

Wollongong Local Planning Panel Assessment Report | 4 December 2019

WLPP No.	Item No. 3
DA No.	DA-2015/672/A
Proposal	Alterations and additions to existing motel restaurant and service amenities Modification A – retain upper level and external balcony space as existing manager’s residence and utilise the existing ground floor internal recreation room for internal restaurant dining purposes
Property	222-226 Lawrence Hargrave Drive, Thirroul
Applicant	MMJ Wollongong
Responsible Team	Development Assessment and Certification - City Wide Team (NA)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel

The proposal has been referred to the Wollongong Local Planning Panel (WLPP) for **advice** pursuant to Clause 2.19(1)(c) of the Environmental Planning and Assessment Act 1979. Pursuant to Clause 1 of the Wollongong City Council Submission Policy adopted on 25 June 2018, the proposal is a modification under section 4.55 and has received greater than five submissions.

Proposal

The proposal is for the modification of DA-2015/672 for alterations and additions to an existing motel restaurant and service amenities. The proposed modifications include the retention of the upper level and external balcony space as existing manager’s residence and utilisation of the existing ground floor internal recreation room for internal restaurant dining purposes.

Permissibility

The proposal is categorised as alterations and additions to hotel or motel accommodation and is prohibited in the R2 Low Density Residential zone. The development relies on existing use rights pursuant to the Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulations 2000.

Consultation

The proposal was notified in accordance with Council’s Notification Policy and received ten submissions which are discussed at section 2.8 of the assessment report.

Main Issues

The main issues are the removal of the safe refuge area for flooding emergencies, the removal of the stairs at the eastern end of the building and inconsistent information.

RECOMMENDATION

It is recommended that the application be refused.

1 APPLICATION OVERVIEW

1.1 BACKGROUND TO MODIFICATION

DA-2015/672 gave consent to alterations and additions to the existing Thirroul Motel including the following:

- Relocation of the office/reception and conversion of the reception area to dining/recreation room floor space;
- Demolition and reconfiguration of internal walls and functionality;
- New openings to external walls to the existing ground floor kitchen area;
- Reconfiguration of the existing stairs to alter the access point;
- New dining area on the first floor;
- New external seating area for the motel restaurant, including hard-stand paving; and
- Upgraded WC facilities to accommodate disabled access and facilities.

The existing parking area was identified as being unchanged in providing 22 car parking spaces. The approved plans and consent for DA-2015/672 are held at Attachment 3.

Works on DA-2015/672 were partially carried out and the majority of works to the ground floor completed, whilst works to the first floor to create additional dining area have not been commenced. An interim occupation certificate for the ground floor works and amenities has been issued.

Subsequent to DA-2015/672 being issued, DA-2016/510 was approved on the site for the change of use of the existing motel restaurant to allow public dining. The consent was issued conditionally, with a restricted consent period of twelve months.

DA-2016/510 was issued with a number of conditions relating to DA-2015/672, none of which were complied with. The restricted consent period associated with DA-2016/510 has since expired however it is noted that the site has continued to be used for the purposes of a café/restaurant to date and contrary to the condition restricting the consent period.

The site has been the subject of numerous complaints to Council from residents. Council's Regulation and Enforcement investigation and action has resulted in attempts to regularise the development on site. This has included the submission of DA-2019/644 for the use of the premises as a café/restaurant and the submission of the subject application for modification.

1.2 DETAILED DESCRIPTION OF PROPOSAL

The proposed modifications and their likely impacts are discussed below.

Modification to development description

The initial proposed modification to the development description was:

Alterations and additions to existing motel restaurant and service amenities

Modification A - retain upper level internal living and external balcony areas as existing, change use of manager's residence to motel accommodation, change use of motel room 2 to reception, deletion of conditions 2, 3, 37, 44, 46, 47 and amendment to condition 9

Council provided advice to the applicant that it was unlikely that the majority of these modifications would be supported and as such, the applicant amended the application on 13 November 2019 such that the description of the modification is now proposed as:

Alterations and additions to existing motel restaurant and service amenities

Modification A – retain upper level and external balcony space as existing manager’s residence and utilise the existing ground floor internal recreation room for internal restaurant dining purposes

- Retention of upper level and external balcony space as existing manager’s residence

The applicant was advised that Council did not consider the proposed change of use of the upper level from a manager’s residence to a motel under the modification to be substantially the same development as the development for which consent was originally granted under DA-2015/672. On 13 November, the applicant responded to Council’s correspondence requiring this and other changes to the application by providing a written response that acknowledged that the application now seeks to retain the upper level floor plan as it is currently constructed, and its current use as a manager’s residence.

The plans submitted with this correspondence however clearly identify the first floor as being a “Motel Unit”. As such, it is unclear if the change of use from manager’s residence to motel unit has been removed from the application for modification.

Further, during Council’s assessment of the original DA-2015/672 the site was noted as being flood affected and correspondence with the applicant identified that Council held concerns with the proposed increase in dining room patron numbers and the lack of flood evacuation opportunity to higher ground. The outcome to this issue was that patrons on the ground floor would evacuate to the first floor dining area in the event of a flooding emergency. The following condition was applied to the consent in this regard:

38 Site Emergency Response Flood Report

The submission of a report from a suitably qualified civil engineer to the Principal Certifying Authority is required, prior to the issue of the Occupation Certificate and commencement of use. The report shall incorporate an effective emergency response plan and procedure for the existing managers residence and motel facilities building to evacuate up to the first floor of the subject building during storm events up to and including the Probable Maximum Flood (PMF).

Notification of the presence of the report and procedure will be placed on the S149 Certificate for the property to ensure future property owners are made aware of the procedure in the case of flood.

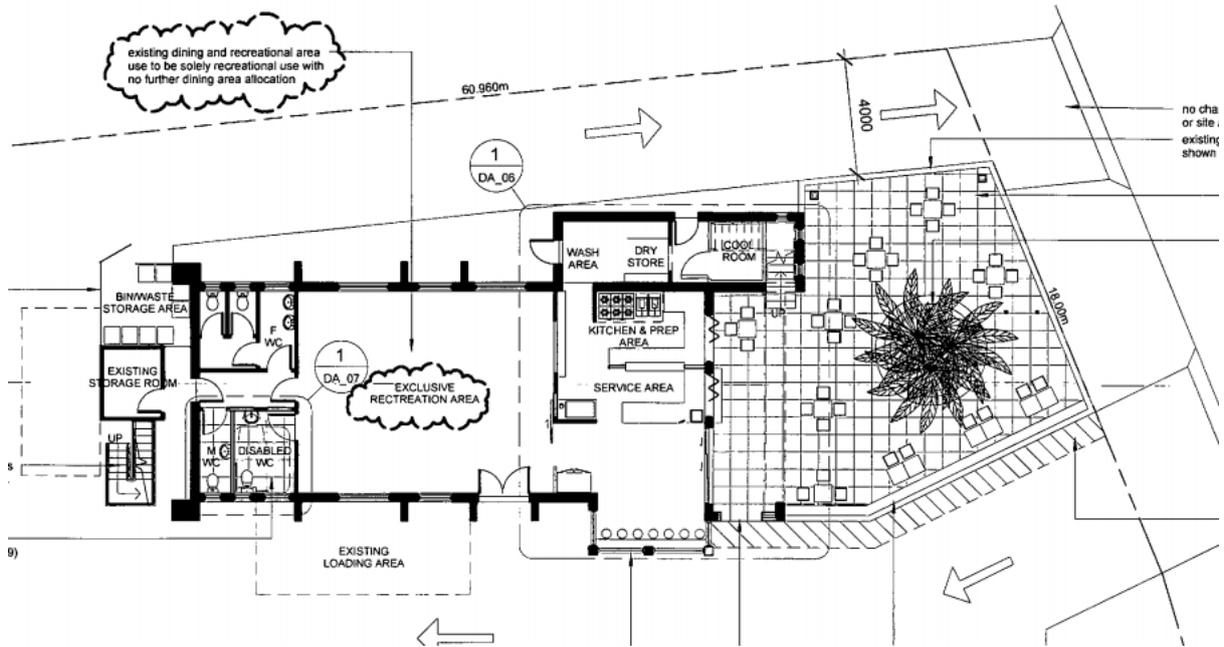
This report was to be provided prior to issue of the Occupation Certificate, however to date is not noted against the property conditions to enable it to appear on a Section 10.7 certificate.

In relation to this application for modification, the previously proposed upper floor dining area- the area that was identified as being available for flood refuge for the diners- becomes reincorporated into the separate manager’s residence unit with no guarantee of access for the diners during a flooding emergency requiring evacuation. The proposal was referred to Council’s Stormwater/Flooding Officer who provided comment below at Section 1.7.

In the absence of a suitable alternative place of refuge being proposed, the modification is not supported by Council.

- utilise the existing ground floor internal recreation room for internal restaurant dining purposes

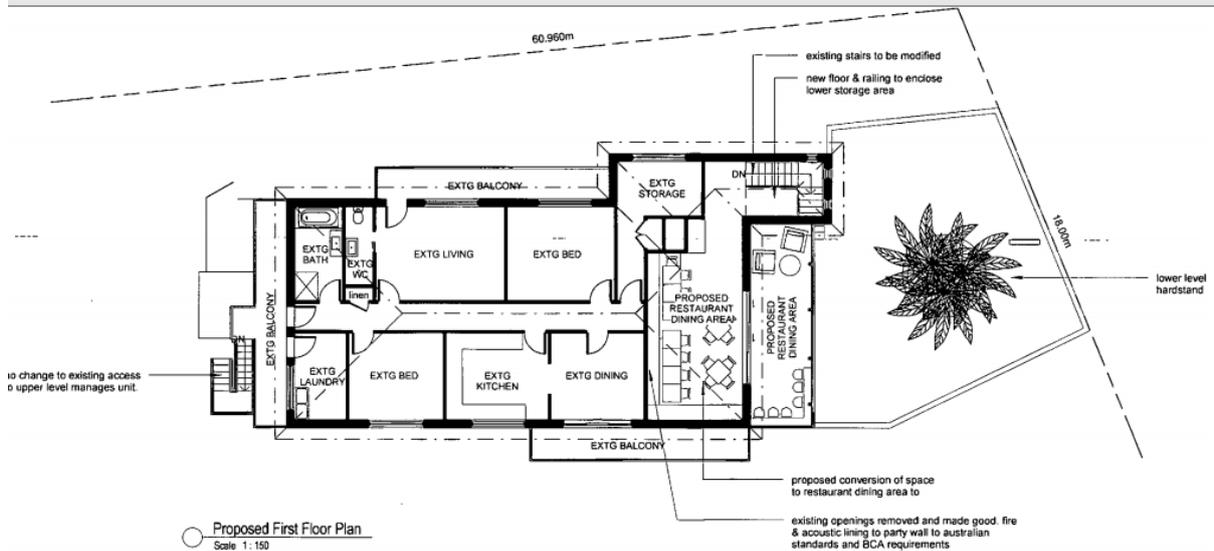
Based on a review of documentation associated with DA-2015/672, it appears that ground floor area within the building changed from a dining area to “recreation area” to address concerns around intensification of the existing use, as indicated below.



Condition 2 of the existing consent permits the use of the ground floor “recreation area” for dining purposes by resident guests as discussed in the original assessment report. The removal of the notation in relation to the “recreation area” from the plan is supported.

Built form changes /

Approved Level 1

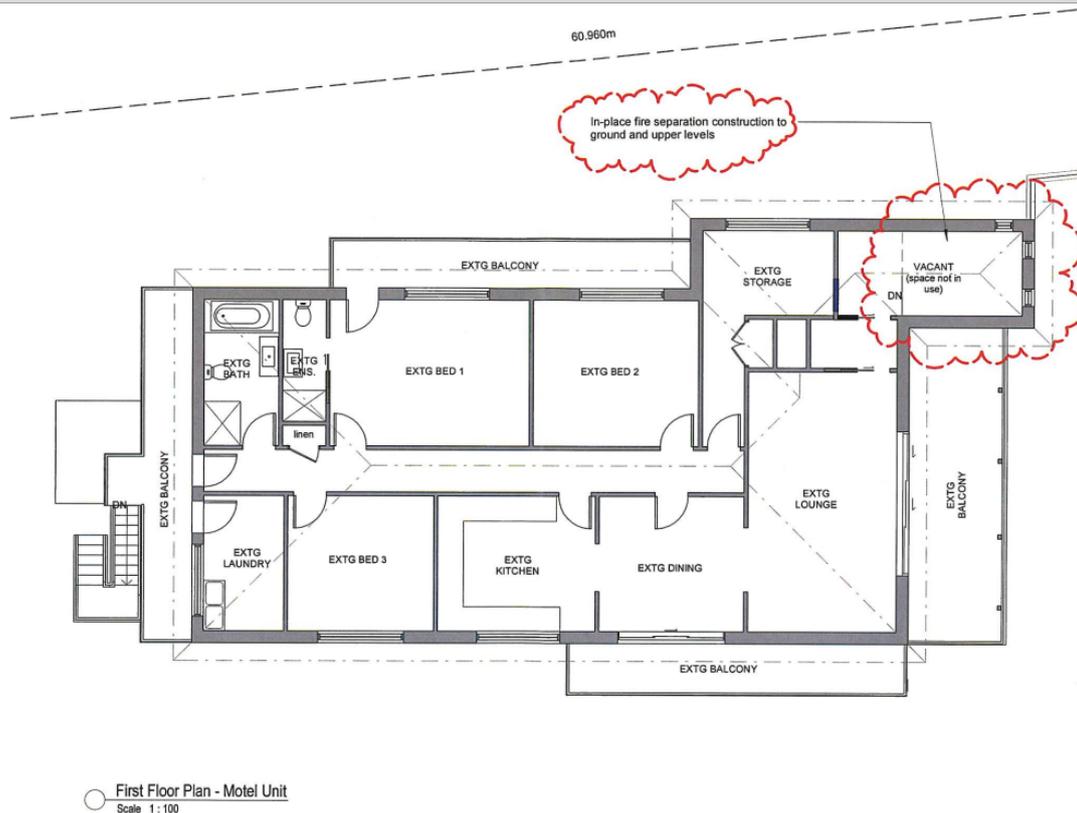


Proposed First Floor Plan
Scale 1:150

**WOLLON
DEVEL**

This is the plan/doc.

