



**City Administrative Centre**

Bridge Road, Nowra NSW Australia 2541

Phone: (02) 4429 3111 • Fax: (02) 4422 1816 • DX 5323 Nowra

**Address all correspondence to**

The General Manager, PO Box 42, Nowra NSW Australia 2541

COUNCIL REFERENCE:

3A09/1006-03 (D11/245635)

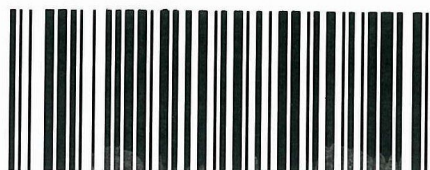
CONTACT PERSON:

John Britton

YOUR REF:

27 September 2011

Department of Planning & Infrastructure - Major Project Assessments  
GPO Box 39  
SYDNEY NSW 2001



**PCU026499**

Attention: Jane Flanagan

Dear Madam

**Major Project Application 07\_0004 Modification No 2**

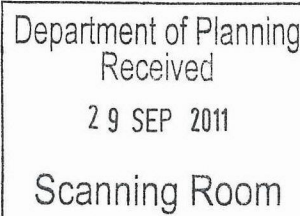
Attached is Council's submission to proposed Modification No 2 for the above mentioned development.

If you require any further information please contact Council's Part 3A Coordinator, John Britton on 4429 3432

Yours faithfully

A handwritten signature in black ink, appearing to read "John Britton".

**John Britton**  
**Part 3A Coordinator**



**Shoalhaven City Council**

**SUBMISSION TO THE NSW DEPARTMENT OF PLANNING  
FOR A MAJOR PROJECT TO BE DETERMINED UNDER PART 3A OF THE  
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979**

**MAJOR PROJECT APPLICATION No. 07\_0004  
MODIFICATION No 2**

**LAND TO BE DEVELOPED:** Lot 1 DP 209436 and Lot 87 DP 755928 Owen Street  
Huskisson

**PROPOSAL:** Huskisson Hotel redevelopment including  
refurbishment of the existing hotel building, function  
room, day spa, 38 hotel rooms, 14 apartments,  
swimming pool, bistro, restaurant and car parking.

MODIFICATION 2 relates to an expansion of the  
Stage 1 works

**PROPONENT:** Kamsley Pty Ltd

**DEPARTMENT OF PLANNING REFERENCE:** MP 07\_0004 MOD No 2

**COUNCIL REFERENCE:** 3A09/1006

---

**CONTENTS**

- 1. Introduction**
  - 2. Comments relating to individual condition variation**
    - 2.1 Part A conditions**
    - 2.2 Part B conditions**
    - 2.3 Part F conditions**
  - 3. Additional Consequences from the Mod 2 application**
  - 4. Conclusion**
-

## 1. Introduction

The approvals issued for development of the Huskisson Hotel site include the Project approval dated 12 October 2010 and Modification No 1 (MOD 1) approval by the Planning Assessment Commission (PAC) dated 12 August 2011.

The proponent has submitted Modification No 2 (MOD2) which increases the Stage 1 development footprint. The plan indicates that some parts will be demolished when Stage 2 is constructed. The proponent has held a meeting and discussion with Council staff prior to lodging the MOD 2 application with the Department.

## 2. Comments relating to individual condition variation

### 2.1 Part A Conditions

#### Proposed Modification:

##### A2 Staging

##### Modification

The proponent seeks a wording change to amend the condition relating to Stage 1 in accordance with the drawings attached, as follows:

##### Stage 1:

- (a) demolition of recent additions and structures at the rear of the existing hotel;
- (b) refurbishment of existing hotel *including the 8 hotel rooms and managers flat (level 1);*
- (c) *Construction of a single treatment room spa facility (basement);*
- (d) *Construction of a terrace adjacent to Public Bar, a function room and adjacent terrace (the terrace to be demolished when Stage 3 is constructed). (This is all at Ground floor level).*
- (e) *Construction of garbage and loading area (to be demolished when Stage 2 is constructed). This is at basement level and is described in the drawings as "waste enclosure";*

Development  
Construction

#### Council comment

There are three anomalies in the proponent's MOD 2 application and Council requests the Department considers the following comments:

