

## Ellen Nicholson

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**From:** Elliott Weston <Elliott.Weston@shoalhaven.nsw.gov.au>  
**Sent:** Friday, 6 December 2019 1:38 PM  
**To:** Ellen Nicholson  
**Cc:** Michelle Niles  
**Subject:** MP07\_0004-Mod-3 - SSD Modifications - Shoalhaven City Council

Hi Ellen,

I refer to the abovementioned Modification Application which the Department of Planning, Industry and Environment (the "Department") is presently assessing.

Council has now had a chance to review the modification and the supporting documentation and provided the following comments.

### GENERAL COMMENTS ON THE MODIFICATION

On 12 October 2010, the Department granted Development Consent MP07\_0004 for the redevelopment of the existing Huskisson Hotel site comprising a tourist and residential development at 73-75 Owen Street, Huskisson in three stages. There have been two subsequent modification applications lodged and approved by the Department in subsequent years.

The current Modification Application relates primarily to the calculation of car parking and the subsequent requirement under Condition F11 of the Development Consent (as inserted by MP07\_004 MOD 2) to make payment toward the current shortfall in car parking relating to Stage 1 of the development in accordance with the Council s. 94 (S. 7.11) Contribution Plan.

The car parking requirements for the development were recalculated to be 192 spaces pursuant to the second modification (MP07\_004 MOD 2) approved by the Department. The recalculation resulted in a credit of 166 spaces for existing uses, acknowledgement of 12 parking spaces on-site and identification of a shortfall of 14 spaces.

pursuant to the second modification (MP07\_0004 Mod 2) Condition F11 was inserted into the consent. Condition F11 reads as follows:

#### ***F11 Parking Contribution***

*A Section 94 contribution for 14 car parking spaces must be paid in accordance with the requirements of Shoalhaven City Council's Section 94 plan, should construction of stages 2 and 3 of the development not be commenced within 5 years of the date of this modification approval.*

The 5-year commencement period has now lapsed and the applicant now seeks to delete Condition F11 in lieu of making payment for the parking shortfall in accordance with Shoalhaven City Council's Section 94 plan. While the condition does not specify which contribution plan applies, it is established that the correct contribution plan shall be the contribution plan in force at the time that the development consent was issued. The relevant contribution plan is, therefore, the Shoalhaven City Council Section 94 Contribution Plan 1993 (superseded).

The applicant's current Modification Application is supported by the following reports which have been considered by Council in our review of the modification:

- *Assessment Of Patronage And Parking Demand By Existing Hotel (STAGE 1 MP07 004 MOD 2) (the "TIA"), Job No. 2027-19 Report No.:11A/19, prepared by Lyle Marshall & Partners Pty Ltd Consulting Engineers dated August 2019; and*
- *A covering letter prepared by PDC Planner, dated 3 September 2019 relating to the Huskisson Hotel Development (PMA-300+ Modification 3 – Car Parking Calculation).*

## COMMENTS ON THE APPLICANT'S TIA

In relation to the TIA, Council provides the following comments:

- The report relies heavily on an existing use credit of 166 spaces from MP7 004 MOD2 Development assessment in 2010, however, this was based on old DCP No 18 and 54. Given that it has been almost 9 years, the DCP credit should be reviewed to reflect current rates and demand given the changes made in the development and delay in staging. Acceptance of this credit is requisite for acceptance of the applicants parking study.
- The patronage and car parking demand assessment does show good correlations with food and beverage sales, which provided a suitable 85<sup>th</sup> percentile peak projection. Some minor adjustments by Council indicate a car park demand of 167 instead of 161 in the TIA. The TIA has come to this conclusion based upon the following assumptions or conclusions:
  - The TIA assumes that there is 25 staff on duty and that only 9 would drive (Table 3.4 and page 7 of the TIA). This rate is inherently low, is not justified empirically and is unlikely to reflect the current situation.
  - The Utilisation Factor of 0.69 across the pavilion, gardens terrace, and bistro terrace is considered to be an underestimate. It would be expected that a Utilisation Factor of 0.8 across these spaces is more appropriate given the similar nature for the bistro and gardens.
  - The 85<sup>th</sup> percentile appears to be on 16/02/19 (7<sup>th</sup> highest rank) with peak patronage of 471 and not 456 (including guests).