Proposed Level 1



Comment

Modification of the upper floor such that the existing layout is retained is not considered to have an adverse visual impact, however a conflict exists in the described use between the plans and documentation and the loss of a suitable place of refuge for occupants during a flooding emergency is not supported.

Changes to conditions of consent

The application for modification initially proposed a series of condition deletions and amendments. These proposed modifications were withdrawn following advice that Council not supportive of the changes to conditions. There are no further changes to conditions sought beyond the changes to approved plans and documents if the application were to be supported.

Section 4.55 Modification of consents-generally

The proposal is considered against section 4.55 modification as outlined below.

1A) Modifications involving minimal environmental impact
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact,

Council is not satisfied that the proposed modification is of minimal environmental impact as the application does not sufficiently address potential impacts on occupants in relation to the provision of a place of safe refuge during a flooding event/flood evacuation.

(b) 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 before that consent as originally granted was modified (if at all),

The plans are required to reflect the applicant’s statement of response to Council’s request for information such that the plans should identify the first floor use as a manager’s residence, and not a motel room.

(c) it has notified the application in accordance with:

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent,

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising.

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Ten submissions were received following notification. These are discussed further in Section 1.5 below.

(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

The relevant matters of consideration under section 4.15 are outlined below.

1.3 BACKGROUND

The site has the following development history:

Application Number	Description	Decision
DA-1968/361	Brick Motel	Rejected
BA-1969/879	Motel	Approved
DA-1973/652	Motel Buildings	Approved
BA-1976/126	Additions to motel managers residence	Approved
DA-1982/622	6 Rooms & Kitchen Motel Additions	Approved
BA-1983/120	Motel Additions	Approved
DA-2015/672	Alterations and additions to existing motel restaurant and service amenities	Approved
DA-2016/510	Business Premises - Change of use to existing motel restaurant to allow public dining	Approved
DE-2019/68	Disturbance complaint for licensed premises - Thirroul Beach Hotel	None
DA-2019/644	Business Premises - Use of cafe/ restaurant	Current
DA-2015/672/A	Alterations and additions to existing motel restaurant and service amenities	Current

	Modification A – retain upper level and external balcony space as existing manager’s residence and utilise the existing ground floor internal recreation room for internal restaurant dining purposes	
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No pre-lodgement meeting was held for the proposal.

Customer service actions

The site /development is the subject of ongoing action by Council’s Regulation and Enforcement department. DA-2019/510 was lodged in response to these investigations, and as a result, modification to DA-2015/672 was also required.

1.4 DEVELOPMENT APPLICATION HISTORY SUMMARY

DA-2015/672 - Alterations and additions to existing motel restaurant and service amenities

In 2015, Council issued consent for alterations and additions to the existing motel restaurant and service amenities. The dining area associated with the motel was extended to the first floor of the motel facilities building, and an alfresco area also created at the front of the building for dining. These areas were permitted to be used for in house dining for motel guests only. The maximum occupant capacity was conditioned to be 44 people.

To date, a final Occupation certificate has not been issued against this development, and various conditions of consent have not been satisfied, including building fire safety upgrade works and the provision of a Site Emergency Response Flood Report.

DA-2016/510 - Business Premises - Change of use to existing motel restaurant to allow public dining

DA-2016/510 was issued for the use of the existing motel dining room to allow public dining with a capacity of 100 patrons and a restricted consent period of 12 months. The restricted consent period expired on 21 June 2017, with the applicant failing to modify the application to remove or extend the restricted consent period. The consent contained numerous conditions that were required to be satisfied prior to the development occurring, the majority of which remain outstanding.

On-Premises Liquor Licence

The Thirroul Motel has a current on-premises liquor licence (No. LIQO660032947). The licence was issued following the issue of DA-2016/510, and the hours associated with the licence reflect those allowed under that consent.

The development has been the subject of numerous complaints to Liquor & Gaming NSW (L&GNSW) from surrounding residents, such that Council has been advised that L&GNSW were dealing with the matter under the disturbance provisions of the Liquor Act 2007. NSW Liquor and Gaming recently advised that the investigation will result in no further action by L&GNSW.

DA-2019/644 - Business Premises - Use of cafe/ restaurant

This application aims at regularising “Jose Jones” restaurant which is located at the Thirroul Motel site. The restaurant was originally given a restricted consent period consent under DA-2016/510, however the consent period lapsed without modification or deletion of the applicable condition. The restaurant has continued to trade to date in contravention of the restricted consent period condition.

This application is currently under assessment.

1.5 SITE DESCRIPTION

The site is located at 222-226 Lawrence Hargrave Drive, Thirroul and known as Lot 2 DP 578279. The level site incorporates a two-storey masonry motel development with ancillary off-street parking dating from 1969, comprising two (2) separate buildings being motel accommodation and manager’s residence/restaurant (motel services building). The subject application relates to the motel services building located on the northern side of the site.

As the site is located within a residential zoning, it is predominantly surrounded by residential development, both of low and medium density. There are a small number of commercial premises near the proposal, also located within the residential zoning.

Adjoining development is as follows:

- North: residential units (owned by owner of subject site)/café/dwellings
- East: residential units
- South: motel (part of subject site)/commercial development selling recycled goods/ dwellings
- West: multi dwelling housing/dwellings

The site is located approximately 180 metres north of the commercial component of Thirroul Village Centre and as such the locality is characterised by low and medium density residential development.

Property constraints

Council records identify the land as being impacted by the following constraints:

- acid sulphate soils (Class 4).
- Site located within a flood risk precinct (uncategorised flood risk).
- site located within the Coastal zone (Coastal Inundation 2010, 2050 and 2100 – see Figure 3 below).
- The site falls outside of the Thirroul Village Precinct Plan (although was included in the study area for the plan) and the Thirroul Village Centre.

There are no restrictions on the title



Figure 1: Aerial photograph

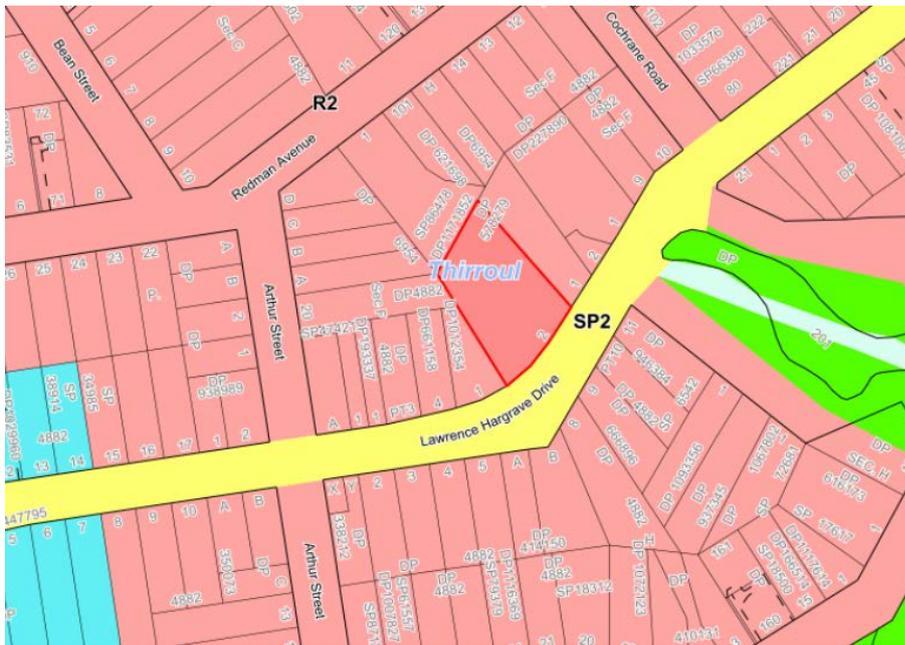


Figure 2: WLEP 2009 zoning map

1.6 SUBMISSIONS

The application was notified in accordance with WDCP 2009 Appendix 1: Public Notification and Advertising. Ten submissions were received, and the issues identified are discussed below.

The amended information provided by the applicant on 13 November 2019 was not renotified.

Table 1: Submissions

Concern	Comment
1. unauthorised use <ul style="list-style-type: none"> • illegal use of adjoining flats as backpacker accommodation • noise issues from use of first floor balcony, association with surf school has created a party atmosphere; anti social behaviour 	The unauthorised use of the subject and adjoining buildings is the subject of investigation by Council’s Regulation and Enforcement Division. It is Council practice to hold a Regulation and Enforcement matter in abeyance whilst a development application relating to the matter is under consideration, unless there are safety matters arising.
2. conflicts with the plans submitted under DA-2019/644	The plans submitted with DA-2019/644 have since been amended to reflect the plans being considered under the subject application for modification. The plans now demonstrate consistency between the applications.
3. Manager’s residence – <ul style="list-style-type: none"> • should be retained as single occupancy • already being used as a boarding house/back packer hostel – surf school advertises manager’s residence as “The Surf House” 	Council does not support the change of use of the manager’s residence to a motel room under the application for modification. The application has since been amended to retain the existing use of the first floor as a manager’s residence. Concerns regarding the use of this space have been investigated by Council Regulation and Enforcement Division as per above.

Concern	Comment
<ul style="list-style-type: none"> owner refers to upper level as a 4 bedroom “hostel” in submission to L&GNSW one large unit invites bookings from large “party” groups 	
<p>4. Lack of active management of the premises</p> <ul style="list-style-type: none"> conflicts associated with operation of premises in R2 zone adverse impacts on village character of the area disregard for DA conditions 	<p>It is considered that the majority of these concerns relate to the operation of “Jose Jones” at the ground floor, and the unauthorised use of the first floor.</p> <p>The former matter is the subject of DA-2019/644, which is currently under assessment.</p> <p>The latter issue is one that was subject to investigation by Council’s Regulation and Enforcement department.</p>
<p>5. consent has lapsed – how was it able to keep operating</p>	<p>This matter relates to the operation of Jose Jones under DA-2016/510. It is noted that the restricted consent period condition of that consent lapsed and the continuing operation of Jose Jones is contrary to the restricted consent period condition.</p>
<p>6. retain existing conditions as they reflect the concerns held by neighbours</p>	<p>Council advised the applicant that it did not support removal/amendments to the conditions originally proposed under the modification. The changes to conditions were subsequently withdrawn from the application for modification.</p>
<p>7. Development creep arising as a result of numerous applications over the years has a huge impact</p>	<p>Each application is considered on its merits and the impact of the proposed developments assessed accordingly.</p>
<p>8. Parking</p> <ul style="list-style-type: none"> where is additional parking 	<p>There is no additional parking proposed under the application for modification. Additional parking on site is not required under this application as there is no proposed change to the maximum occupancy of this building.</p>

1.7 CONSULTATION

1.7.1 INTERNAL CONSULTATION

Stormwater/Flooding Officer

The proposal was referred to Council’s Stormwater/Flooding Officer. The following comments were provided:

- Council’s records indicate that the property is Flood Affected – Uncategorised Flood Risk Precinct.*
- Council does not have an adopted flood study for the catchment. However, the site is located approx. 20 metres from a significant watercourse (Flanagans Creek) and flooding on site would likely be significant, particularly in the event of blockage of the downstream culverts beneath Lawrence Hargrave Drive.*
- Based on a review of flood studies submitted for other developments within the vicinity of the site (incl. DA-2016/600), floodplain topography and contribution catchment area, flood*

depths/velocities at the site may potentially result in parts of the site being classified as High Hazard, Floodway Area, and High Flood Risk Precinct.