- (a) The proposed modification (A2) relates to Project approval (12 Oct 2010) condition numbering however for the MOD 1 approval (12 Aug 2011) the same condition is numbered as A1.
- (b) In respect of the proposed MOD 2 for Stage 1 (d) the public bar terrace, function room and adjacent terrace will be demolished when stage 2 takes place (not Stage 3) based on the MOD 1 approved plans. The floor area of the MOD 1 Function Room will be absorbed in part by the Stage 2 hotel reception area (plan 11-04 )
- (c) The proponent 's modification justification refers to issues that the proposed modification Stage 1 (d) does not include ie, the additional bistro terrace. Council's submission 3.2, below, addresses the issues arising for the extensive ground floor terraces shown on additional plan ( Plan No 102/01) .

These have been raised with the Department's Ms Flanagan by separate email.



## 2.2 Part B Conditions

### 2.2.1 Condition B1 (10)

#### Project approval condition B1 (10):

10. Details of the balustrade along the edge of all the balconies facing the foreshore reserve. In that regard the balustrade should be glass either frameless or with a streamlined stainless steel handrail, to minimise its visual impact.

#### Proposed Modification

##### B1 – 10 - Balustrades

###### *Modification*

The proponent seeks a minor wording change to amend the condition to allow Balustrades to be either glass (must now be framed under the BCA) or metal in a similar form to the current balustrade on the 1<sup>st</sup> floor balcony.

###### *Justification*

The use of glass will be problematic in some areas because of the salt spray and the difficulties keeping it clean. Therefore in some areas the balustrade will be steel and similar to the current hotel balustrades.

#### Council comment

Project approval condition B1 (10) was determined from the Department's EA Assessment Report and is based on achieving an appropriate design style for the new hotel and apartment buildings that will be delivered at Stages 2 and 3. The Stage 1 proposal in MOD 2 includes an elevated balcony on the east side of the existing hotel building and ground level bistro terrace/beer garden. There are ground floor terrace areas that are part of Stage 1 that will be removed as Stages 2 and 3 are developed.

Council considers that MOD 2 condition B1 (10) could provided two components that will achieve the desired design style from the project approval. The railing balustrades for the balcony off the existing hotel rooms and Stage 1 terraces/beer garden are appropriate to match the existing railing balustrade of the southern elevation to Owen Street. The balustrades for Stage 2 and 3 are appropriate to be glass either frameless or with stainless frame and handrails. This would provide some flexibility in materials while achieving the EA Assessment Report objective.

#### The wording for B1 (10) as amended supported by Council is:

*B1 – (10) Details of the balustrade along the edge of all balconies facing the foreshore reserve. Balconies that are adjacent to the existing hotel building in Stage 1 may be glass or metal in similar form to that of the first floor balustrade on the Owen Street frontage and balustrades to Stage 2 hotel rooms and Stage 3 apartments should be glass either frameless, or framed with stainless steel or with a streamlined stainless steel handrail, to minimise the visual effect.*

## **2.2.2 Condition B20**

### **Project approval condition**

#### ***B20 Landscape Plan***

A detailed Landscape Plan, prepared by a qualified landscape architect shall be submitted to the Certifying Authority before issue of a Construction Certificate for Stage 2 of the project. The plan shall include details of screening along the northern setback of the western wing to soften the impact of the ground level wall (sandstone base); details of all paving, pathway, driveway and retaining wall treatments; and a species list including only local native species as appropriate to the site and circumstances.

### **Proposed Modification**

The proponent has attached a modified landscape plan having regard to the proposed changes to Stage 1.

#### *Justification*

The plan must change to accommodate the additions to Stage1.

### **Council comments**

The proponent's MOD 2 application includes an amended Landscape Plan by Spacman Mossop (drawing number LP001) and an additional copy of that plan includes some handwritten notations by the proponent in respect of the width of the driveway. The latter plan is exhibited as "Additional Plans" on the Department's website. The proponent has advised Council separately that the existing gas container is to be relocated.

The details of landscaping species have been discussed with the proponent and further advice will be provided by the proponent following determination of MOD 2. There are complementary civil engineering plans regarding construction standards required for the car park area and driveways. A civil plan for car parking including corrected driveway width (Sellick C303) is part of MOD 2 additional plans and is referred to in 3.3, below.

