



Planning &  
Infrastructure

**MODIFICATION REQUEST:**  
***Huskisson Hotel***  
***Modification Application No.2***  
***73-75 Owen Street, Huskisson***  
***(Shoalhaven LGA)***  
***(MP07\_0004 Mod 2)***



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

November 2011

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Published November 2011  
NSW Department of Planning & Infrastructure  
[www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

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## 1. BACKGROUND

On 12 October 2010, the Deputy Director-General under the Minister's delegation granted project approval for a tourist/residential redevelopment of the Huskisson Hotel, at 73-75 Owen Street, Huskisson, to be completed in 3 stages. The approval comprised:

- demolition of recent additions to the hotel;
- alterations and additions to the hotel and use of the first floor as a day spa and function room;
- excavation for a 64 space basement parking; and
- construction of a 4 to 5 storey building at the rear of the hotel comprising 14 permanent residential apartments, 38 hotel rooms, manager's residence, café/restaurant, outdoor swimming pool and terrace.

The site is located on a prominent headland at the mouth of Currambene Creek overlooking Jervis Bay between Callala Beach and Vincentia. The hotel is a local heritage item.

The approved project is now at construction stage. There has been one previous modification (07\_0004 MOD 1), which sought to modify 35 conditions and was part approved by the Planning Assessment Commission on 12 August 2011.

Figure 1 illustrates the location of the Huskisson Hotel and Figure 2 illustrates the approved project layout and staging.



Figure 1: Location of the Huskisson Hotel



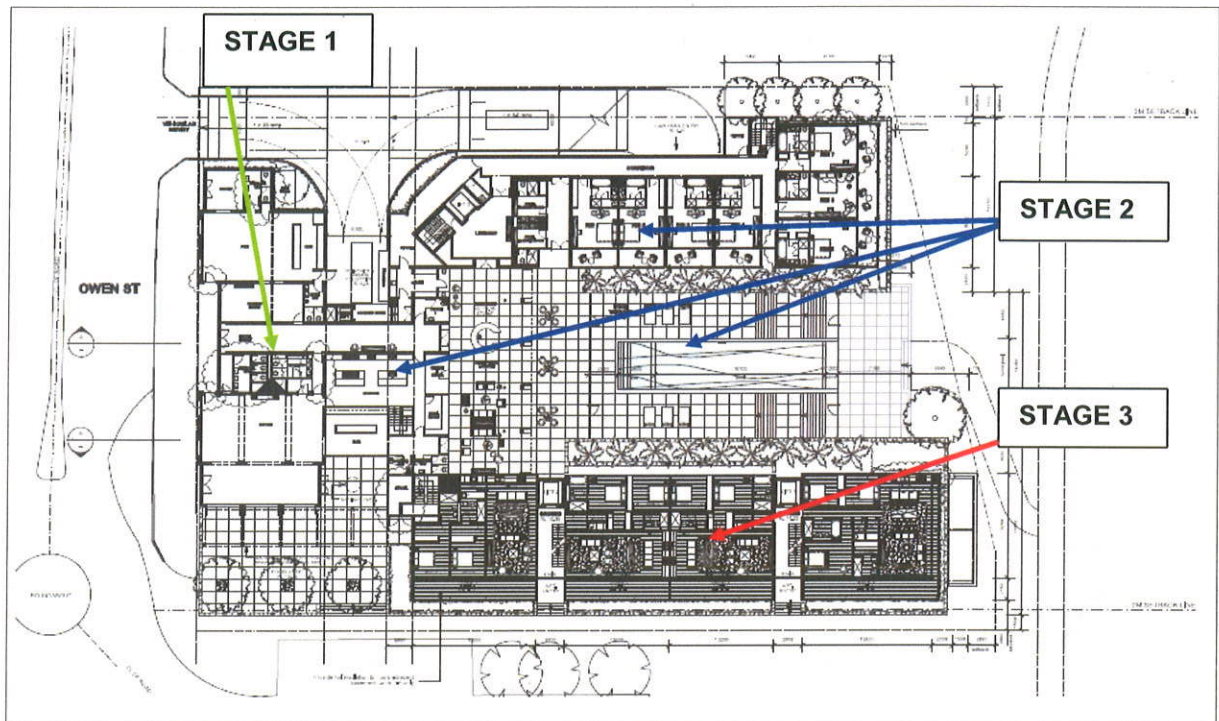


Figure 2: Approved layout and development staging for the Huskisson Hotel

## 2. PROPOSED MODIFICATION

### 2.1 Modification Description

This modification application (MOD2) proposes to extend the rear of the Huskisson Hotel (as approved in Stage 1) to create a function room, larger terraces for outdoor dining and a day spa. The proponent's justifications are that the proposed Stage 1 modifications will facilitate effective ongoing hotel operations, which in turn will support the realisation of later stages of the approved development.