- *In light of the above, there is insufficient information for Council to be satisfied that the proposal meets the relevant objectives and performance criteria in Clause 7.3 of the Wollongong LEP and Chapter E13 of the Wollongong DCP2009, particularly in relation to risk to life.*
- *DA-2015/672/A proposes to remove the upper level dining facility, which was a key consideration in the stormwater assessment of the original application (DA-2016/672). This upper level component of the restaurant facilitated an on-site flood refuge area for vertical evacuation during a flood. Compliance with the objectives in Chapter E13 and satisfactory stormwater referral advice was achieved on the basis that there will be no increase in risk to patrons in the event of a flood and the upper floor area would be designated as a flood refuge for restaurant patrons (refer HPE Record No. Z15/179696 – copy attached).*
- *In this regard, the proposal in its current form cannot be supported.*

Building Officer

Council's Building Officer has reviewed the application and has raised concerns in relation to the removal of the stairs at the eastern end of the building (noting that at least part of these works have already been carried out without consent)

The following comment was provided by the Building Officer:

It is noted that a stair leading from the 1st floor level (located in the North east corner) has been removed without consent.

The stair was existing and located on original consent plans DA-2015/672.

Plans submitted with this application Modification DA-2015/672, show that the stairs have been removed.

In addition, this Modification description does not include the removal of a stair.

Review of the proposed floor plan taking into regard the proposed use as a Motel, the stair must be reinstated as an alternative means of egress from the 1st floor level.

Therefore, I am imposing a condition for a Construction Certificate for the reinstatement of the egress stair, even though the applicant has not applied to do building work.

As the application for modification is not supported, this has been included as a matter in the recommended reasons for refusal under Section 3 of this report.

1.7.2 EXTERNAL CONSULTATION

None required

2 ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 – 4.15 EVALUATION

2.1 SECTION 4.15(1)(A)(1) ANY ENVIRONMENTAL PLANNING INSTRUMENT

2.1.1 SECTION 4.70 OF ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

The application has been lodged as pursuant to section 4.55(1A) of the EP&A Act, and seeks to modify consent DA-2015/672 to retain the upper level and external balcony space as existing manager's residence and utilise the existing ground floor internal recreation room for internal restaurant dining purposes.

The site under the provisions of WLEP 2009 is currently zoned R2 Low Density Residential and "hotel or motel accommodation" is prohibited.

Despite the proposal being prohibited, the modification application seeks to rely on section 4.70 of the *Environmental Planning and Assessment Act 1979* to enable the modification application to be considered.

4.70 Saving of effect of existing consents

(cf previous s 109B)

(1) Nothing in an environmental planning instrument prohibits, or requires a further development consent to authorise, the carrying out of development in accordance with a consent that has been granted and is in force.

(2) This section—

(a) applies to consents lawfully granted before or after the commencement of this Act, and

(b) does not prevent the lapsing, revocation or modification, in accordance with this Act, of a consent, and

(c) has effect despite anything to the contrary in section 4.66 or 4.68.

(3) This section is taken to have commenced on the commencement of this Act.

Currently, there is an existing consent that has been lawfully granted (DA-2015/672 with conditions on 30 September 2015). An interim occupation certificate has been issued for the development and as such, the consent has been acted upon since the date of issue. The application can be therefore be considered under section 4.70 of the Act and modified in accordance with the Act.

The proposal is not subject to the normal development standards that apply to development within the applicable zoning of the land. Notwithstanding, the application is to be assessed on merit having regard to the relevant environmental planning instruments and policies and impacts arising under the provisions of section 4.55(1A) and section 4.15 of the Act.

2.1.2 STATE ENVIRONMENTAL PLANNING POLICY NO. 55 – REMEDIATION OF LAND

A desktop audit of previous land uses does not indicate any historic use that would contribute to the contamination of the site. There are no earthworks proposed and the proposal does not comprise a change of use (commercial to commercial use). No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

Lawrence Hargrave Drive is a classified road in this location. The application does not propose any changes to the existing access arrangements onto and off the site. In addition, the proposed use is not considered to be a use that is sensitive to traffic noise or vehicle emissions. Further consideration under Clauses 101 and 102 is therefore not required.

2.1.4 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 2018

21 Savings and transitional provisions

Note. See also section 27 (Granting of development consent relating to coastal protection works) of the Coastal Management Act 2016.

(1) The former planning provisions continue to apply (and this Policy does not apply) to a development application lodged, but not finally determined, immediately before the commencement of this Policy in relation to land to which this Policy applies.

The application for modification was lodged on 19 August 2019, and this policy commenced on 3 April 2018.

3 Aim of Policy

The aim of this Policy is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the Coastal Management Act 2016, including the management objectives for each coastal management area, by:

- (a) managing development in the coastal zone and protecting the environmental assets of the coast, and
- (b) establishing a framework for land use planning to guide decision-making in the coastal zone, and
- (c) mapping the 4 coastal management areas that comprise the NSW coastal zone for the purpose of the definitions in the Coastal Management Act 2016.

5 Land to which Policy applies

This Policy applies to land within the coastal zone.

7 Relationship with other environmental planning instruments

- (1) In the event of an inconsistency between this Policy and another environmental planning instrument, whether made before or after the commencement of this Policy, this Policy prevails to the extent of the inconsistency.
- (2) This Policy does not apply to land within the Lease Area within the meaning of State Environmental Planning Policy (Three Ports) 2013.

Part 2 Development controls for coastal management areas

A review of the SEPP's mapping extents identifies the site as being located within the Coastal Environment and the Coastal Use areas. As the proposal involves minor construction works within the envelope of the existing building, there are not expected to be any adverse impacts arising on the matters identified within the SEPP detailed below.

Division 3 Coastal environment area

13 Development on land within the coastal environment area

- (1) Development consent must not be granted to development on land that is within the coastal environment area unless the consent authority has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (a) the integrity and resilience of the biophysical, hydrological (surface and groundwater) and ecological environment,
 - (b) coastal environmental values and natural coastal processes,
 - (c) the water quality of the marine estate (within the meaning of the Marine Estate Management Act 2014), in particular, the cumulative impacts of the proposed development on any of the sensitive coastal lakes identified in Schedule 1,
 - (d) marine vegetation, native vegetation and fauna and their habitats, undeveloped headlands and rock platforms,
 - (e) existing public open space and safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (f) Aboriginal cultural heritage, practices and places,
 - (g) the use of the surf zone.
- (2) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

- (a) the development is designed, sited and will be managed to avoid an adverse impact referred to in subclause (1), or
 - (b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.
- (3) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Division 4 Coastal use area

14 Development on land within the coastal use area

- (1) Development consent must not be granted to development on land that is within the coastal use area unless the consent authority:
- (a) has considered whether the proposed development is likely to cause an adverse impact on the following:
 - (i) existing, safe access to and along the foreshore, beach, headland or rock platform for members of the public, including persons with a disability,
 - (ii) overshadowing, wind funnelling and the loss of views from public places to foreshores,
 - (iii) the visual amenity and scenic qualities of the coast, including coastal headlands,
 - (iv) Aboriginal cultural heritage, practices and places,
 - (v) cultural and built environment heritage, and
 - (b) is satisfied that:
 - (i) the development is designed, sited and will be managed to avoid an adverse impact referred to in paragraph (a), or
 - (ii) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
 - (iii) if that impact cannot be minimised—the development will be managed to mitigate that impact, and
 - (c) has taken into account the surrounding coastal and built environment, and the bulk, scale and size of the proposed development.
- (2) This clause does not apply to land within the Foreshores and Waterways Area within the meaning of Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Division 5 General

15 Development in coastal zone generally—development not to increase risk of coastal hazards

Development consent must not be granted to development on land within the coastal zone unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.

16 Development in coastal zone generally—coastal management programs to be considered

Development consent must not be granted to development on land within the coastal zone unless the consent authority has taken into consideration the relevant provisions of any certified coastal management program that applies to the land.

NSW Coastal Management Act 2016 and Wollongong Coastal Zone Management Plan

On 30 October 2017, Council endorsed the final draft of the Wollongong Coastal Zone Management Plan for resubmission to the NSW Minister for Environment for certification. The draft Plan was certified on 20 December 2017.

At the Council meeting of 19 February 2018, Council resolved that the certified final draft be adopted. Council's Notice was published in the NSW Gazette No 25 of 9 March 2018 and a community briefing on the implications arising from Council adopting and gazetting the plan have been undertaken.

The NSW Coastal Management Act 2016 came into force on 3 April 2018. Under the Act any existing certified CZMP's continue in force until 2020.

A review of Council's associated CZMP coastal hazard mapping extents identifies that the subject site and specifically the building envelope is impacted by coastal inundation at the 2010/ 2050/2100 timelines.

Minimal adverse impact on the coastal environment is anticipated as a result of the proposed development. Council's practice is to utilise Chapter E13: Floodplain Management of Wollongong Development Control Plan 2009 to manage the coastal inundation hazard. Assessment under this Chapter is discussed further in this report under section 2.3.1.

2.1.5 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

As the proposal relies on existing use rights a merit assessment of the proposal will be undertaken against the requirements of WLEP 2009.

Clause 1.4 Definitions

Hotel or motel accommodation means a building or place (whether or not licensed premises under the Liquor Act 2007) that provides temporary or short-term accommodation on a commercial basis and that:

- a) comprises rooms or self-contained suites, and
- b) may provide meals to guests or the general public and facilities for the parking of guests' vehicles,

but does not include backpackers' accommodation, a boarding house, bed and breakfast accommodation or farm stay accommodation.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following-

- (a) backpackers' accommodation,
 - (b) bed and breakfast accommodation,
 - (c) farm stay accommodation,
 - (d) hotel or motel accommodation,
 - (e) serviced apartments,
- but does not include-
- (f) camping grounds, or
 - (g) caravan parks, or
 - (h) eco-tourist facilities

Clause 1.8A Savings provision relating to pending development approvals

None applicable

Part 2 Permitted or prohibited development

Clause 2.2 – zoning of land to which Plan applies

The zoning map identifies the land as being zoned R2 Low Density Residential.

Clause 2.3 – Zone objectives and land use table

The objectives of the zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal is considered apposite to the above objectives.

The land use table permits the following uses in the zone.

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Exhibition homes; Exhibition villages; Group homes; Health consulting rooms; Home-based child care; Hospitals; Hostels; Information and education facilities; Jetties; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Signage; Veterinary hospitals

The proposal is categorised as a hotel or motel accommodation (tourist and visitor accommodation) as defined above and is not permissible in the zone with development consent.

Existing uses

The assessing officer of DA-2015/672 considered existing use rights as follows (noting that Clause numbering under the EP&A Act has since changed):

Section 106(b)(i) of the EP & A Act 1979 prescribes an ‘existing use’ as the use of a building, work or land for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting that use.

Section 108 (1)(b) of the EP & A Act 1979 prescribes that the regulations may make provision for or with respect to existing use and, in particular, for or with respect to the carrying out of alterations or extensions to or the rebuilding of a building or work being used for an existing use.

*Clause 41(1)(a) & (b) of the Regs prescribes an existing use may be enlarged, expanded or intensified, or be altered or extended. Clause 42(2) prescribes that the enlargement, expansion or intensification must be for the existing use and for no other use, and must be carried out only on the land on which the existing use was carried out immediately before the relevant date. **Relevant date** means in relation to an existing use referred to in section 106(b) of the Act, the date when the building, work or land being used for the existing use was first erected, carried out or so used. In this case, being the motel consent granted on 22 September 1969 under IPSO 1968.*

*The motel was therefore an existing approved use/development prior to the gazettal of WLEP 2009 on 26 February 2010 which had the effect of prohibiting ‘**hotel or motel accommodation**’ as a permissible use in the R2 Low Density Residential zone (it is noted the use, defined as ‘**motel**’ was a permitted use with development consent in the 2(b)(Medium Density Residential Zone) pursuant to the superseded WLEP 1990 and before that, a permitted use with development consent in the 2(b)(Residential “B” Zone) under WLEP 38). As such, it is*

determined the principal motel use enjoys existing use rights and the dining room/restaurant component, if considered ancillary to the motel (being for the exclusive use by motel guests), would also enjoy existing use rights.

It is noted that 'refreshment rooms' (the IPSO68 nomenclature for 'restaurants') were a prohibited use under the Ordinance. 'Refreshment rooms' continued as a prohibited use in the 2(b)(Residential "B" Zone) following the gazettal of WLEP 38 in 1984. Under WLEP 1990 'restaurants' became a permissible use with consent, but only after satisfying cl.11 which related to whether the use provided a service primarily for the area, met an urgent community need, comprised an owner-occupier operated small scale tourist related development or whether the most exceptional circumstances applied. Under WLEP 2009 'restaurants' again became a prohibited use. The above is included to emphasise that at present a 'stand-alone' restaurant is a prohibited use, and that no approval has been granted previously on the site for a 'restaurant' in isolation (see Section 2.1.3 below for further discussion on permissibility).

