheeky dog hotel remain as part of the new build and what time period are the works expected to take

Submission 1 provides a general statement of support for MOD 4 and is noted. Submission 2 seeks further clarification in relation to MOD 4. The queries raised within Submission 2 and Milestone's response are provided below.

Traffic flow along Soldiers Point Road and Access to the Boat Ramp

The Traffic and Parking Assessment Report dated March 2022 prepared by Transport and Traffic Planning Associates (TTPA) provides an assessment of the approved Concept Plan under MOD 2 and demonstrates that the additional trips created by the proposed development are minor, and unlikely to result in adverse impacts on the surrounding road network, including Soldiers Point Road. Port Stephens Council did not raise any concerns in regard to the trip generation rates or overall traffic generation indicated from the proposed development under MOD 2. The former Department of Planning and Environment was also satisfied that the modified proposal was acceptable and would result in negligible additional traffic impacts, as stated in the Department's Assessment Report for Modified Concept Approval MP06_0183 MOD 2 MOD 2 dated June 2022.

The Traffic and Parking Assessment dated 27 November 2023 prepared by CBRK provides an assessment of the new modified development proposed under MOD 4 and relies on the previous traffic study undertaken by TTPA. With 21 less residential apartments and five less hotel rooms proposed under the current modified scheme (MOD 4), CBRK concluded that traffic generation would be some 5-10 vehicles per hour lower than the approved development. The traffic effects of MOD 4 will therefore be similar to or less than the approved development (MOD 2).

In regard to access to the boat ramp, the modified development (MOD 4) will not alter existing access to Soldiers Point Jetty and the adjacent boat ramp, which is provided via an accessway (shown in **blue** in **Figure 1**) outside of the site's boundaries (shown in **red** in **Figure 1**). Access to the Jetty and boat ramp will also not be impacted during construction of the development and will remain unobstructed at all times,



Figure 1: Existing Access to Soldiers Point Jetty and Boat Ramp outside of Subject Site
Source: SIX Maps, 2024

Continued Operation of Cheeky Dog Hotel

The modified development proposed under MOD 4 includes a 'pub' component and the operation of the Cheeky Dog Hotel will continue to operate as part of the new development.

Construction Duration

The proposed works will be delivered under a single Development Application to be lodged with Port Stephens Council and this lodgement is targeted for later in 2024. The time period to facilitate construction of the proposed development is expected to be 12 to 18 months.

3.0 Conclusion

Milestone has undertaken a comprehensive review of the two public submissions received during the public exhibition of the modified proposal under Section 75W Modification Application MP06_0183 MOD 4. Further we have reviewed comments received by Port Stephens Council and NSW Government agencies.

A considered and detailed response to key queries and/or matters raised within the submissions has been provided in this letter. No further design development is proposed as part of this response, nor is there any requirement to prepare further consultant advice in response to the comments.

We trust the above information is sufficient to enable the assessment of the Modification Application No. MP06_0183 MOD 4 to be finalised promptly. If you require clarification on any matter, do not hesitate to contact the undersigned.

Yours sincerely

Milestone (AUST) Pty Limited



Luke Signoretti
Associate



Lisa Bella Esposito
Director

ATTACHMENT A

**PORT STEPHENS COUNCIL SUBMISSION
DATED 3 APRIL 2024**

Hi Michael,

Just tried to call you on this matter.

Council's planning, ecology and engineering staff have reviewed the development proposal and information on exhibition. Council has no further comments beyond those made in our previous submission.

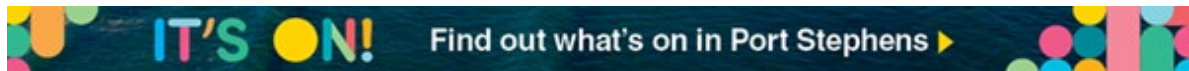
Thank you for affording Council additional time to review the documents.

Kind Regards,



Ryan Falkenmire
Development Planning Coordinator

p 02 4988 0562 | m 0428 623 300
w portstephens.nsw.gov.au



We acknowledge the Worimi people as the original Custodians and inhabitants of Port Stephens.