### **The wording for B20 as amended supported by Council is:**

Council supports the modification of approved condition B20 to delete "Stage 2" and insert words "for Stage 1 and each subsequent stage".

However, since the proponent's intent to satisfy the condition is a Landscape Plan that included handwritten notations for the driveway width and other detail, the condition wording that requires the submission of a landscape plan should remain so a final and acceptable plan can form part of the approval documents.



## 2.3 Part F Conditions

### Project approval Condition F5

#### **F5 Noise Control – Licensed Premises**

- (i) The LA10 noise level emitted from the licensed premises shall not exceed the background (L90) noise level in any Octave Band Centre Frequency (31.5Hz to 8 KHz) by more than 5dB between the hours of 7am to 12 midnight when assessed at the boundary of the nearest affected residence. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
- (ii) The LA10 noise level emitted from the licensed premises shall not exceed the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8 KHz) between the hours of 12 midnight to 7am when assessed at the nearest affected residential boundary outside the property. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
- (iii) Notwithstanding compliance with the above clauses, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight to 7am.

#### **Proposed Modification**

The proponent seeks rewording of this condition to reflect the trading hours of a 1am close. The only change is to limit the noise to 50db(A) from 7am to **1am**. Recommendation iii is also incorrect as it conflicts with recommendation i. It should read that no noise should be audible in any habitable room of any residential property outside the property between the hours **1am** to 7am. This corresponds with current operations and the current liquor licence.

#### **Council comment**

Condition F5 relates to noise control, the likely impacts upon residents and the amenity of the area based on noise from the licensed premises.

The proposed modification reference to a 50dB(A) limit is erroneous since that figure was proposed in a meeting with Council staff before lodgement of MOD 2 to the Department and Council understood this figure was to be withdrawn as Council would not support that figure (50dB(A)). The approved condition is supported by Council and only the reference to applicable hours is under consideration.

The proponent's justification in MOD 2 is based on the hours the hotel trades and in the case of Friday and Saturday nights this is approved to 1am through Council's Consent. The existence of previous complaint records in respect of noise complaints is not considered a justification to vary the condition.

The development consent issued by Council (DA 06/2432 - as modified on 15 October 2008) includes hours for operation of the hotel:

10:00am to 12:00 midnight Mondays to Thursdays;  
10:00am to 1:00am Fridays and Saturdays; and,  
10:00 am to 10:00pm Sundays.

Council's records show the granting of a Hoteliers Licence No 120001 dated 12 May 2008 from the District (Licensing) Court endorsing extended trading hours as Friday 05.00am to 01.00am and Saturday 05.00am to 01.00am. A letter from the NSW Attorney General's Department dated 28 May 2008 issued to the then licensee, Paul Bernard McGroder, advised the hotel trading hours as being varied from 05.00 – 24.00 Monday to Saturday to 05.00 – 01.00 Friday and Saturday.



The operation of the hotel requires compliance with development consent and conditions issued by the Court with the Hoteliers Licence. Remedies to deal with various operational issues are also available in other legislation should complaints arise. Amendment of the general trading operating hours of the premises is not being sought.

The modification to a condition concerning noise control is not considered the appropriate mechanism to set operating hours or hotel licensing hours as each requires a level of assessment based on criteria other than noise output.

While the condition relates solely to noise control matters, Council recommends the construction plans for the Stage 1 areas consider appropriate noise attenuation materials and design to minimise the likelihood of noise levels exceeding the controls in the approval condition.

**The wording for F5 as amended supported by Council is:**

Council does not object the inclusion of a time of 1.00am for Friday and Saturday, only, with 12.00 midnight for other days. There will be appropriate amendment of Condition F5 (i) to (iii) to accommodate and changes to the condition the Department determines.

### **3. Additional consequences of the Mod 2 application**

Council requests the following matters be considered by the Department. These arise as a consequence of the MOD 2 application although not specifically referred to by the proponent. The consideration of on-site car parking is included in Council's comments.

#### **3.1 Consequence of the MOD 1 approval condition A2(A)(2)**

Condition A2 (A)(2) restricts the outdoor eating / drinking area to a maximum 212 m<sup>2</sup> in accordance with a drawing approved by the PAC in the assessment report. The condition further states that consent is required to use any additional outdoor area for eating / drinking purposes.