The above consideration of existing use rights remains generally relevant to the proposed modification.

Clause 2.7 Demolition requires development consent

It is noted that the stairs located at the eastern end of the building have been demolished with prior approval and as required by this Clause. Council's Building Officer has noted that their reinstatement is required.

There are no other demolition works proposed under this application for modification.

Part 4 Principal development standards

Clause 4.3 Height of buildings

The existing approved building height of 5.9m does not exceed the maximum of 9m permitted for the site. The proposal does not alter the existing building height.

Clause 4.4 Floor space ratio

The proposal reverts back to the existing gross floor area on the site.

Part 7 Local provisions – general

Clause 7.1 Public utility infrastructure

The development is adequately serviced by electricity, water and sewage services.

Clause 7.3 Flood planning area

The land is identified as being flood affected (uncategorised flood risk). Council's Stormwater Engineer has assessed the application in this regard and considers that the proposed modification fails to demonstrate that the development does not pose unacceptable risk to life .

Clause 7.5 Acid Sulfate Soils

The proposal is identified as being affected by class 4 acid sulphate soils. An acid sulphate soils management plan is not required as excavation is not proposed.

2.2 SECTION 4.15(1)(A)(II) ANY PROPOSED INSTRUMENT

None applicable

2.3 SECTION 4.15(1)(A)(III) ANY DEVELOPMENT CONTROL PLAN

As the proposal relies on existing use rights a merit assessment of the proposal will be undertaken against the guidelines contained in WDCP 2009.

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER A1 – INTRODUCTION

8 Variations to development controls in the DCP

None proposed.

CHAPTER D1 – CHARACTER STATEMENTS

Thirroul

The proposal is considered to be consistent with the existing and desired future character for the locality. The proposal is generally consistent with existing approved uses on site and provides for a small increase in on site dining to cater for motel guests only.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

There are existing conditions of consent in relation to access for people with a disability.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

Crime prevention through environmental design matters remain generally unchanged in relation to the proposed modification.

CHAPTER E3: CAR PARKING, ACCESS, SERVICING/LOADING FACILITIES AND TRAFFIC MANAGEMENT

There is no change to the existing parking arrangement proposed under the original application. This is considered to be acceptable as the use of the proposal as considered under this application remains restricted to 44 people, all of whom are required to be motel guests or occupants of the manager's residence

CHAPTER E7: WASTE MANAGEMENT

There are no changes proposed to waste management under the modification.

CHAPTER E13 FLOODPLAIN MANAGEMENT

The proposal was referred to Council's Stormwater/Flooding Officer who has advised that there is insufficient information for Council to be satisfied that the proposal meets the relevant objectives and performance criteria in Clause 7.3 of the Wollongong LEP and Chapter E13 of the Wollongong DCP2009, particularly in relation to risk to life and evacuation.

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2018

The estimated change to the cost of works is \$0 and an additional levy is therefore not applicable under this plan.

2.4 SECTION 4.15(1)(A)(IIIA) ANY PLANNING AGREEMENT THAT HAS BEEN ENTERED INTO UNDER SECTION 7.4, OR ANY DRAFT PLANNING AGREEMENT THAT A DEVELOPER HAS OFFERED TO ENTER INTO UNDER SECTION 7.4

There are no planning agreements entered into or any draft agreement offered to enter into under S7.4 which affect the development.

2.5 SECTION 4.15(A)(IV) THE REGULATIONS (TO THE EXTENT THAT THEY PRESCRIBE MATTERS FOR THE PURPOSES OF THIS PARAGRAPH)

92 What additional matters must a consent authority take into consideration in determining a development application?

There are existing conditions of consent with regard to demolition.

93 Fire safety and other considerations

Not applicable

94 Consent authority may require buildings to be upgraded

Council's Building Officer has reviewed the proposal and considers the proposed removal of the stairs at the eastern end of the building problematic, requiring their reinstatement. As the subject application is not supported, this matter is likely to be the subject of further compliance action by Council.

115 What are the requirements for an application for modification of a development consent?

The proposed modifications are consistent with the requirements of this clause.

2.6 SECTION 4.15(1)(B) THE LIKELY IMPACTS OF DEVELOPMENT

Context and Setting:

The proposal modification is considered to be in context with the existing use of the site and the surrounding development. As detailed in the assessment report for DA-2015/672, it is considered appropriate to allow the ground level internal area to be dual use dining/recreational area so long as the combined dining areas are only utilised by guests of the motel and are restricted to no more than 44 diners at any one time. The location of the alfresco area is also considered to provide a low level of amenity to dining guests being located on a busy road with little weather protection. Allowing the internal area on the ground floor to be utilised for dining purposes would increase dining options particularly in poor weather or cold winter months when the alfresco area would be less desirable.

Car parking numbers will remain as per existing which is considered adequate given there is no increase in use arising from the proposed modification.

Access, Transport and Traffic:

The proposed modification does not impact on or change existing parking, access and manoeuvring.

Public Domain:

The proposed modification is not considered to impact on the public domain.

Utilities:

The proposed modification is not envisaged to place an unreasonable demand on utilities supply. Existing utilities are adequate to service the proposal.

Heritage:

The proposed modification is not expected to impact on heritage items.

Other land resources:

The proposal is considered to contribute to orderly development of the site and is not envisaged to impact upon any valuable land resources.

Water:

The site is presently serviced by Sydney Water. The proposal is not envisaged to have unreasonable water consumption.

Soils:

There are no excavations proposed and as such, impacts on soil are not anticipated.

Air and Microclimate:

The proposal is not expected to have any negative impact on air or microclimate.

Flora and Fauna:

There is no vegetation removal proposed.

Waste:

There are no impacts arising from the proposed modification on existing waste collection arrangements.

Energy:

The proposal and its modification are not envisaged to have unreasonable energy consumption.

Noise and vibration:

Numerous submissions referred to the use of the existing manager's residence as a "backpacker" type accommodation and the associated noise arising from use of the eastern balcony late at night. In this regard, appropriate conditions of consent could be recommended should the application be supported to minimise these impacts, however the application as proposed is not supported.

Natural hazards:

Council records list the site as being located in an uncatagorised flood risk precinct. There is insufficient information for Council to be satisfied that the proposal meets the relevant objectives and performance criteria in Clause 7.3 of the Wollongong LEP and Chapter E13 of the Wollongong DCP2009, particularly in relation to risk to life and evacuation.

Technological hazards:

Council records list the site as acid sulphate soil affected, however this technological hazard is not considered adverse to the proposal as the modification does not propose any excavation.

Safety, Security and Crime Prevention:

The proposed modification does not present additional opportunities for criminal or antisocial behaviour.

Social Impact:

The proposed modification is not expected to create negative social impact.

Economic Impact:

The proposed modification is not expected to create negative economic impact.

Site Design and Internal Design:

The modification as proposed is considered to increase the risk to building occupants in a flooding emergency due to the lack of flood refuge area.

There are existing conditions on the consent requiring all works are to be in compliance with the Building Code of Australia, however it is noted that the stairs previously located at the eastern end of the building are required to provide safe egress to the occupants of the first floor. Their prior removal is considered to likely adversely impact on the safety of the occupants of the building.

Construction:

Conditions of consent could be recommended in relation to construction impacts such as hours of work, erosion and sedimentation controls, works in the road reserve, excavation, demolition and use of any crane, hoist, plant or scaffolding should the proposal be supported.

Cumulative Impacts:

It is considered that the changes proposed to the first floor by way of retaining the existing manager's residence result in the loss of a required flood refuge area for occupants of the building. In this regard, the proposal increases the risk to people during a flood emergency/evacuation.

2.7 SECTION 4.15(1)(C) THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT

Does the proposal fit in the locality?

The proposed modification is considered appropriate with regard to the characteristics of the subject development and the surrounding area and is not expected to have negative impacts on the amenity of the locality or adjoining developments.

Are the site attributes conducive to development?

The modification as proposed does not give due consideration to the flooding impact on site. A suitable place of refuge is not provided for patrons within the subject building during a flooding emergency or evacuation.

2.8 SECTION 4.15(1)(D) ANY SUBMISSIONS MADE IN ACCORDANCE WITH THIS ACT OR THE REGULATIONS

As discussed above under Section 1.6 of this report.

2.9 SECTION 4.15(1)(E) THE PUBLIC INTEREST

The application is expected to have unreasonable impacts on the safety of occupants of the building in regard to the lack of compliant egress and provision of a place of refuge in the event of a flooding emergency. As a result, the proposal is not considered to be in the public interest.

2.10 CONCLUSION

This application has been assessed as unsatisfactory having regard to the Heads of Consideration under Section S4.15(1) of the Environmental Planning and Assessment Act 1979, the provisions of Wollongong Local Environmental Plan 2009 and all relevant Council DCPs, Codes and Policies.

Despite the applicant amending details of the modification sought, there remain several unresolved matters following the assessment of the application for modification. These matters include inconsistency in documentation, the lack of flood refuge arising as a result of the changes to the first floor and fire safety provisions.

In relation to the utilisation of the existing ground floor internal recreation room for internal restaurant dining purposes, Condition 2 of DA-2015/672 allows for the use of the internal area for dining purposes already and as such modification of the application is not required in this regard.

The removal of the upper level dining area (required flood refuge area) to facilitate the retention of the manager's residence cannot be supported as it remains a critical component for the use of the building overall.

3 RECOMMENDATION

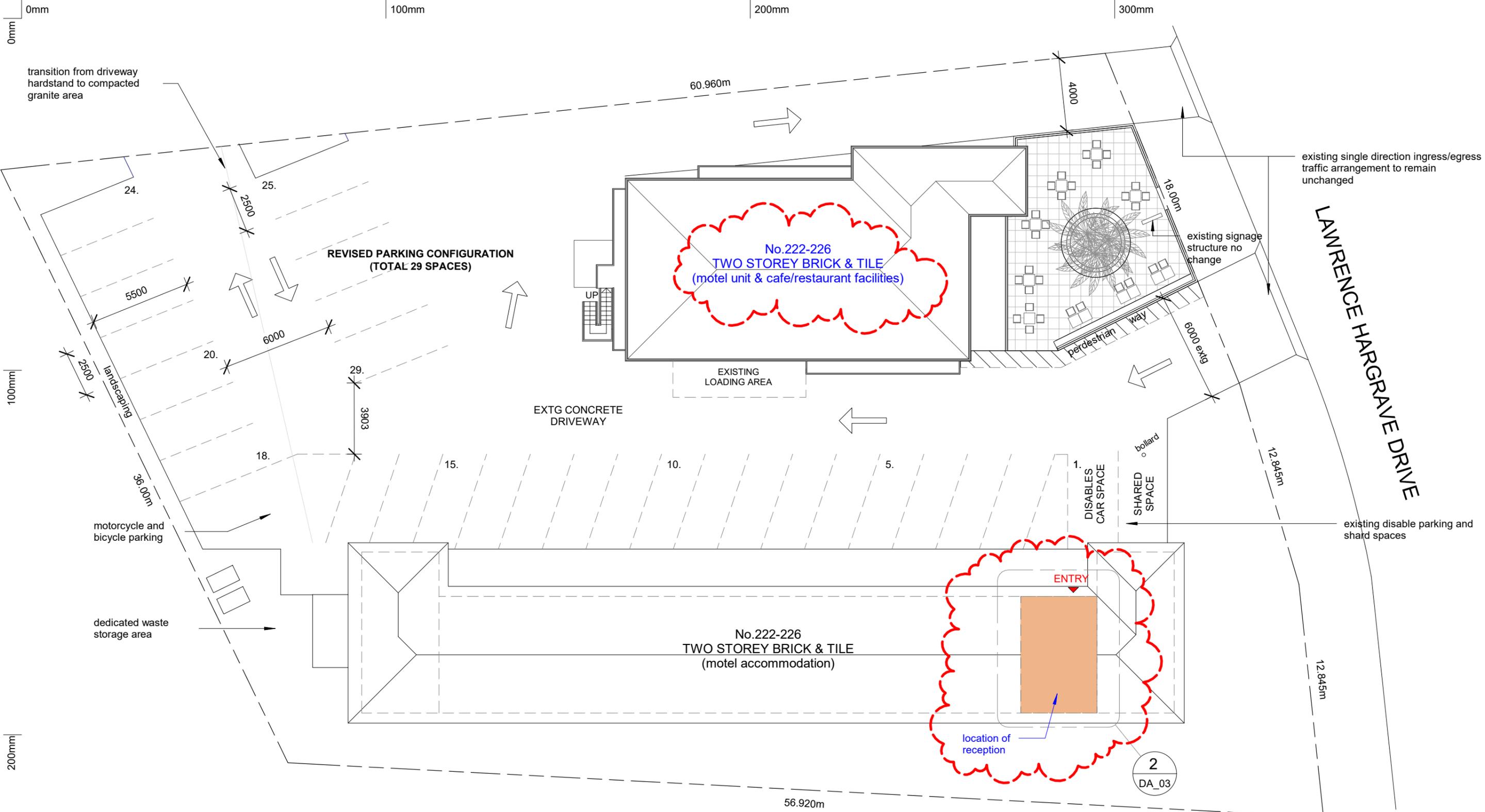
It is recommended that the modification be refused for the following reasons:

1. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the application submission is inconsistent with Wollongong Local Environmental Plan 2009 with respect to Clause 7.3 Flood Planning in that the proposed modification adversely impacts on evacuation in the event of a flood emergency.

2. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the application submission is inconsistent with the provisions of Chapter E13 Floodplain Management of Wollongong City Council's Development Control Plan 2009 with respect to risk to human life.
3. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the application submission fails to demonstrate that compliant egress is provided to the occupants of the first floor.
4. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, the application submission fails to demonstrate that the site is suitable for the development.
5. Pursuant to the provisions of Section 4.15 (1)(d) & (e) of the Environmental Planning and Assessment Act 1979 it is considered with the submissions received and in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

4 ATTACHMENTS

- 1 Plans
- 2 Applicant's response to request for information
- 3 DA-2015/672 – Approved plans and consent



Site Analysis Plan
Scale 1 : 200

Date	Rev	Amendment
Date 1	1	Revision 1

design:



MMJ Wollongong
6-8 Regent Street
PO Box 1167
Wollongong NSW 2500
p. 02 4229 5555
w. mmj.com.au

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project:
MODIFICATION TO EXISTING MOTEL RESTAURANT
address:
222 Lawrence Hargrave Drive, Thirroul
Lot: 2 DP: 578279
client:
THIRROUL MOTEL : C/- JOE MCGUINNESS

title: **SITE ANALYSIS PLAN**
job number: **15.13** drawing no: **DA_01**
date: Aug 19 drawn: BM scale @ A3: **1 : 200**
stage: **DEVELOPMENT APPLICATION PLAN (not for construction)** rev: **A**

0mm | 100mm | 200mm | 300mm

Total Occupant Summary:	
- Staff (varied)	= 2 - 4
- Internal/External Seating Capacity	
Total	= 100

proposed traffic calming measure (speed humps) at egress

100mm

motorcycle and secure bicycle parking

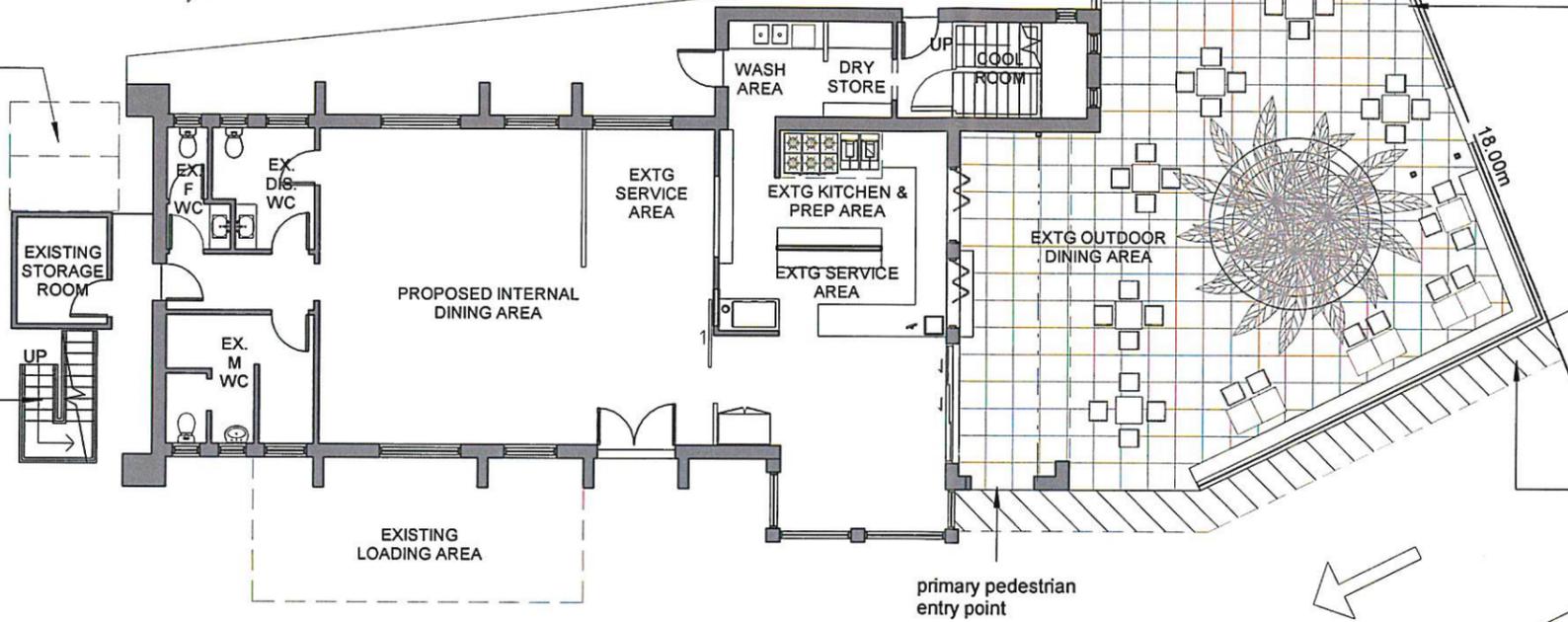
no change to existing crossovers or site access conditions

new glass screen to existing perimeter brick wall to assist with noise mitigation

LAWRENCE HARGRAVE DRIVE

no change to existing sharded driveway and pedestrian way access point to site

no change to existing access to upper level manages unit.



NO CHANGE TO EXISTING PARKING ARRANGEMENT

200mm

Ground Floor Plan
Scale 1 : 150



Date	Rev	Amendment
Date 1	1	Revision 1

design:



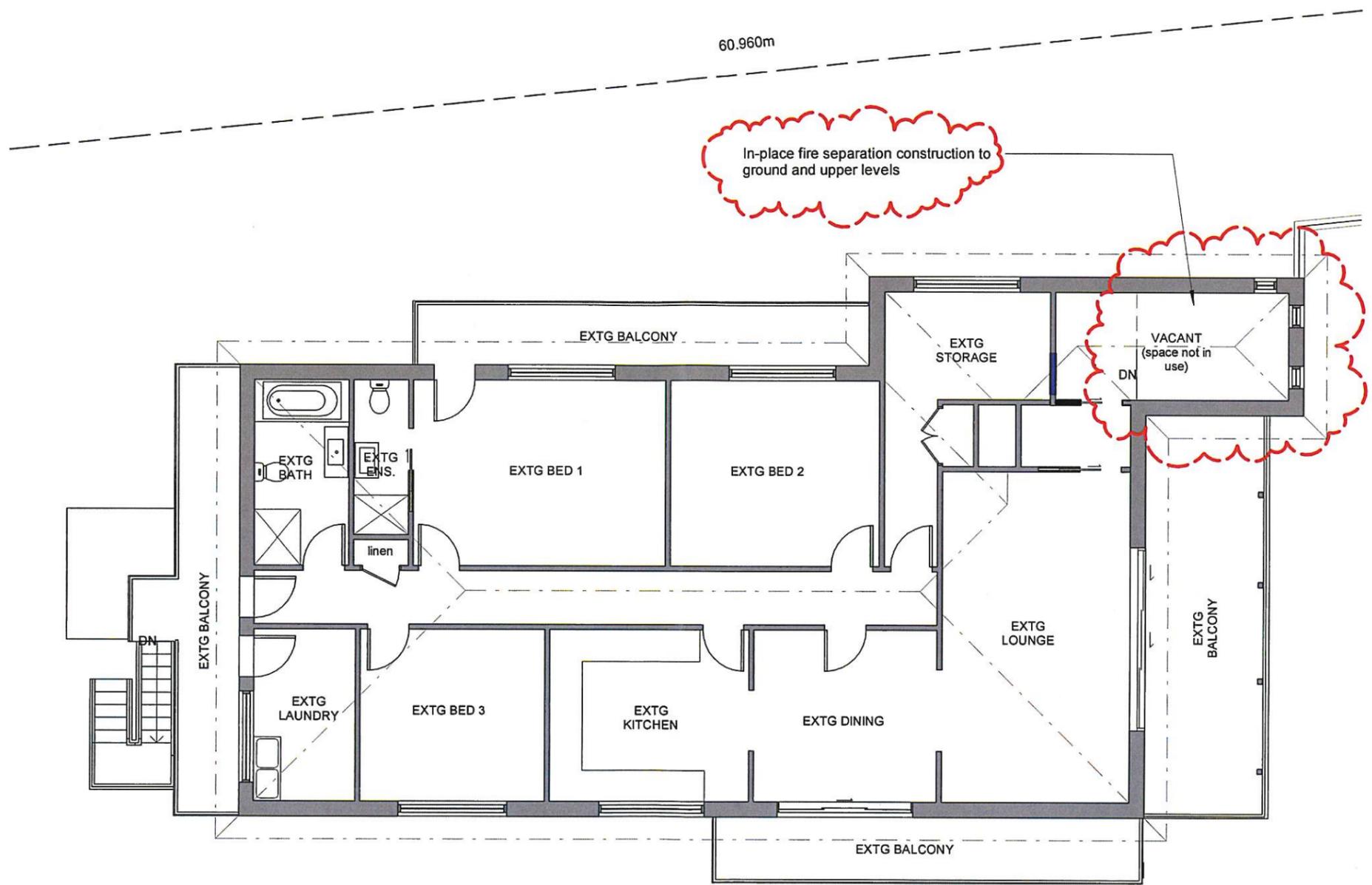
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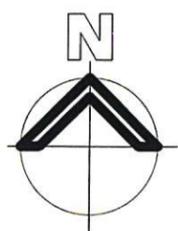
project:
MODIFICATION TO EXISTING MOTEL RESTAURANT
address:
222 Lawrence Hargrave Drive, Thirroul
Lot: 2 DP: 578279
client:
THIRROUL MOTEL : C/- JOE MCGUINESS

title: **GROUND FLOOR PLAN**
job number: 15.13 drawing no: DA_02
date: Nov 19 drawn: Author scale @ A3: 1 : 150
stage: **DEVELOPMENT APPLICATION PLAN (not for construction)** rev: **A**

0mm 100mm 200mm 300mm



○ First Floor Plan - Motel Unit
Scale 1 : 100



Date	Rev	Amendment
Date 1	1	Revision 1

design:



MMJ Wollongong
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PO Box 1167
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project:
MODIFICATION TO EXISTING MOTEL RESTAURANT
 address:
 222 Lawrence Hargrave Drive, Thirroul
 Lot: 2 DP: 578279
 client:
 THIRROUL MOTEL : C/- JOE MCGUINESS

title: **FIRST FLOOR PLANS**
 job number: 15.13 drawing no: DA_03
 date: Nov 19 drawn: BM scale @ A3: 1 : 100
 stage: **DEVELOPMENT APPLICATION PLAN (not for construction)** rev: A



REF: mdfctn.of.cnsnt.thrl.mtl.222-226LHD.thrl

8th November 2019

General Manager
Wollongong City Council
PO Box 8821
WOLLONGONG NSW 2500
ATTENTION: NICOLE ASHTON

Dear Nicole,

**RE: MODIFICATION OF DEVELOPMENT CONSENT NO. DA-2015/672
CHANGES TO APPROVED MOTEL RESTAURANT & MANAGERS RESIDENCE
THIRROUL MOTEL – 222-226 LAWRENCE HARGRAVE DRIVE, THIRROUL**

The existing Thirroul Beach Motel at 222-226 Lawrence Hargrave Drive, Thirroul, was originally established in the 1960s and has been in operation ever since. The existing development has been the subject of numerous upgrades and modifications over the years in order to improve/sustain business operations.

By Notice of Determination dated 30th September 2015, Council issued Development Consent for proposed *“Alterations and additions to existing motel restaurant and service amenities”* at Thirroul Motel (ie. DA-2015/672). In general, this included the refurbishment of the original ground floor restaurant kitchen and internal/external dining areas, to be more in keeping with current day service expectations and the contemporary café/restaurant facilities on offer (of which operations have been ongoing for some years now).

More specifically, these approved alterations and additions involved at the time:

- *Demolition and re-configuration of internal walls and functionality;*
- *New openings to external walls to existing ground floor restaurant and kitchen area;*



In relation to the approved works, the ground floor motel restaurant and amenities works were undertaken some years ago, however, a section of the first floor (which was to be converted to additional restaurant dining facilities) has not been commenced/completed to date. The certification of these works have been to date managed by Principal Certifying Authority (PCA) – Illawarra Building Certifiers, to which an interim Occupation Certificate (OC) for the ground floor motel restaurant and amenities was issued. A final OC cannot be issued at this stage because the Development Consent DA-2015/672 included these upper floor works which have not been commenced/completed. This is confirmed through the PCAs correspondence attached as *Appendix 1*.