The new MOD2 works comprise:

- *refurbishment of the existing hotel for 8 hotel rooms and a managers flat;*
- *construction of a function room and terrace, located on the northern part of the hotel;*
- *a proposed extension of the Bistro Terrace outdoor dining / drinking area;*
- *a proposed Public Bar Terrace outdoor dining / drinking area;*
- *a proposed single treatment room day spa facility;*
- *proposed construction of garbage and loading area; and*
- *changes to conditions regarding the design of balustrades, landscape plan and noise control – licensed premises.*

The Department, in its assessment of the proposed amendments to existing conditions, notes that there is a need for consequential modifications to other conditions and these are also addressed in Table 1 and Section 5. The modified layout proposed in MOD2 is illustrated in Figures 3, 4, 5 and 6.

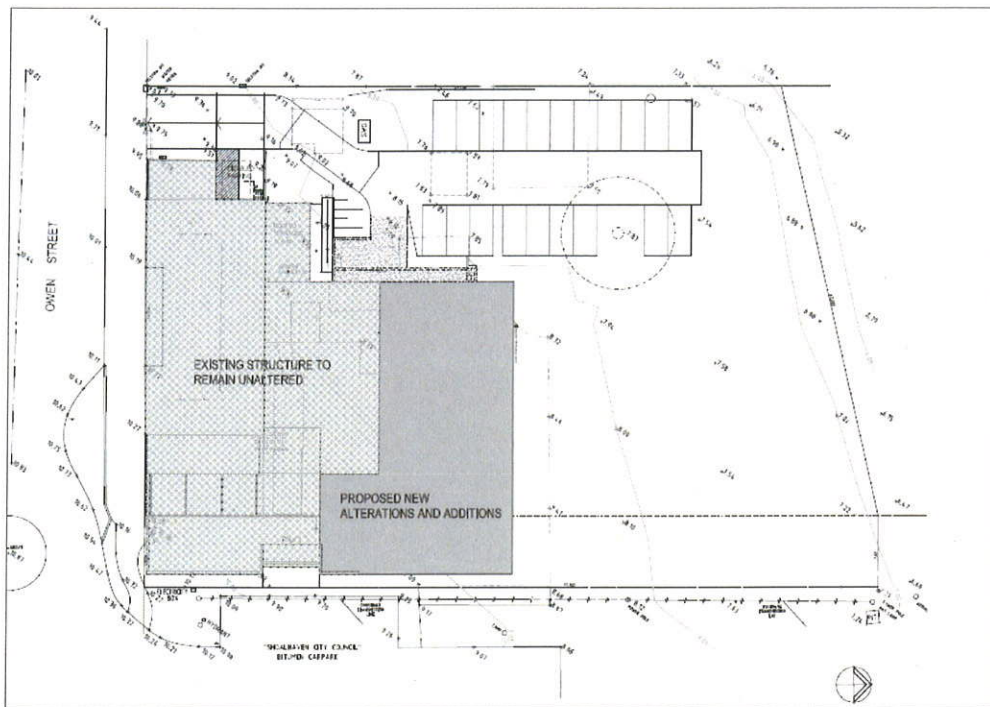


Figure 3: Site plan of proposed MOD2 modifications

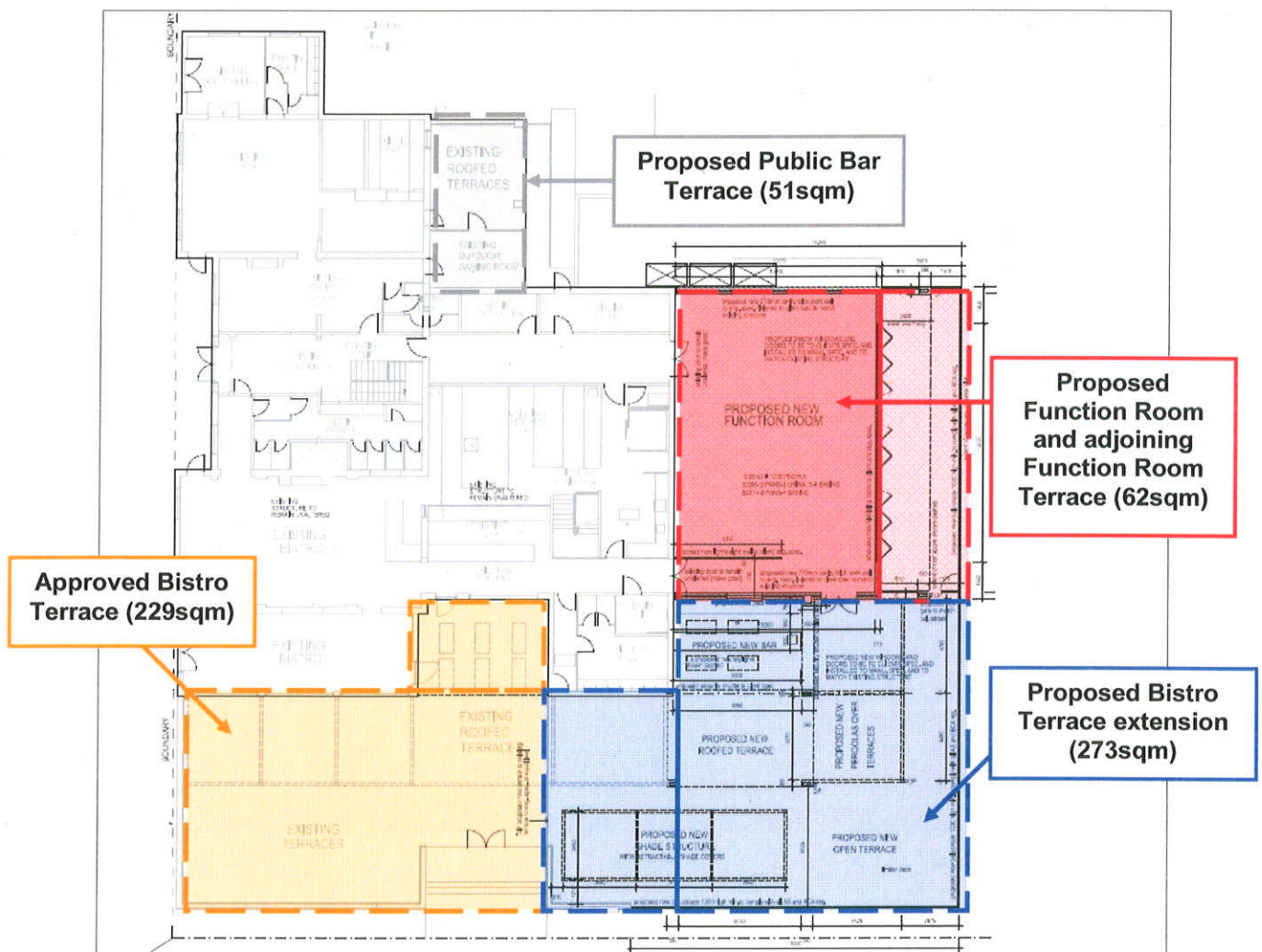


Figure 4: Illustrated plan of proposed MOD2 modifications to the ground floor, illustrating the function room and the proposed mix of outdoor dining / drinking spaces



