



Planning Assessment Report

Application to Modify Development Consent

MOD 61-4-2006 modifying DA 524-12-2003

1 SUMMARY

MOD No. 61-4-2006 was lodged with the Department by Molnar Freeman Architects on 18 April 2006, and amended on 26th April 2006, pursuant to Section 96 (1A) of the Environmental Planning and Assessment Act, 1979.

The application seeks to modify the consent given to Development Application DA 524-12-2003 at Lot 27 DP 224117 191 Mitchell Parade, Mollymook, as modified by MOD 24-2-2005. The application was approved by the Minister on 19 July 2004. The modification was approved on 16 September 2005. The Minister for Planning is the consent authority for the modification.

The proposed modification is a redesign of minor structures and car parking layout within the structure of the basement of the building.

The application has been assessed in accordance with the statutory requirements of the Act. It is recommended that the modification be **approved**.

1.1 *Relevant approvals:*

1. DA 524-12-2003 sought the redevelopment of an existing tourist facility, including excavation for an underground car park at Lot 27 DP 224117 191 Mitchell Parade, Mollymook in the Shoalhaven City Local Government Area. The application was approved on 19 July 2004.
2. MOD 24-2-2005 requested internal and external changes including proposed changes to reception building level 2 and changes to level 1- reduction in the number of rooms; reconfiguration of internal partitions, windows and balconies and raising of lower level of approved basement car park. The modification was approved on 16 September 2005.

2 THE PROPOSED MODIFICATIONS

The applicant is seeking, under Section 96 (1A) to modify the approved development consent by:

- relocating staff room, WC, cooler, freezer and store to the western side of the basement;
- redesigning the day spa on the eastern side of the basement;
- changing the car parking layout to provide 49 spaces.

A plan showing the proposed development, highlighting the changes is at **tag "B"**.

3 STATUTORY FRAMEWORK

Section 96 (1A) of the Environmental Planning and Assessment Act, 1979 provides that the consent authority may, on application being made by the applicant, modify a development consent granted by it if: it is satisfied that the proposed modification is of minimal environmental impact, and it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and required notifications have been made.

4 CONSULTATION / PUBLIC EXHIBITION

Consultation regarding the proposal was not required. The changes are internal only. Objections raised to the original application concerned the outward appearance of the proposed development. Shoalhaven City Council has indicated that it considers the proposed amendment to be acceptable.

5 CONSIDERATION

5.1 *Proposed variation*

The applicant submitted a revised construction certificate to Shoalhaven Council (PCA) covering the work approved by the earlier S96 modification and alterations thought appropriate during the construction. The Council will not issue the Construction Certificate as the proposed work is not substantially the same as the modified plans approved by the Minister on 16th September 2005. Council advised the applicant to submit a s96 application for a modification to the development consent to cover the proposed variations.

On 18th April 2006 the applicant applied to the Department for the modification of approved plans for the ground floor of the Bannisters Point Lodge development.

The proposed alterations to the building components, day spa and staff facilities forced changes to the car parking layout.

The modification plans submitted showed a proposed parking layout that endeavoured to retain the number of spaces (55) previously approved. The Council raised concerns regarding the functionality of two of the spaces. As there was no solution to this problem, the applicant has reconsidered the approach and now proposes to provide only 49 spaces in conformity to Council's parking code, DCP 18. All these spaces will function satisfactorily. The Council has no objection to the revised parking provision.

5.2 *Section 96*

The application is considered to meet the prerequisites of Section 96 (1A) of the Act in that the proposed amendment is of minimal environmental impact, and the proposed development is substantially the same development as that for which the consent was originally granted.

The proposal changes alterations specifically approved in the Modification approved on 16 September 2005. It involves structural changes even though these will not be visible from outside the building.

5.3 *Assessment*

The proposed amendment is of minor effect.

- The building alterations are effectively enclosed in a basement area and are not visible from outside the site. They allow for an improved spa area and better staff facilities.
- Prior to development commencing, Bannisters Point Lodge had 42 parking spaces. The current development approval is for an additional 7 rooms, generating a requirement for 7 additional spaces (i.e. 49 spaces), under Council's parking policy. 55 parking were proposed by the applicant in the approved development.
- The applicant proposes now to provide the 49 spaces required rather than the excess. This will facilitate design of the car park. Council has raised no objection to this new proposal. The number of spaces is adequate.

6 CONCLUSION

The Minister for Planning is the consent authority for the proposed S96 (1A) modification.

The application has been considered with regard to Section 96 (1A) of the Act. The proposed amendment is of minimal environmental impact, and the proposed development is substantially the same development as that for which the consent was originally granted.

It is considered that an amendment of the building in accordance with the application is acceptable and should be approved.

7 RECOMMENDATION

It is recommended that the Acting Executive Director, Sustainable Development Assessments as delegate for the Minister for Planning as described in the instrument of delegation dated 5 April 2006, pursuant to Sections 81 and 96(1A) of the *Environmental Planning and Assessment Act, 1979* and clause 122 (2) of the *Environmental Planning and Assessment Regulations, 2000*:

- (A) **approve** the application to amend condition A2A in the manner shown at Tag **A**; and
- (B) authorise the Department to carry out notification of determination of the application to modify the consent.

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