In this regard, the operators of the motel no longer have a desire to complete or include upper level dining facilities for the restaurant operations as approved under Development Consent DA-2015/672, and instead seek to retain this internal living and external balcony space as existing and previously approved (as a managers residence). Additionally, it is proposed to utilise the existing internal ground floor recreational area as internal seating for restaurant dining purposes.

As such, an application pursuant to *Section 4.55* of the *EP&A Act, 1979*, for a modification of the subject Development Consent is hereby submitted for Council's consideration. In this regard, the modifications sought in this instance are identified within the amended Architectural Plans prepared by MMJ Town Planning and attached to the application. In general, these minor modifications (as referenced within the plans) can be described as follows:-

- 1. Retain upper level internal living and external balcony space as existing managers residence and, thus, remove any obligations within Development Consent DA-2015/672 for this area to be converted to restaurant dining space.**
- 2. Proposed utilisation of existing ground floor internal recreation room for internal restaurant dining purposes.**

Should Council's support be forthcoming for the above-mentioned proposed modifications, the implementation can be managed by simply amending the relevant Development Consent



DA-2015/672 conditions pertaining to the above-mentioned changes.

In this regard, it must be acknowledged that the existing Development Consent No. DA-2015/672 has not yet lapsed and, as such, *Section 4.70* of the *EP&A Act* preserves and saves existing consents, and specifically authorises their modification. Additionally, the development is subject to an interim OC issued by Illawarra Building Certifiers and, as such, this consent has been physically commenced and is activated in perpetuity. Thus, Council can be satisfied that the subject Development Consent can be modified accordingly.

In this regard, the *Environmental Planning and Assessment Amendment Act 2017 (NSW)*, which commenced on 1 March 2018, restructures the *EP&A Act* and makes broad amendments to all stages of the development assessment, approval and implementation process. For this purpose, *Section 96* has now been replaced by *Section 4.55* with regards to modification of consents generally.

For the purpose of this application, modification is sought pursuant to *Section 4.55(1A)* of the *EP&A Act*, for the matters outlined previous. *Section 4.55(1A)* of *The EP&A Act* addresses those modifications involving minimal environmental impact (within which the subject proposal is defined) and states that:-

"A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

(b) 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 before that consent as originally granted was modified (if at all), and



(c) it has notified the application in accordance with:

*(i) the regulations, if the regulations so require, or
(ii) a development control plan, if the consent authority
is a council that has made a development control plan
that requires the notification or advertising of
applications for modification of a development consent,
and*

*(d) it has considered any submissions made concerning the
proposed modification within any period prescribed by the
regulations or provided by the development control plan, as the
case may be."*

In light of the above, it is considered that Council can be satisfied that "...*the proposed modification is of minimal environmental impact...*" for the reason that the physical changes proposed are relatively minor amendments to the overall approved development, and will not dramatically alter the urban form or site operational characteristics of the motel. In fact, removing the initially proposed upper level dining area will simplify land use components throughout the development.

Utilising the indoor recreation space for additional restaurant dining will not cause a need for any significant works to be undertaken or result in any unreasonable environmental impacts. This is a simple change of use and will not result in any notable change to the approved occupancy or traffic considerations for the development. As such, it can be suitably justified that the proposed modifications are of minor environmental impact.

It is also considered that Council can be 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...*" for the following reasons:-

- the modified development proposal is contained wholly within the development site to which Development Consent No. DA-2015/672 relates;



- the original development to which Development Consent No. DA-2015/672 was granted is described as “*Alterations and additions to existing motel restaurant and service amenities*”. The modification of this consent as proposed will remain entirely within the ambit of this original development description;
- no change to the external appearance of the development as approved will be required by the proposed modification application. The approved overall building height and total GFA of the proposed development will not be altered by the modifications proposed; and
- the overall site design and layout of the proposed development will be retained generally as approved, with only minor changes to the effective internal dining operational characteristics (in lieu of internal guest recreation area).

In considering the above and minor changes, the perceived impacts associated with those specific development assessment matters contained within *Section 4.15* (previously *Section 79(C)*) of the *EP&A Act* have already been considered by Council as part of the original development approval processes under the relevant development controls, and found to be acceptable. The current planning controls applying to the site permit this proposal in its entirety, and the modified development proposed does not conflict with the objectives of Council’s statutory and non-statutory planning instruments.

From a land use perspective, the site is benefited by “*existing use rights*” as provided by *Part 4 – Division 4.11* (*Sections 4.65 to 4.70* inclusive) of the *EP&A Act, 1979*. In considering this, *Part 5* of the *EP&A Regulations 2000* (*Clauses 39 to 46* inclusive) qualifies the rights associated with “*existing uses*”, to which the proposed modifications are entirely permissible with Council’s consent. Given the minor nature of this proposal, it is considered that the proposed amendments will generally have no notable environmental impact, and will not significantly alter the substance of the approved development.

In summary, a review of those matters for Council’s consideration under *Section 4.55(1A)* of *The EP&A Act* has shown that the proposed development will be of minor environmental



impact, and that Council should be satisfied that the development proposal (as modified) will be substantially the same as that for which consent was originally granted. Further, a review of those relevant development and planning matters required for consideration in this instance has also been undertaken, and it is considered that the proposal will be appropriate by virtue of the improved development outcome it will result in.

Therefore, it would be appreciated if Council could favourably consider this application in accordance with *Section 4.55(1A)* of the *EP&A Act 1979* at the earliest convenience. In this regard, should further information and/or discussion be required, please contact the undersigned.

Yours faithfully,

MARTIN MORRIS & JONES PTY LTD

LUKE ROLLINSON

BUrbRegPlan DipArchTech MPIA

DIRECTOR - TOWN PLANNER



APPENDIX 1:

"PCA Correspondence"



WOLLONGONG CITY COUNCIL

Address 41 Burelli Street Wollongong **Post** Locked Bag 8821 Wollongong DC NSW 2500
Phone (02) 4227 7111 • **Fax** (02) 4227 7277 **Email** council@wollongong.nsw.gov.au
Web www.wollongong.nsw.gov.au **ABN** 63 139 525 939 • GST Registered



013

MMJ Wollongong
 PO BOX 1167
 WOLLONGONG DC NSW 2500

APPLICATION	DA-2015/672
Determination	Conditionally Approved
Approval Authority	Wollongong City Council
Endorsement Date	30 September 2015

NOTICE OF DETERMINATION OF DEVELOPMENT APPLICATION

Issued under Section 81 of the Environmental Planning and Assessment Act 1979

The development application described below has been determined:

Description	Alterations and additions to existing motel restaurant and service amenities
Location	Lot 2 DP 578279 222-226 Lawrence Hargrave Drive, THIRROUL NSW 2515

Consent has been granted subject to the following conditions:

Approved Plans and Specifications

- The development shall be implemented substantially in accordance with the details and specifications set out on Job No 15.13 Drawing DA_01A-A, DA_02, DA_03, DA_04A-A, DA_05, DA_06, DA_08 and DA_09 dated 6 August 2015 prepared by MMJ Town Planning and any details on the application form, and with any supporting information received, except as amended by the conditions specified and imposed hereunder.

General Matters

- Use of Recreation/Restaurant/Dining Areas**
The recreation area and alfresco area on the ground floor and the restaurant/dining area on the first floor shall be used by resident guests only. The recreation area on the ground floor is permitted to be used for dining purposes by resident guests only.
- Maximum Capacity Sign**
A sign shall prominently displayed within the managers unit and motel facilities building and alfresco area stating the maximum occupant capacity of the building is limited to 44 people.
- Building Work - Compliance with the Building Code of Australia**
All building work must be carried out in compliance with the provisions of the Building Code of Australia.
- Construction Certificate**
A Construction Certificate must be obtained from Council or an Accredited Certifier prior to work commencing.

A Construction Certificate certifies that the provisions of Clauses 139-148 of the Environmental Planning and Assessment Amendment Regulations, 2000 have been satisfied, including

compliance with all relevant conditions of Development Consent and the Building Code of Australia.

Note: The submission to Council of two (2) copies of all stamped Construction Certificate plans and supporting documentation is required within **two (2)** days from the date of issue of the Construction Certificate, in the event that the Construction Certificate is not issued by Council.

6 **Disability Discrimination Act 1992**

This consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992.

It is the responsibility of the applicant to guarantee compliance with the requirements of the Disability Discrimination Act 1992. The current Australian Standard AS1428.1 (2009) – Design for Access and Mobility is recommended to be referred for specific design and construction requirements, in order to provide appropriate access to all persons within the building.

7 **Separate Consent Required for Advertising Signage**

This consent does not authorise the erection of any advertising signage. Any such advertising signage will require separate Council approval, in the event that such signage is not exempt development, under Schedule 2 of Wollongong Local Environmental Plan 2009.

Any new application for advertising signage must be submitted to Council in accordance with Chapter C1 – Advertising and Signage Structure of Wollongong Development Control Plan 2009.

8 **Occupation Certificate**

A final Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

Prior to the Issue of the Construction Certificate

9 **Building Upgrade Requirements**

Pursuant to Clause 94 of the Environmental Planning and Assessment Regulation, 2000, the following building upgrade requirements are imposed in relation to the single sole-occupancy unit the subject of this application:

- a. The separating wall dividing the manager's residence from the restaurant is to achieve a fire resistance level compliant with Part C1 and Specification C1.1 of the BCA.
- b. The manager's residence is to be provided with a smoke alarm system compliant with E2.2 and Specification E2.2a of the BCA.
- c. Both the restaurant and managers residence is to be provided with handrails and balustrades compliant with D2.16 and D2.17 of the BCA.
- d. The managers residence where required by D2.24 of the BCA is to be provided with protection to openable bedroom windows compliant with D2.24 of the BCA.
- e. The restaurant is to be provided with sufficient sanitary facilities compliant with Part F2 of the BCA.
- f. The dimension of exit doors and paths of travel to exits; and operation of any required exit doors and doors in the path of travel serving the restaurant areas of the building is to comply with D1.4, D1.5, D1.6, D1.10(a), D2.19, D2.20 and D2.21 of the BCA.
- g. The restaurant is to be provided with portable fire extinguishers compliant with E1.6 of the BCA and AS2444.
- h. The stairway leading to the first floor dining area of the restaurant is to be provided with emergency lighting compliant with E4.2 and E4.4 of the BCA and AS2293.1
- i. The restaurant is to be provided with exit signage to the extent as required by E4.5, E4.5 and E4.8 of the BCA and AS2293.1.

This condition may be addressed through compliance with the specified deem-to-satisfy requirements of the *National Construction Code - Building Code of Australia 2015 (Vol 1)*, or a

formulated alternative solution satisfying the requirements of clause A0.5 and prepared in accordance with A0.8, A0.9 and A0.10 of the *National Construction Code - Building Code of Australia 2015 (Vol 1)*.

Details demonstrating compliance with this condition is to be submitted to the appointed certifying authority prior to the release of the construction certificate.

10 **Fire Safety Schedule**

When issuing a Construction Certificate, a certifying authority must attach a Fire Safety Schedule specifying all of the fire safety measures required for the building to ensure the safety of persons in the building in the event of fire.

11 **Present Plans to Sydney Water**

Approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped. For Quick Check agent details please refer to the web site www.sydneywater.com.au, see Building Developing and Plumbing then Quick Check or telephone 13 20 92.

The consent authority or a private certifier must ensure that a Quick Check agent/Sydney Water has appropriately stamped the plans prior to the issue of a Construction Certificate.

12 **Dust Suppression Measures**

The submission of details of the proposed dust suppression measures for the demolition, excavation and construction phases of the development to the Principal Certifying Authority, prior to issue of the Construction Certificate.

13 **Asbestos Management Report**

A report prepared by a licensed asbestos assessor that indicates the exact nature and extent of asbestos material contained within the site and the proposed remediation measures to be adopted for the removal of the asbestos material from the site to a NSW Environment Protection Authority licensed waste disposal facility shall be submitted to the Principal Certifying Authority for its separate approval prior to the issue of the Construction Certificate.

14 **Contaminated Roof Dust**

Due to the location of this property the ceiling space may have accumulated industrial fallout over its lifespan. The proposed renovation/extensions shall be carried out in the following manner:

14.1 The occupants of the building and any contractors/employees involved in the construction work are to be fully protected from dust created by cutting into the roof cavity space of the building. The protection required for workers is a P2 dust mask approved by the WorkCover Authority.

14.2 If dust is going to be removed from the existing roof cavity, the ceiling dust must be vacuumed with an approved industrial vacuum cleaner. The dust shall be classified following testing in a NATA registered laboratory, and the results submitted to the Principal Certifying Authority prior to the commencement of any works.