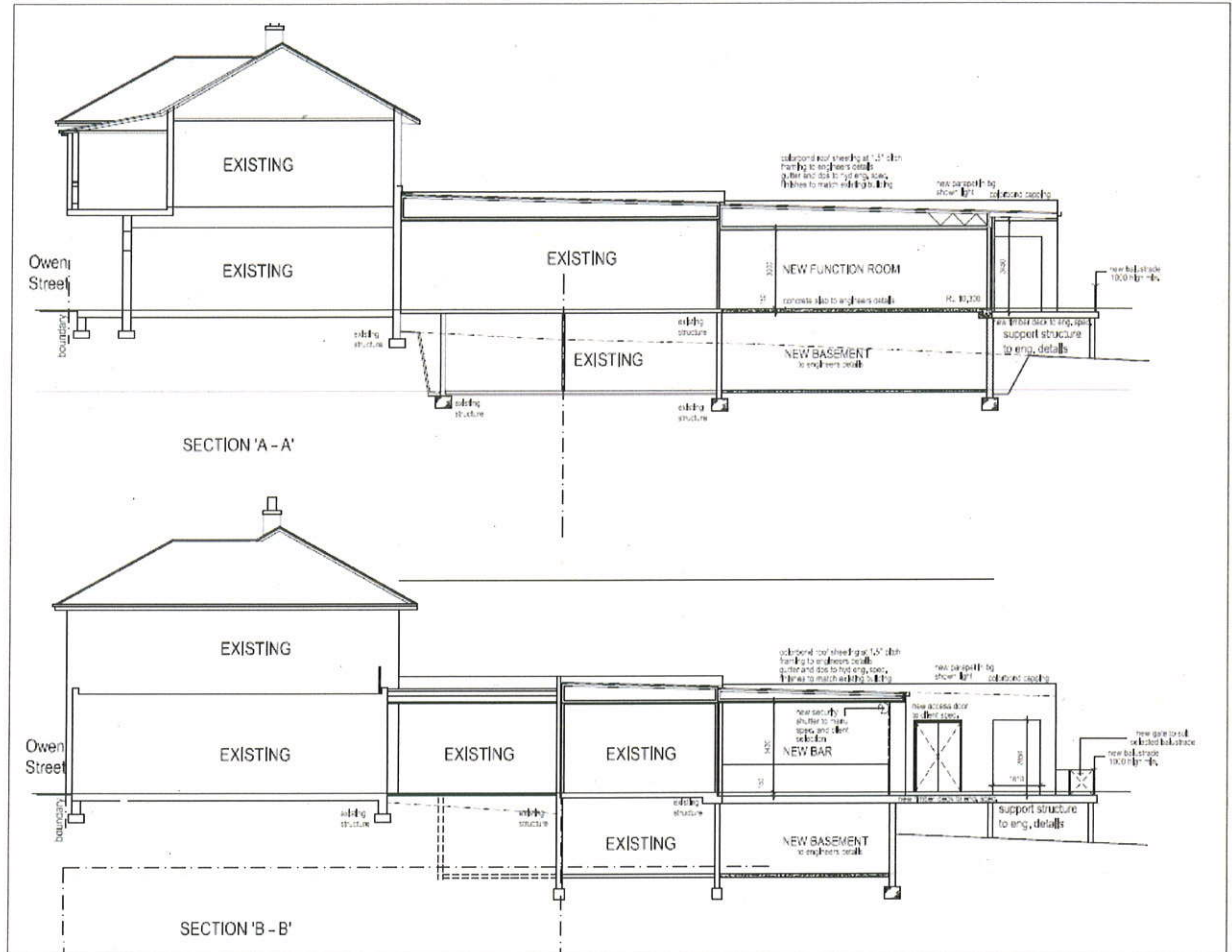


Figure 5: Site sections proposed MOD2 modifications



Figure 6: Landscape Plan of proposed MOD2 modifications

**Table 1: Modification No. 2 – Key proposed modifications to conditions**

Condition	Description	Assessment
Staging Condition A2	<p>The proposed modification addresses amendments to Stage 1 of proposed works Condition A2(1) with the following (<i>proposed additions to condition in italics</i>):</p> <p>(b) Refurbishment of the existing hotel including the 8 hotel rooms and managers flat;</p> <p>(c) Construction of a single treatment room spa facility;</p> <p>(d) Construction of a terrace adjacent to the public bar, a function room adjacent terrace (the terrace to be demolished when Stage 3 is constructed);</p> <p>(e) Construction of garbage and loading area (to be demolished when Stage 2 is constructed).</p>	<p><b>Supported</b></p> <p>The Department considers the amendments acceptable and supports the proposed modifications, albeit with some consequential amendments to approval conditions.</p> <p>Refer to Section 5.1 for a discussion and assessment of issues.</p>
B1 Details of Materials, Colours and Finishes (B1-10 Balustrades)	<p>The proposed modification requests a wording change to allow <i>balustrades to be either glass or metal</i> in a similar form to the current balustrade on the 1<sup>st</sup> floor balcony.</p>	<p><b>Supported</b></p> <p>The proposed modification is consistent with the desired design character of the approved project and considered acceptable. Condition B1-10 is proposed to be amended.</p>
Landscape Plan Condition B20	<p>The proponent has prepared an <i>amended Landscape Plan</i> to reflect the proposed changes to Stage 1 of the proposed works.</p> <p>A submission from the NSW Office of Water recommends that the two areas of road surface proposed to be replaced with grass, be planted with local native plant species which are appropriate to the site instead.</p>	<p><b>Supported</b></p> <p>The Department considers the proposed amendment acceptable and further amends the condition to reflect the request by the NSW Office of Water.</p> <p>Refer to Section 5.4 for a discussion and assessment of issues.</p>
Noise Control Licensed Premises Condition F5	<p>The proponent seeks to amend the noise control condition to reflect the current development consent, trading operations and the current liquor license, which allow a 1AM close on Fridays and Saturdays.</p>	<p><b>Supported</b></p> <p>The Department considers the proposed amendment acceptable and supports the proposed modification of condition F5.</p> <p>Refer to Section 5.2 for a discussion and assessment of issues.</p>
<b>Consequential modifications arising from proposed amendments to conditions</b>		
Staging Condition A2 (A)(2)	<p>The MOD 2 amendments propose a number of changes to the size and location of outdoor eating / drinking areas of the Huskisson Hotel.</p>	<p><b>Supported</b></p> <p>Refer to Section 5.1 for a discussion and assessment of issues.</p>