We acknowledge and pay respects to Worimi elders past and present. May we walk the road to tomorrow with mutual respect and admiration as we care for the beautiful land and waterways together.
Artwork by Adam Manning.



ATTACHMENT B

**NSW RURAL FIRE SERVICES SUBMISSION
DATED 18 MARCH 2024**

Department of Planning, Housing & Infrastructure
(Parramatta)
Locked Bag 5022,
PARRAMATTA NSW 2124
Australia

Your reference: MP06_0183 MOD 4
Our reference: DA-2008-08237-S4.55-3

ATTENTION: Michael Doyle DPHI

Date: Monday 18 March 2024

Dear Sir/Madam,

Development Application

Other - Part3A - (none)

Notice of Exhibition - MP 06_0183 MOD 4 147 SOLDIERS POINT ROAD SOLDIERS POINT NSW 2317, 31//DP529002

I refer to your correspondence regarding the above proposal which was received by the NSW Rural Fire Service on 05/03/2024.

Approved Mixed use tourist development. MOD 4 - reduction in apartments and hotel rooms. In 2006 the land was mapped Bushfire Prone Land. Since 2018, the land has not been mapped Bushfire Prone Land.

The following bushfire recommendations have been submitted by the bushfire report to mitigate bush fire risk to acceptable levels:

- The s88b easement for the installation of an Asset Protection Zone within the council reserve is not required.
- The entire lot be managed to Inner Protection Area Standards of an Asset Protection Zone.
- The existing water hydrant in the south-eastern corner be maintained.
- Vehicle access along the grass verge associated with Soldiers Point Road be provided to the existing water hydrant.
- A live fire hose connected to reticulated water mains, constructed in accordance with AS/NZS 1221:1997 Fire hose reels, and installed in accordance with AS 2441:2005 installation of fire hose reels is located in the south-eastern corner of the lot between the building and vegetation to the south.
- A clear pedestrian access path is provided between the existing water hydrant in the south-eastern and fire hose in the south-eastern corner.
- All glazing elements along the southern elevation of the proposed building be to BAL29 construction standards.

The Bushfire consultant recommendations are accepted.

For any queries regarding this correspondence, please contact Alan Bawden on 1300 NSW RFS.

Yours sincerely,

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

ATTACHMENT C

**DEPARTMENT OF CLIMATE CHANGE, ENERGY THE ENVIRONMENT AND WATER
(BIODIVERSITY AND CONSERVATION)
DATED 20 MARCH 2024**

Hi Andrew

Apologies for the late response.

BCD has reviewed the application for biodiversity, flooding and coastal risk issues and has no issues to raise or any comments.

Regards

Steven Crick

Senior Team Leader – Planning
Hunter Central Coast Branch
Biodiversity & Conservation Division
**Department of Climate Change,
Energy, the Environment and Water**

6 Stewart Avenue, Newcastle, 2300
Locked Bag 1002, Dangar, 2309
T 02 4927 3248
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ATTACHMENT D

**DEPARTMENT OF CLIMATE CHANGE, ENERGY THE ENVIRONMENT AND WATER
(WATER KNOWLEDGE DIVISION)
DATED 8 APRIL 2024**

Hi Michael and Ryan,

Thanks for identifying the advice previously provided by the then DPE Water and instruments of approval that are already in place. The matters raised by DCCEE Water in its most recent advice have been satisfied.

Regards,

Rob Brownbill
Manager Water Assessments

Water Knowledge Division

Department of Climate Change, Energy, the Environment and Water

M 0428 688 954 | **E** rob.brownbill@dpie.nsw.gov.au

620 Macauley Street, Albury NSW 2640

www.dpie.nsw.gov.au

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

ATTACHMENT E

**CROWN LANDS SUBMISSION
DATED 20 MARCH 2024**

Hi Andrew

Apologies for the delay, I've check with the DO and they have no further comments.

Cheers

Rebecca Southern

Project Support Officer Governance

ATTACHMENT F

**PORT STEPHENS COUNCIL SUBMISSION DATED 21 JANUARY 2022, RELEVANT TO CONCEPT
APPROVAL MP06_0183 MOD 2**

21 January 2022

Department of Planning, Industry & Environment
GPO Box 39
Sydney NSW 2001

APPLICATION NO: MP 06_0183 MOD 2
PROPOSAL: Mixed Use Residential/Tourist Development
PROPERTY: 147 Soldiers Point Road, Soldiers Point

Thank you for your correspondence dated 16 November 2021 requesting Council's comments for the above development. Council has considered the likely impacts of the modification and makes the following comments.