Note: Contact the Illawarra Area Health Service regarding the availability of an industrial vacuum cleaner. Any roof dust collected from the roof space or cavities of the building is to be contained and disposed of in accordance with the Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Waste, NSW EPA (www.epa.nsw.gov.au, look under 'Waste').

Prior to the Commencement of Works

15 **Appointment of Principal Certifying Authority**

Prior to commencement of work, the person having the benefit of the Development Consent and a Construction Certificate must:

15.1 Appoint a Principal Certifying Authority (PCA) and notify Council in writing of the appointment irrespective of whether Council or an accredited private certifier is

- appointed; and
- 15.2 notify Council in writing of their intention to commence work (at least two days notice is required).

The Principal Certifying Authority must determine when inspections and compliance certificates are required.

16 **Sign – Supervisor Contact Details**

Before commencement of any work, a sign must be erected in a prominent, visible position:

- 16.1 stating that unauthorised entry to the work site is not permitted;
- 16.2 showing the name, address and telephone number of the Principal Certifying Authority for the work; and
- 16.3 showing the name and address of the principal contractor in charge of the work site and a telephone number at which that person can be contacted at any time for business purposes.

This sign shall be maintained while the work is being carried out and removed upon the completion of the construction works.

17 **Temporary Toilet/Closet Facilities**

Toilet facilities are to be provided at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided must be:

- 17.1 a standard flushing toilet; and
- 17.2 connected to either:
 - 17.2.1 the Sydney Water Corporation Ltd sewerage system or
 - 17.2.2 an accredited sewage management facility or
 - 17.2.3 an approved chemical closet.

The toilet facilities shall be provided on-site, prior to the commencement of any works.

18 **Structural Engineer’s Details**

Structural engineer’s details for all structurally designed building works such as reinforced concrete footings, reinforced concrete slabs and structural steelwork must be submitted to the Principal Certifying Authority, prior to the commencement of any works on the site.

19 **Enclosure of the Site**

The site must be enclosed with a suitable security fence to prohibit unauthorised access, to be approved by the Principal Certifying Authority. No building work is to commence until the fence is erected.

20 **Demolition Works**

The partial demolition of the existing motel shall be carried out in accordance with Australian Standard AS2601 (2001): The Demolition of Structures or any other subsequent relevant Australian Standard and the requirements of the NSW WorkCover Authority.

No demolition materials shall be burnt or buried on-site. The person responsible for the demolition works shall ensure that all vehicles leaving the site carrying demolition materials have their loads covered and do not track soil or waste materials onto the road. Any unforeseen hazardous and/or intractable wastes shall be disposed of to the satisfaction of the Principal Certifying Authority. In the event that the demolition works may involve the obstruction of any road reserve/footpath or other Council owned land, a separate application shall be made to Council to enclose the public place with a hoarding or fence over the footpath or other Council owned land.

21 **Consultation with NSW WorkCover Authority**

Prior to any work commencing on the site it is the responsibility of the owner to contact NSW WorkCover Authority in writing in respect to any demolition or use of any crane, hoist, plant or scaffolding.

- 22 **Hazardous Material Survey**
At least one week prior to demolition, the applicant must prepare a hazardous materials survey of the site and submit to Council a report of the results of the survey. Hazardous materials includes, but are not limited to, asbestos materials, synthetic mineral fibre, roof dust, PCB materials and lead based paint. The report must include at least the following information:
- 22.1 the location of hazardous materials throughout the site;
 - 22.2 a description of the hazardous material;
 - 22.3 the form in which the hazardous material is found, eg AC sheeting, transformers, contaminated soil, roof dust;
 - 22.4 an estimation (where possible) of the quantity of each particular hazardous material by volume, number, surface area or weight;
 - 22.5 a brief description of the method for removal, handling, on-site storage and transportation of the hazardous materials, and where appropriate, reference to relevant legislation, standards and guidelines;
 - 22.6 identification of the disposal sites to which the hazardous materials will be taken.
- 23 **Asbestos Hazard Management Strategy**
An appropriate hazard management strategy shall be prepared by a suitably qualified and experienced licensed asbestos assessor pertaining to the removal of contaminated soil, encapsulation or enclosure of any asbestos material. This strategy shall ensure any such proposed demolition works involving asbestos are carried out in accordance with WorkCover NSW's requirements (<http://www.workcover.nsw.gov.au>). The strategy shall be submitted to the Principal Certifying Authority and Council (in the event that Council is not the Principal Certifying Authority), prior to the commencement of any works.
- The approved strategy shall be implemented and a clearance report for the site shall be prepared by a licensed asbestos assessor and submitted to the Principal Certifying Authority and Council (in the event that Council is not the Principal Certifying Authority), prior to the issue of an Occupation Certificate or commencement of the development. The report shall confirm that the asbestos material has been removed or is appropriately encapsulated based on visual inspection plus sampling if required and/or air monitoring results and that the site is rendered suitable for the development.
- 24 **Consultation with WorkCover NSW – Prior to Asbestos Removal**
A licensed asbestos removalist must give written notice to WorkCover NSW at least five (5) days before licensed asbestos removal work is commenced.
- 25 **Contaminated Roof Dust**
Any existing accumulations of dust in ceiling voids and wall cavities must be removed prior to any demolition work commencing. Removal must take place by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter.
- 26 **Waste Management**
The developer must provide an adequate receptacle to store all waste generated by the development pending disposal. The receptacle must be regularly emptied and waste must not be allowed to lie or accumulate on the property other than in the receptacle. Consideration should be given to the source separation of recyclable and reusable materials.
- 27 **Erosion and Sediment Control Measures**
Erosion and sediment control devices are to be installed prior to the commencement of any demolition, excavation or construction works upon the site. These devices are to be maintained throughout the entire demolition, excavation and construction phases of the development and for a minimum three (3) month period after the completion of the project, where necessary.
- 28 **Application for Occupation, Use, Disturbance or Work on Footpath/Roadway**
Any occupation, use, disturbance or work on the footpath or road reserve for construction purposes, which is likely to cause an interruption to existing pedestrian and/or vehicular traffic flows requires Council consent under Section 138 of the Roads Act 1993. An application must be submitted and approved by Council prior to the works commencing where it is proposed to carry out activities such as, but not limited to, the following:

- a Digging or disruption to footpath/road reserve surface;
- b Loading or unloading machinery/equipment/deliveries;
- c Installation of a fence or hoarding;
- d Stand mobile crane/plant/concrete pump/materials/waste storage containers;
- e Pumping stormwater from the site to Council's stormwater drains;
- f Installation of services, including water, sewer, gas, stormwater, telecommunications and power;
- g Construction of new vehicular crossings or footpaths;
- h Removal of street trees;
- i Carrying out demolition works.

During Demolition, Excavation or Construction

29 Restricted Hours of Work (domestic residential scale ie single dwellings)

The developer must not carry out any work other than emergency procedures to control dust or sediment laden runoff outside the normal working hours, namely, 7.00 am to 5.00 pm, Monday to Friday and 8.00 am to 4.00 pm Saturday, without the prior written consent of the Principal Certifying Authority and Council.

No work is permitted on public holidays or Sundays.

Any request to vary these hours shall be submitted to the **Council** in writing detailing:

- a the variation in hours required;
- b the reason for that variation;
- c the type of work and machinery to be used.

Note: The developer is advised that other legislation may control the activities for which Council has granted consent including but not limited to the Protection of the Environment Operations Act 1997. Developers must note that consistent with the Environment Protection Authority's Interim Construction Noise Guideline (July, 2009), the noise from construction ($L_{Aeq(15\text{ min})}$) must not exceed the background noise level ($L_{A90(15\text{ min})}$) plus 10 dB(A), and a $L_{Aeq(15\text{ min})}$ of 75 dB(A) when measured at the residential property boundary that is most exposed to construction noise, and at a height of 1.5 metres above ground level. If the property boundary is more than 30 metres from the residence, the location for measuring noise levels is at the most noise-affected point within 30 metres of the residence.

- 30 The developer must carry out work at all times in a manner which will not cause a nuisance, by the generation of unreasonable noise, dust or other activity, to the owners and/or occupiers of adjoining and adjacent land.
- 31 The lighting of the premises must be directed so as not to cause nuisance to the owners or occupiers of adjoining premises or to motorists on adjoining or nearby roads.
- 32 **Asbestos – Removal, Handling and Disposal Measures/Requirements Asbestos Removal by a Licensed Asbestos Removalist**
The removal of any asbestos material must be carried out by a licensed asbestos removalist if over ten (10) square metres in area of non-friable asbestos, or if any type of friable asbestos in strict accordance with WorkCover NSW requirements (<http://www.workcover.nsw.gov.au>).
- 33 **Lead Based Paint**
To prevent contamination of the soil and human health risks associated with lead dust, safeguards must be used when removing flaking paint or sanding paint surfaces that are suspected to contain lead.
- 34 The building site must be kept free of rubbish at all times. All refuse capable of being wind blown must be kept in a suitable waste container.

Prior to the Issue of the Occupation Certificate

35 Building Upgrade Works

All building upgrade works prescribed by this consent are to be completed prior to the issue of the occupation certificate.

- 36 **Fire Safety Signage**
Prior to the issue of the occupation certificate, display in a prominent location of the building the current fire safety schedule and fire safety certificate/annual fire safety statement, being issued for the whole of the building.
- 37 **Maximum Capacity Sign**
Prior to the issue of the occupation certificate, a capacity sign is to be prominently displayed within the managers unit and motel facilities building and alfresco area, stating the maximum capacity is limited to 44 people.
- 38 **Site Emergency Response Flood Report**
The submission of a report from a suitably qualified civil engineer to the Principal Certifying Authority is required, prior to the issue of the Occupation Certificate and commencement of use. The report shall incorporate an effective emergency response plan and procedure for the existing managers residence and motel facilities building to evacuate up to the first floor of the subject building during storm events up to and including the Probable Maximum Flood (PMF).

Notification of the presence of the report and procedure will be placed on the S149 Certificate for the property to ensure future property owners are made aware of the procedure in the case of flood.
- 39 **Fire Safety Certificate**
A Fire Safety Certificate must be issued for the building prior to the issue of an Occupation Certificate. As soon as practicable after a Fire Safety Certificate is issued, the owner of the building to which it relates:
- 39.1 Must cause a copy of the certificate (together with a copy of the current fire safety schedule) to be given to the Commissioner of New South Wales Fire Brigades, and
- 39.2 must cause a further copy of the certificate (together with a copy of the current fire safety schedule) to be prominently displayed in the building.
- 40 **Smoke Free Environment**
The proprietor shall comply with the NSW Health Department “Smoke-Free Environment Act”.
- 41 **Occupation Certificate**
A final Occupation Certificate must be issued by the Principal Certifying Authority prior to occupation or use of the development. In issuing an Occupation Certificate, the Principal Certifying Authority must be satisfied that the requirements of Section 109H of the Environmental Planning and Assessment Act 1979, have been complied with as well as all of the conditions of the Development Consent.

Operational Phases of the Development/Use of the Site

- 42 **Fire Safety Measures**
All new and existing fire safety measures shall be maintained in working condition, at all times.
- 43 **Display of Fire Safety Information**
At all times prominently display within the building the current fire safety schedule and fire safety certificate/statement.
- 44 **Maximum Capacity Sign**
At all times prominently display, within the managers unit and motel facilities building and alfresco area, capacity signage stating the maximum capacity is limited to 44 people.
- 45 **External Storage of Materials/Equipment**
No external storage of materials/equipment is permitted which is likely to cause pollution, damage or be potentially hazardous during a flood event.
- 46 **Restricted Hours of Operation**
The hours of operation for alfresco dining areas shall be restricted to 6am to 10pm daily. Any alteration to the approved hours of operation will require separate Council approval.
- 47 **Restricted Delivery Hours**
The delivery of service trucks shall be limited to 6.30 am to 9.00 pm daily, Mondays to Fridays

and 8.00 am to 5.00 pm Saturdays only. Any alteration to the approved delivery hours will require the separate approval of Council.

48 **Storage of Goods and Materials**

All goods, materials and equipment shall be stored within the building and no part of the land shall be used for purposes of storage.

49 **Fire Safety Measures**

All new and existing fire safety measures shall be maintained in working condition, at all times.

50 The use of the alfresco dining areas must be carried out work at all times in a manner which will not cause amenity impacts to the owners and/or occupiers of adjoining and adjacent land.

51 **Café Barriers**

Café barriers are to be provided along the edges of the alfresco area adjoining the driveways to provide a physical barrier between diners in the alfresco area and vehicles. The café barriers should not be a permanent structure and should be removed at the end of each day.