Condition	Description	Assessment
	Condition A2 (A)(2) requires consequential amendment to reflect the MOD2 proposals.	
Number of parking spaces Condition B22	The MOD2 application, proposes to amend Condition A2 (1)(b) to enable the refurbishment of the existing hotel including the 8 hotel rooms and manager's flat.  This has consequential impacts upon the provision of car parking spaces and Condition B22 requires amendment.	<b>Supported</b>  Refer to Section 5.3 for a discussion and assessment of issues.
Parking contribution Condition F11	Upon full completion of 3 stages of the hotel's approved development, sufficient parking will be credited and provided to meet demand. However, whilst the hotel operates as Stage 1 of the development, it is the Department's view that an undersupply of parking will exist.  To address this parking undersupply, an additional parking contribution condition (F11) is proposed. This condition is to become operational in the event of the non completion Stages 2 and 3 of the project.	<b>Supported</b>  Refer to Section 5.3 for a discussion and assessment of issues.

### 3. STATUTORY CONTEXT

#### 3.1 Modification of the Minister's Approval

A Section 75W modification request is appropriate because the proposed modifications are consistent with the operation of the hotel and the approved plans and will have limited environmental consequences.

In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

On 14 September 2011, the Minister for Planning and Infrastructure delegated his powers and functions under s75W of the EP&A Act to Executive Directors in Major Project Assessments Division, where the Council has not objected, a political donation has not been made and there are less than 25 submissions.

In this regard:

- Shoalhaven City Council's submission was generally supportive and did not object to the modification request;
- A Political Disclosure Statement was attached to the application, but this stated that NIL donations have been made; and
- No public submissions were received during public exhibition.

The MOD2 application for the Huskisson Hotel can be determined under departmental delegation.

## 4. CONSULTATION AND SUBMISSIONS

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### 4.1 Exhibition

Under s75X(2)(f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The Department:

- publicly exhibited the modification from 21 September to 6 October:
  - on the Department's website; and
  - at the department's Sydney and Wollongong offices; and
  - at Shoalhaven City Council Administrative Centre, Nowra.
- advertised the exhibition in the Nowra South Coast Examiner on 21 September 2011; and
- notified landholders, local community and Aboriginal groups and relevant authorities in writing.

The department received two submissions from public authorities during the exhibition and none from the general public or special interest groups.

A summary of the issues raised in submissions is provided below.

### 4.2 Public Authority Submissions

Two submissions from public authorities were received, from **Shoalhaven City Council** and the NSW Office of Water.

**Shoalhaven City Council** provided comprehensive comments on the proposal and made recommendations for amendments to the following conditions:

- A2 (1) & A2 (2) Staging – *comments on the clarification of the proposed amendment and consequential amendments to conditions;*
- B1 Details of Materials, Colours and Finishes – *suggested rewording of condition B1-10, that addresses the design of balustrades;*
- B20 Landscape Plan - *suggested rewording of condition requiring a Landscape Plan;*
- B22 Number of car parking spaces – *A requirement to comply with Council's DCP 54 and DCP 18, in respect of the refurbished hotel accommodation; and*
- F5 Noise Control Licensed Premises - *suggested rewording of condition to be consistent with the hotel's existing development consent.*

Council's submission is addressed in Section 5 – Assessment.

**Office of Water** commented on:

- the requirement for the hotel's basement areas to be compliant with the provisions of the Water Management Act 2000, noting that all works that intercept groundwater will now require an aquifer interference approval; and

- recommends that the two areas proposed as grass, be planted with local native plant species instead.

The issues regarding the interception of groundwater were considered to be addressed by the existing Condition B14 – Earthworks, which was amended as part of the MOD1 proposals approved by PAC. The recommendation for native planting is a proposed amendment to Condition B20.