## CONCLUSION

- The applicant relies upon the car parking credit of 166 spaces for existing uses calculated pursuant to MP07\_0004 Mod 1, based upon a 95 space credit for the hotel floor space and a 71 space credit for the 'beer garden' (354m<sup>2</sup>).
- Council does not raise significant concerns with the methodology of the assessment in the TIA (not precluding the matters raised above that need to be addressed), however, Council does raise concern that the car parking credits applied to the site are based upon the now-repealed SDCP 18 and SDCP 54 and the generous inclusion of beer garden area to the rear of the site which did not function with an operational liquor licence for use of these areas as a 'beer garden'.
- Council would request that prior to the determination of the Modification Application the department request that a complete reconsideration of the existing use credit of 166 spaces from MP7 004 Mod 2. The applicant relies upon this credit to justify that they create no additional car parking demand at the site and therefore Condition F11 is no longer relevant to the current operations of the approved development. Council considers that the demand for car parking at the site has not reduced since the grant of MP07\_0004 or any subsequent modification approved by the Department.
- The applicant's request to delete Condition F11 is not supported by Council on the basis that there has been no consideration given to what the overall credit for the development should be based upon the methodology adopted in the TIA. Council would welcome reconsideration of the total car parking credit calculations to ensure that the total number of car parking spaces provided on-site are either provided on-site or a contribution in lieu of any shortfall. Council is acutely aware that the applicant has received a generous credit of 71 spaces for the 'beer garden' located to the rear of the development. The inclusion of the 'beer garden' toward car parking credits has been consistently questioned by Council.
- Granted that the applicant seeks to rely upon the methodology applied in the TIA to determine car parking demand, the Department should apply this methodology to consider the total credits that should apply to the site. If the applicant is unwilling to reconsider the car parking credits applicable to the existing uses then it follows that the existing shortfall of 14 spaces stills remains for the site and Council cannot support deletion of Condition F11 or a reduction in the contribution.

- It is important to note that Council is currently assessing a development application at the subject site (Development Application No. DA19/1354) for development described as the location of 130 customer seats in the garden area of the Huskisson Hotel; Construct toilet and storage under the deck to the rear of the hotel and construction of a deck to increase the sports bar by 23.25m<sup>2</sup>. Based upon the TIA the development has “a surplus of 19 parking spaces” (page 10 of the TIA). Council does not support the continued recalculation of car parking demand at the site where the initial credits calculated pursuant to MP07\_0004 Mod 1 does not form part of the reconsideration.

If you have any questions please don't hesitate to contact me.

Regards,

**Elliott Weston**

**Senior Development Planner**

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Project Approvals + Modifications	Proposed on site parking	Parking required by DCP 18	Parking credit available in DCP 18	Parking assessment calculation
Original Approval (07_0004) (All 3 stages)	64 basement spaces, inc. 4 tandem spaces	176 spaces 172 sp for full dev't and 4 sp for the loss of on-street pkg	95 spaces 95 hotel + 0 beer garden	17 spaces deficient (176-95-64) (All 3 stages)
MOD1 (PAC: 12 Aug 2011)	12 spaces on ground level (by condition)	176 spaces 172 sp for full dev't and 4 sp for the loss of on-street pkg	166 spaces 95sp hotel + 71sp beer garden <sup>1</sup>	2 spaces surplus (176-95-71+12)
Proposed MOD2 (Stage 1 only)	12 spaces on ground level (9 sp allocated for hotel acc'n)	192 spaces (Stage 1 only)	166 spaces 95sp hotel + 71sp beer garden <sup>2</sup>	14 spaces deficient (192-95-71+12) (Stage 1 only)
<sup>1</sup> Beer garden included in hotel floorspace calculation at a size of 354sqm (71 space credit), as approved by Shoalhaven City Council, not 429sqm (86 space credit) put by the proponent. <sup>2</sup> Beer garden maintained at a size of 354sqm (71 space credit) in hotel floorspace calculation, as approved by Shoalhaven City Council.				

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