The MOD 2 application letter seeks to obtain consent for the increased outdoor terrace/drinking areas and includes justifications relating to the allocation of uses including the increased areas for outdoor terraces. Council provides the following comments:

- (a) **Public Bar terrace:** Council has no objection to the public bar terrace that will essentially cater to smokers. This terrace will be demolished when stage 2 is delivered as this area is proposed as loading dock in stage 2.

It is noted that there is no equivalent "smokers outdoor area" for the hotel pub in stages 2 or 3 and Council recommends that proponent consider this matter in subsequent modifications that may arise in stage 2 to avoid unintended consequences in stage 2 when the established "smokers terrace" is removed.

- (b) **Function Room terrace:** Council has no objection to the terrace serving the function room per se. The function room terrace is approximately 60m<sup>2</sup> and will be in use with the function room.



**(c) Additional Bistro Terrace:** The “additional bistro terrace” has an area of approximately 260 m<sup>2</sup> and is adjoining the MOD 1 approved 212m<sup>2</sup> outdoor terraces, making a total capacity for use as outdoor bistro / beer garden area of 472m<sup>2</sup>. The existing outdoor beer garden is 354 m<sup>2</sup> and this has been demolished in preparation of the stage 1 work.

The proponent’s justification shown on submitted drawings Appendix 1/A and 1/B) is that the new indoor areas and the new outdoor areas are equivalent of the existing indoor / outdoor areas they are replacing. Council does not oppose the proposal.

## **3.2 Car Parking requirements**

### **3.2.1 Provisions for hotel room occupants**

The MOD 1 application did not include changes in respect of the hotel rooms and the MOD 1 approval has not included on-site car parking conditions for the hotel accommodation. The MOD 2 application includes the refurbishment and alterations to the accommodation bedrooms and managers unit. Council’s Development Control Plan 54 (DCP54) includes specific controls for the Huskisson Hotel and it is considered that these controls should be required with MOD 2.

DCP 54 Clause 5.6 sub-clause 4(d) states:

*“A minimum on-site car parking provision is to be provided for the tourist accommodation/residential component of any development in accordance with DCP No.18 - Car Parking Guidelines.”*

### **3.2.2 Consequence of MOD 1 condition B22**

MOD 1 approval condition B22 refers to the provision of on-site car parking and in assessing MOD 1 the PAC has taken into consideration the stage 1 having a nil onsite parking requirement (assessed at MOD 1) and the condition refers more specifically to stage 2 and as it applies also to stage 3. The PAC determination also imposes additional words to B22 with a requirement to provide twelve (12) temporary parking spaces for use by hotel patrons at the completion of stage 1.

The MOD 2 landscape plan referred to in 2.2.2, above and the submitted “additional plans” describe a car park layout for 14 spaces including one for people with a disability (Sellick C303) , and garbage truck turning paths (Sellick C501).

The MOD 2 hotel accommodation includes the refurbishment of the managers unit and 8 hotel rooms. Council considers that for MOD 2 stage 1, appropriate on-site car parking should be provided for occupants of the hotel rooms and manager’s unit. It is considered that condition B22 should be amended by the addition of words to ensure this provision and compliance with DCP 54 (see 3.2.1, above).

The parking for use with the managers and hotel rooms should be described as “permanent spaces”. The finished surface construction should be sealed with one of the options available in DCP 18 and be provided with a drainage system connected to an approved stormwater disposal system. It is considered unsatisfactory should the surface be left unsealed because of the likelihood of uncontrolled sediment entering the adjoining public reserve.



**The wording for B22 as amended supported by Council is:**

Adding words to B22 in respect of the twelve on-site parking spaces: *"At least nine (9) car parking spaces being designated as permanent parking spaces for use by the manager and the occupants of the hotel accommodation in Stage 1."*

#### **4 Conclusion**

Council's requests the MOD 2 conditions and the additional consequential matters included in Council's submission be included by the Department.

A handwritten signature in blue ink, appearing to read 'T Fletcher', with a long horizontal stroke extending to the right.

**T Fletcher  
Director**

**Development and Environmental Services Group  
22 September 2011**