The proponent's response to submissions clarified and provided further justification for the proposed modification regarding the scope of proposed building works, car parking provision / requirements and landscaping.

### 4.3 Public Submissions

No public submissions were made to the exhibition.

The Department has considered the issues raised in submissions in its assessment of the proposed modification in Section 5 - Assessment.

## 5. ASSESSMENT

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The key modification requests proposed by the proponent and assessed by the Department are outlined below. Other modification requests have been assessed in Table 1 to this report.

### 5.1 New works as part of Stage 1

Modification No.2 proposes amendments to Stage 1 of approved hotel works. Specifically, condition A2(1) is proposed to be amended as follows (proposed additions to the condition are *in italics*):

- (b) Refurbishment of the existing hotel *including the 8 hotel rooms and managers flat*;
- (c) *Construction of a single treatment room spa facility*;
- (d) *Construction of a terrace adjacent to the public bar, a function room adjacent terrace (the terrace to be demolished when Stage 3 is constructed)*;
- (e) *Construction of garbage and loading area (to be demolished when Stage 2 is constructed)*.

#### Hotel rooms and manager's flat

The approved plans for the first floor of the Huskisson Hotel propose alterations and additions to and use as a day spa and function room. MOD2 now proposes that the spa facility be provided on the basement level (refer below) and that the existing first floor be refurbished for 8 rooms of hotel accommodation and the creation of manager's flat. In respect of this proposed change of use, Council requested that DCP 54 and DCP 18 apply and that 9 of the 12 car parking spaces be permanently allocated for hotel guest and the hotel manager (refer to S.5.3).



The Department considers the proposed use of the first floor for hotel accommodation (and associated car parking) to be consistent with the use and function of the hotel and is supported.

### **Spa facility**

The proposed single treatment room spa facility is located on the basement level below the proposed function room and accessible from the car park. In the context of the development of the approved plans, the proposed spa facility will need to be demolished to accommodate the development of Stage 2 of the hotel. The Department raises no concerns and supports the proposed modification.

### **Function room and terraces**

MOD2 proposes the construction and operation of three spaces: a function room with adjacent terrace, a terrace adjacent to the public bar and an extension of the previously approved Bistro Terrace. The proponent states that the terrace next to the Function Room is to be demolished when Stage 3 is constructed.

Condition A2 (A)(2) Staging of the MOD 1 approval conditions limits the outdoor eating / drinking area to 212sqm, in accordance with the original approved plan 'Roof/Site Plan, - Dwg DA.01E', dated 22/7/10 and approved by the PAC. This condition also requires that consent for any additional outdoor areas for eating / drinking purposes.

The MOD 2 amendments propose a number of changes to the size and location of outdoor eating / drinking areas of the Huskisson Hotel. The total of outdoor eating / drinking area proposed for the hotel is approximately 615sqm, comprising of the following four spaces:

1. The original approved *Bistro Terrace* located on the south-eastern side of the hotel, and approved as part of MOD1 at a size of 212sqm. As part of the MOD2 amendments, the proponent has advised that the actual size of the *Bistro Terrace* is 229sqm.
2. An *Additional Bistro Terrace* of approximately 273sqm, proposed on the eastern side of the hotel adjoining the proposed Function Room and to the north of the original *Bistro Terrace* area. The combined area proposed for outdoor eating / drinking on the eastern side of the hotel is 502sqm.
3. A (temporary) *Function Room Terrace* of approximately 62sqm, proposed directly to the north of the proposed Function Room. This terrace will be demolished when Stage 2 of approved work is developed.
4. A (temporary) *Public Bar Terrace* of approximately 51sqm, proposed on the western side of the building. This terrace will be demolished when Stage 2 of approved work is developed.

The four proposed outdoor eating / drinking spaces significantly increases the original *Bistro Terrace* area approved in MOD1, to four outdoor eating / drinking spaces that total approximately 615sqm.

In its submission, the Council notes that the size of the existing beer garden is 354sqm and that this space has been demolished in preparation for Stage 1 work. Shoalhaven Council has no objections to the proposed increase in the size of

outdoor eating / drinking areas for the Huskisson Hotel and supports the additional Bistro Terrace, Public Bar Terrace and the Function Room Terrace.

The Department is of the opinion that the proposed mix of outdoor eating / drinking spaces proposed by MOD2 will benefit and improve the function / operation, flexibility and design of outdoor space of the Huskisson Hotel. The noise and amenity impacts of the proposed outdoor eating / drinking spaces are considered to be consistent with that of hotel's existing beer garden.