Drainage:

The drainage plan has been appropriately updated to incorporate/address current principles of Australian Rainfall and Runoff ("AR&R 2019").

The flood planning levels should be informed onsite by a flood certificate which can be applied for via Council's website.

Traffic:

The traffic impact assessment lacks the numerical analysis regarding traffic volumes and adequacy of proposed access that you'd expect with the following comment provided: "While the previously proposed serviced apartments are now to be residential apartments and there will be a slightly greater number, the occupants will have significant elements of retiree's and holiday rental and the traffic outcome for the revised development scheme will be very similar. It is noted that vehicle access points will remain the same as that for the previous approval and it is apparent that the traffic outcome will be quite satisfactory being comparable to that of the previously approved development."

The numerical basis, or assumptions adopted, should be provided to support the above statement.

Parking:

It is important to treat the car parking numbers on a merits basis, through an explanation of the actual operations onsite but there should also be a clear consideration for where overflow parking would go to if/when full occupancy occurs in the future.

Noise:

The modification proposes an increase in permanent residential apartments, from 40 to 98. Approval is also sought to increase the number of hotel rooms from 84 to 90. Whilst the modification indicates a clear separation of residential and hotel accommodation, it is noted that operational and recreational spaces such as reception, back of house and bar form part of the residential apartment buildings. Prior attention has been given to noise impacts from a traffic management perspective. Greater consideration, assessment and planning for potential noise impacts associated with daily operations and the transient nature of short term accommodation is recommended beyond the concept planning stage.

External to the development site, the closest residential receivers are noted to be 145 and 145A Soldiers Point Road, Soldiers Point. As the modification proposes to increase permanent residency options, any ongoing noise impacts are unlikely to exceed the current operational levels of the existing development.

Acid Sulfate Soils:

Class 4 and 5 Acid Sulfate Soils (ASS) are applicable to the site. Section 10.9 of the *Milestone Environmental Assessment (November 2021)* refers to a prior Geotechnical Assessment, noting an updated report addressing the relevant criteria for ASS will be prepared to accompany the subsequent development application. This would be recommended given the proposed basement works to facilitate underground car parking.

Water Management:

Stormwater and ground water should be monitored whereby ASS and/or other pollutants are encountered during demolition and construction. An updated Geotechnical Assessment may provide recommendations and plans in monitoring and responding to any detrimental impact to water quality. Neutral or beneficial effect on water quality (NorBE) should be achieved during all stages of development, as supported by the *WorleyParsons Water Management, Flooding and Coastal Processes Report 2010 and Advisian Statement Addendum Report 2021*.

It is noted that stormwater will (continue to) be facilitated by the western site catchment (draining into Council's stormwater drainage line along Soldiers Point Road) and eastern site catchment (discharging directly into Salamander Bay via the existing 525 mm stormwater drainage line located in the direction of the Jetty on the foreshore – Figure 7 *WorleyParsons Report 2010*). Detailed soil and water management plans should be sought prior to the commencement of demolition and construction respectively.

The subject site is currently serviced by reticulated water and sewer connections. The proposal includes the introduction of rainwater tanks to reduce stormwater runoff and mains water consumption. It is noted that the rainwater tanks will service the flushing of toilets only, with the grounds continuing to be irrigated by bore water supply. Water for consumption or use in commercial settings such as on-site bars and restaurants is assumed to remain potable and supplied via mains connection.

Other:

Conditions listed under the 2011 Section 75O Concept Approval appear generally sufficient with regard to environmental health matters. Council have not made comments concerning food businesses or public swimming and spa pools as it doesn't seem like they are required at this point however happy to provide if needed.

Thank you for the opportunity to comment on the proposed development. If you wish to discuss the matters raised above or have any questions, please contact me on the number below and I will be happy to help.

Yours Sincerely,

Emily Allen
Principal Development Planner
(02) 49880255