Therefore, in the context of the MOD2 proposals, the department supports an increase in outdoor eating / drinking space in the proposed location and design as illustrated in MOD 2 plans and sections for the purposes of Stage 1 of the project.

The department proposes that:

1. the maximum size of the hotel's Stage 1 outdoor eating / drinking areas should be limited to 615sqm, that reflect the MOD2 proposals and plans for Stage 1 of the project;
2. at the completion of Stage 2, the hotel's outdoor eating / drinking area be limited to 502sqm; and
3. upon the completion of the 3<sup>rd</sup> and final stage of the project, the outdoor eating / drinking areas be limited to the 229sqm Bistro Terrace, located in the south eastern corner of the site, as illustrated and defined in the original project approval.

Condition A2 (A)(2) requires consequential amendment to give effect to these modifications.

#### **Garbage and loading area**

It is proposed to construct a garbage and loading area, which is to be demolished when Stage 2 is constructed. The proposed garbage and loading area is located on the western frontage of the hotel at basement level and accessible from the car park. The proponent has demonstrated that refuse vehicles are able to satisfactorily access the loading area. The Department raises no concerns and supports the proposed modification.

## **5.2 Control of noise**

The proponent seeks to amend the noise control condition F5 to extend the hours to 7am to 1am on Friday and Saturday nights, instead of the 7am to 12 midnight timeframe for all 7 days, as defined in condition F5 (i)(ii)and (iii).

Council advises that the hotel's opening hours were defined by a Council approval (DA 06/2432 – amended 15 Oct 2008) as:

- 10.00am to 12.00 midnight – Mondays to Thursdays;
- 10.00am to 1.00am – Fridays and to Thursdays; and
- 10.00am to 10 pm Sundays

As the Hotelier's License (No. 120001) permits the hotel's trading hours as extended to 01.00am on Fridays and Saturdays, Council supports an amendment to condition F5 that facilitates this.

The Department proposes to amend condition F5 (i)(ii) and (iii) to be consistent with the operational hours in the existing development consent for the hotel and the Hotelier's License.

### 5.3 Proposed hotel parking

Council's DCP 54 (Amendment No.4) contains specific controls for the Huskisson Hotel, including Cl. 5.6.4(d) Car Parking and vehicular entry, which states:

- *The development shall provide parking on site to meet the demands of the tourist accommodation / residential component of the development as a minimum. Provide vehicle entry via Owen Street.*

#### *Implementation*

- *Car parking for the development is to comply with Council's Development Control Plan No.18 – Car parking guidelines.*
- *A minimum on site parking provision is to be provided for the tourist accommodation / residential component of any development in accordance with Development Control Plan No.18 – Car parking guidelines.*
- *Vehicle access to the site is to be obtained from the south western corner of the site and provision is to be made in any design for the potential common vehicular entry for the adjoining site to the west.*
- *Provision is to be made on-site for loading and unloading of all commercial and delivery vehicles.*

In its submission, Council has noted that the MOD1 application did not include changes in respect of the existing first floor hotel rooms and the MOD1 approval did not include onsite car parking conditions for the hotel accommodation.

Council has requested that the relevant provisions of DCP 54 and DCP 18 apply to the proposed inclusion of 8 hotel rooms and managers flat on Level 1 as proposed in the amendment to Condition A2(1)(b).

Council proposes that in respect of the required 12 car parking spaces, Condition B22 be amended to add the following words to the effect of:

*'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'.*

The proposed allocation of 9 car parking spaces directly correlates with the proposed refurbishment of the first floor of the hotel for 8 hotel rooms and construction of a hotel manager's flat.

Further, Council suggests that the finished surface condition of the car park should be sealed with one of the options in Council's DCP18 and provided with a suitable drainage system connected to an approved stormwater disposal system. The reasoning for this is well founded as there are concerns that an unsealed car park could lead to uncontrolled sediment runoff into the adjacent public reserve and Currumbene Creek beyond.



In the response to submissions, the proponent concurs with the proposed amendment to include appropriate references to the requirements of DCP 18 and DCP 54.

The Department acknowledges that as a result of the existing parking credits available for the hotel and the beer garden under DCP 18, the changing mix of uses over time, the provision of car parking on site will fluctuate during the three stages of the redevelopment of the hotel.

The number of parking credits attributable to the hotel was an issue during MOD1. In support of the MOD2 proposal, the proponent has provided two plans which illustrate a 'deemed' existing car parking use entitlement of 195 spaces (based upon the existing hotel plans and operations) and the new ground floor usage of 192 spaces (based upon the proposed MOD2 plans).

This calculation differs from the Department's previous parking credit calculation of 166 spaces for MOD1, which was based upon a 95 space credit for the hotel floorspace and a 71 space credit for the (354sqm) beer garden. During the MOD1 application, Council raised parking provision and S.94 contributions as issues, but has not raised similar issues with the current MOD2 application.

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.				

**Table 2: Comparison of parking provision during proposed development stages**

The Department maintains its view that the existing hotel generates a parking credit of 166 parking spaces, which is consistent with the view of Shoalhaven City Council.

When the parking credit of 166 parking spaces is combined with the proposed provision of 12 spaces in MOD2 of Stage 1, it establishes a total of 178 spaces, which is 14 spaces less than the demand of 192 spaces generated by the proponent for the proposed new uses.

Upon full completion of 3 stages of the hotel's approved development, the Department accepts that sufficient parking will be credited and provided to meet

demand. However, whilst the hotel operates as Stage 1 of the development, it is the Department's view that an undersupply of parking will exist.

In the event that Stages 2 and 3 of the development do not proceed as initially approved, the hotel will be operating with an undersupply of car parking. In order to address this potential undersupply, an additional parking contribution condition is proposed (Condition F11) that will require a Section 94 contribution for the 14 car parking spaces to be paid in accordance with the requirements of Shoalhaven City Council's Section 94 plan, should Stages 2 and 3 not proceed within the next 5 years.

In summary, the Department is of the opinion that modifications to conditions are appropriate and proposes amendments to conditions B22 - Number of car spaces and B24 - Car Park and Service Vehicle Layout; and a new condition F11 - Parking Contribution.

## **5.4 Earthworks, Groundwater Management and Landscaping**

A submission from the NSW Office of Water notes that under the Water Management Act 2000, all works that intercept groundwater require an aquifer interference approval.

These issues were previously addressed in the amendments to conditions B14 and B28, approved by the PAC as part of MOD1 proposal. The issues are noted, but no amendment is required as the MOD1 amendments to existing conditions B14 and B28 are considered sufficient.

The Office of Water also recommends that the two areas proposed as grass, be planted with local native plant species instead. The department acknowledges the importance of this and proposes a condition to amend the Landscape Plan requirements to suit.

## 6. CONCLUSION AND RECOMMENDATIONS

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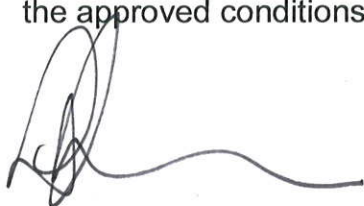
The purpose of the further proposed modifications to Stage 1 of the approved Huskisson Hotel project is to facilitate effective ongoing hotel operations, which can in turn facilitate the future realisation of Stage 2 development of the site.

In assessing this application, the department has reviewed the proponent's second modification request dated 17 August 2011, the two submissions to the public exhibition and proponent's response to submissions, dated 22 October 2011.

The key issues in the department's assessment of the proposed modification were the staging of development, the fluctuating size of outdoor eating/drinking areas through the three stages of the project, design of balustrades, landscape design improvements, car parking allocation for hotel accommodation, Stage 1 car parking requirements and the control of noise.

The department's assessment found that the second modification to the approved Huskisson Hotel project is considered to be substantially the same as the original approval (as modified) and that the approval conditions should be further amended to reflect proposed modification No.2 (MOD 2).

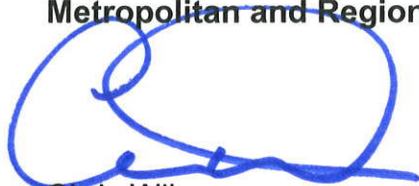
The department acknowledges and accepts the proponent's justification for proposed modification of conditions relating to staging, balustrades, landscape and noise control and further, proposes consequential amendments to conditions that relate to outdoor eating/ drinking areas, car parking allocation and stage 1 car parking requirements. The recommended modifying instrument retains and amends some of the approved conditions.



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 23/11/11

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23.11.11

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## **APPENDIX A                      MODIFICATION REQUEST**

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See the Department's website at:

**[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=4908](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=4908)**

## **APPENDIX B      SUBMISSIONS**

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## **APPENDIX C    RELEVANT REPORTS OR DOCUMENTS**

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See the Department's website at:

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## **APPENDIX D    RECOMMENDED MODIFYING INSTRUMENT**

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