Reasons

The reasons for the imposition of the conditions are:

- 1 To minimise any likely adverse environmental impact of the proposed development.
- 2 To ensure the protection of the amenity and character of land adjoining and in the locality.
- 3 To ensure the proposed development complies with the provisions of Environmental Planning Instruments and Council's Codes and Policies.
- 4 To ensure the development does not conflict with the public interest.

Notes

- 1 This consent becomes effective and operates from the date shown as **“Endorsement Date”** on the front page of this notice. This consent will lapse unless development is commenced within five (5) years from the endorsement date shown on this notice.
- 2 Section 97 of the Environmental Planning and Assessment Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within six (6) months from the date of receipt of this notice.
- 3 Section 82A of the Environmental Planning and Assessment Act 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right to request the consent authority to review the determination. The request for review of the determination must be made within six (6) months from the date of receipt of this notice. In the absence of a pending appeal before the Land and Environment Court, the request for review, and the review by Council, must all be completed within the abovementioned six (6) month time period. Accordingly, applicants are advised to provide Council with sufficient time to complete the review within this period, failing which the determination cannot be reviewed. The request must be accompanied by the fees set by the Environmental Planning and Assessment Regulation. A right of review of determination does not exist for a determination made in respect of a Designated Development or an Integrated Development.
- 4 The holder of a development consent that is being acted upon must also hold a current Construction Certificate under the provisions of the Environmental Planning and Assessment Act, 1979.
- 5 Where the consent is for building work or subdivision work, no temporary buildings may be placed on the site and no site excavation, filling, removal of trees or other site preparation may be carried out prior to the issue of a Construction Certificate and appointment of a Principal Certifying Authority.
- 6 A Tree Management Order has been proclaimed in the City of Wollongong. Under this order, no tree on the land the subject of this approval may be ringbarked, cut down, topped, lopped or wilfully destroyed except with the prior consent of Council which may be given subject to such

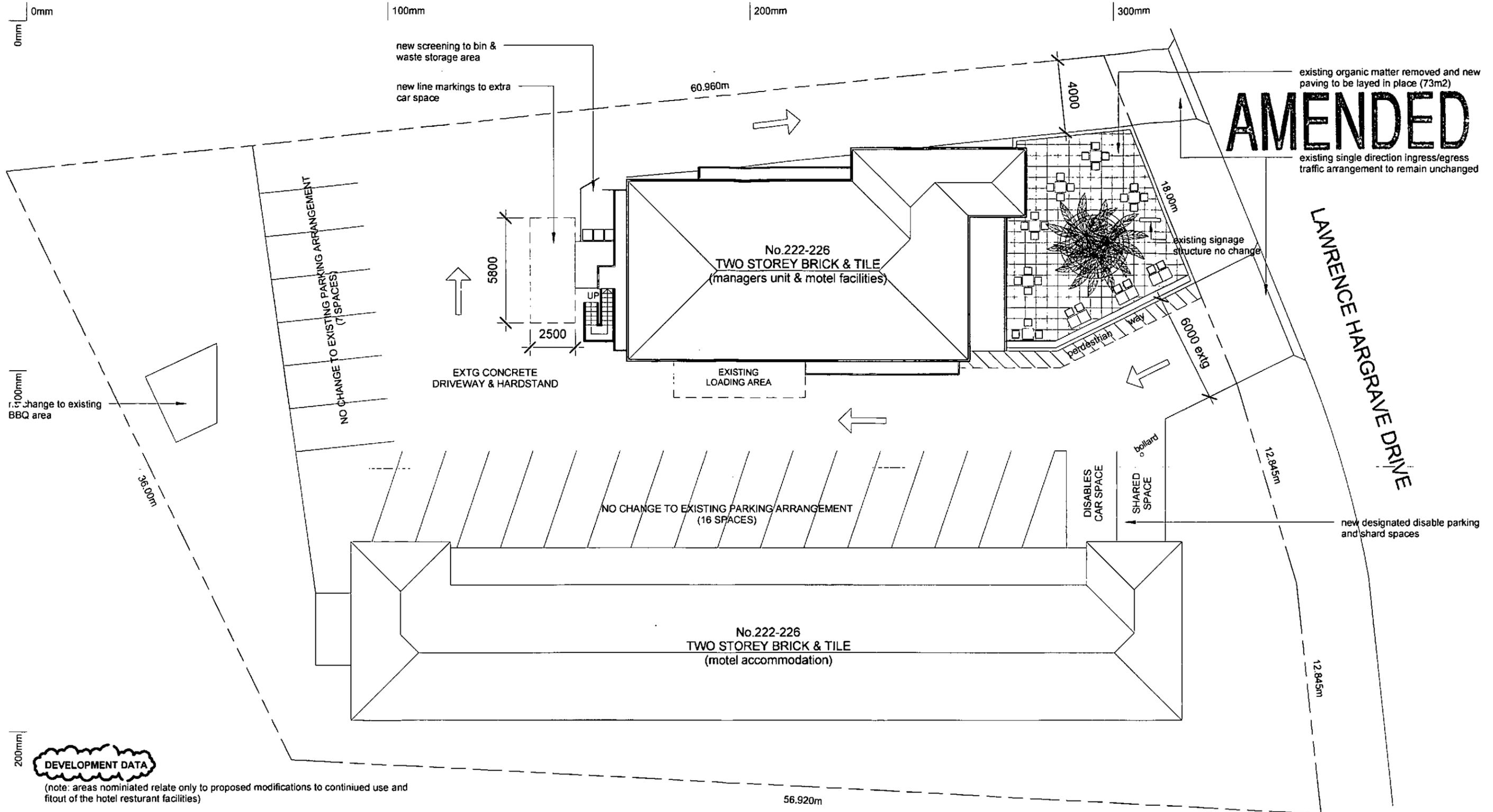
conditions as Council considers appropriate. However, unless specified otherwise in this consent, those trees which are specifically designated to be removed on the plans approved under this consent or are within three (3) metres of an approved building footprint may be removed, provided that a Construction Certificate has been issued for the development the subject of this consent and a Principal Certifying Authority appointed.

- 7 In this consent the developer means the applicant for development consent and any person or corporation who carries out the development pursuant to that consent.
- 8 Council recommends that NSW Wildlife Information and Rescue Service (WIRES) be contacted for assistance in relocating any native fauna prior to removal of any trees and bushland, authorised by this consent. For wildlife rescue assistance, you must call the Wildlife Rescue Line 1300 094 737 (13 000 WIRES) or visit their website www.wires.org.au for more information.
- 9 **Coastal Hazard Events**
The applicant is advised that the property may be at risk from Ocean Inundation. It is in the applicant's interest to take all necessary precautions to minimise the risk of property loss and/or damage.
- 10 **Prolonged Rainfall Events**
The applicant is advised that under existing conditions and during prolonged rainfall events, flooding of the site may occur and it is in the applicant's interest to take all necessary precautions to minimise the risk of property loss and/or damage.

This letter is authorised by

Kristy Robinson
Senior Development Project Officer
Wollongong City Council
Telephone (02) 4227 7111

enc



DEVELOPMENT DATA

(note: areas nominated relate only to proposed modifications to continued use and fitout of the hotel restaurant facilities)

EXISTING INTERNAL AREAS (incl. dining, kitchen, office and storage)	= 103.10 m ²
EXISTING EXTERNAL AREAS	= 70.30 m ²
TOTAL	= 173.40 m²
PROPOSED INTERNAL AREAS (incl. kitchen, service areas and upper dining)	= 77.40 m ²
PROPOSED EXTERNAL AREAS (incl. ground floor and upper balcony)	= 114.20 m ²
TOTAL	= 191.60 m²

SUMMARY	
PROPOSED INTERNAL AREAS	= -25.70 m ² (reduction)
PROPOSED EXTERNAL AREAS	= 43.90 m ² (increase)

CARPARKING	
EXISTING PARKING SPACES	= 25 spaces
PROPOSED PARKING SPACES	= 26 spaces

○ Site Analysis Plan
Scale 1:200

Date	Rev	Amendment
06/08/15	A	development data added

design:



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Wollongong NSW 2500
p. 02 4229 5555
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project:

ALTERATIONS & ADDITIONS TO EXISTING
MOTEL RESTAURANT
address:
222 Lawrence Hargrave Drive, Thirroul
Lot: 2 DP: 578279
client:
THIRROUL MOTEL : C/ JOE MCGUINNESS

**WOLLONGONG CITY COUNCIL
DEVELOPMENT CONSENT**

This is the plan/document referred to in consent DA-2015/672

Dated: 30/9/15

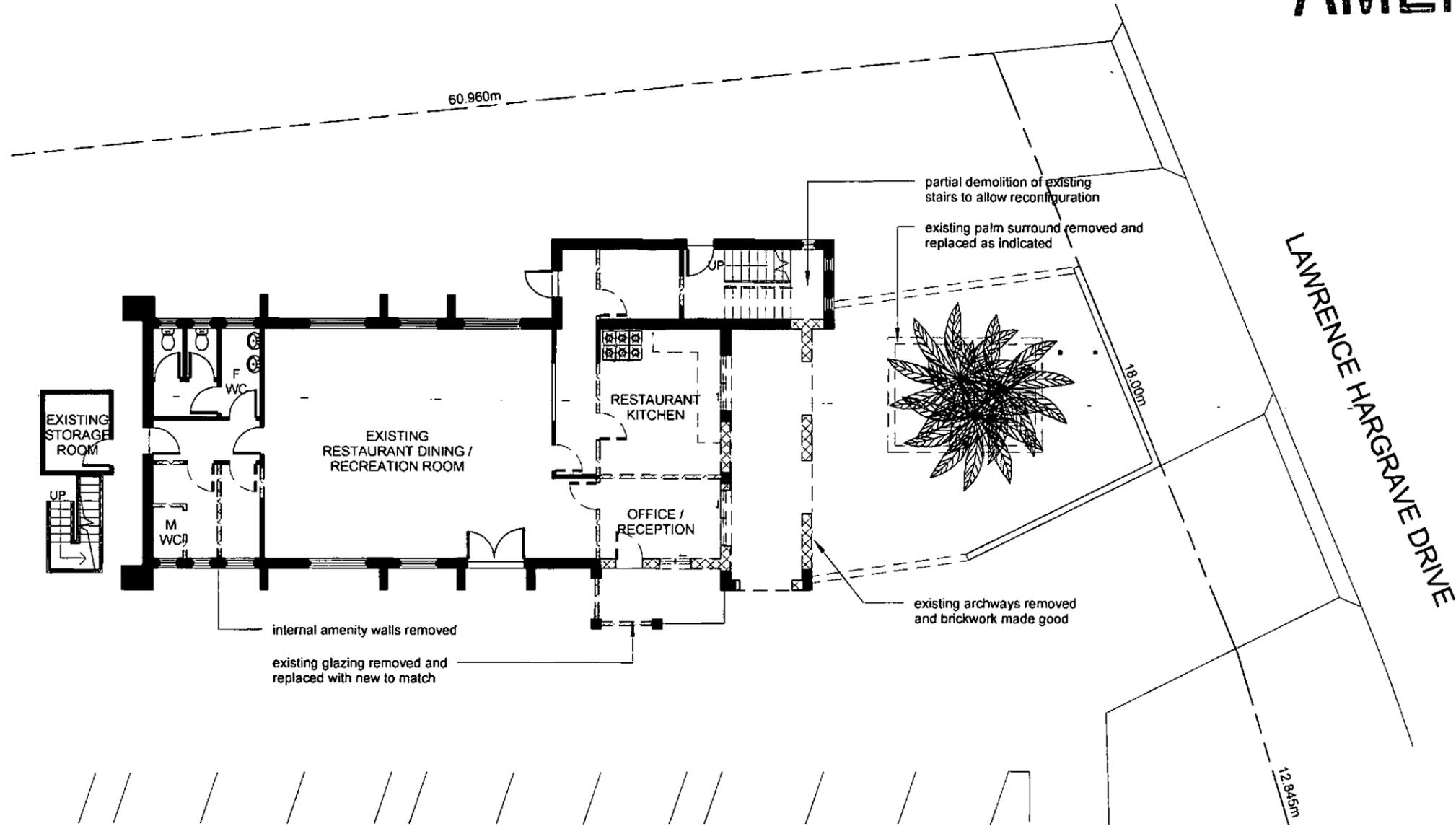
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job number: 15.13
date: 06/08/15 drawn: 8M scale @ A3: 1:200
stage: DEVELOPMENT APPLICATION PLAN
(not for construction) rev:

drawing no: DA_01 A

0mm 100mm 200mm 300mm

LEGEND
 ——— EXISTING STRUCTURE
 -X-X-X- PROPOSED STRUCTURE TO BE REMOVED
 ——— PROPOSED STRUCTURE

AMENDED



Existing & Demolition Ground Floor Plan
 Scale 1:150

WOLLONGONG CITY COUNCIL DEVELOPMENT CONSENT

This is the plan/document referred to in consent DA-2015/672
 Dated: 30/9/15

Date	Rev	Amendment

design:



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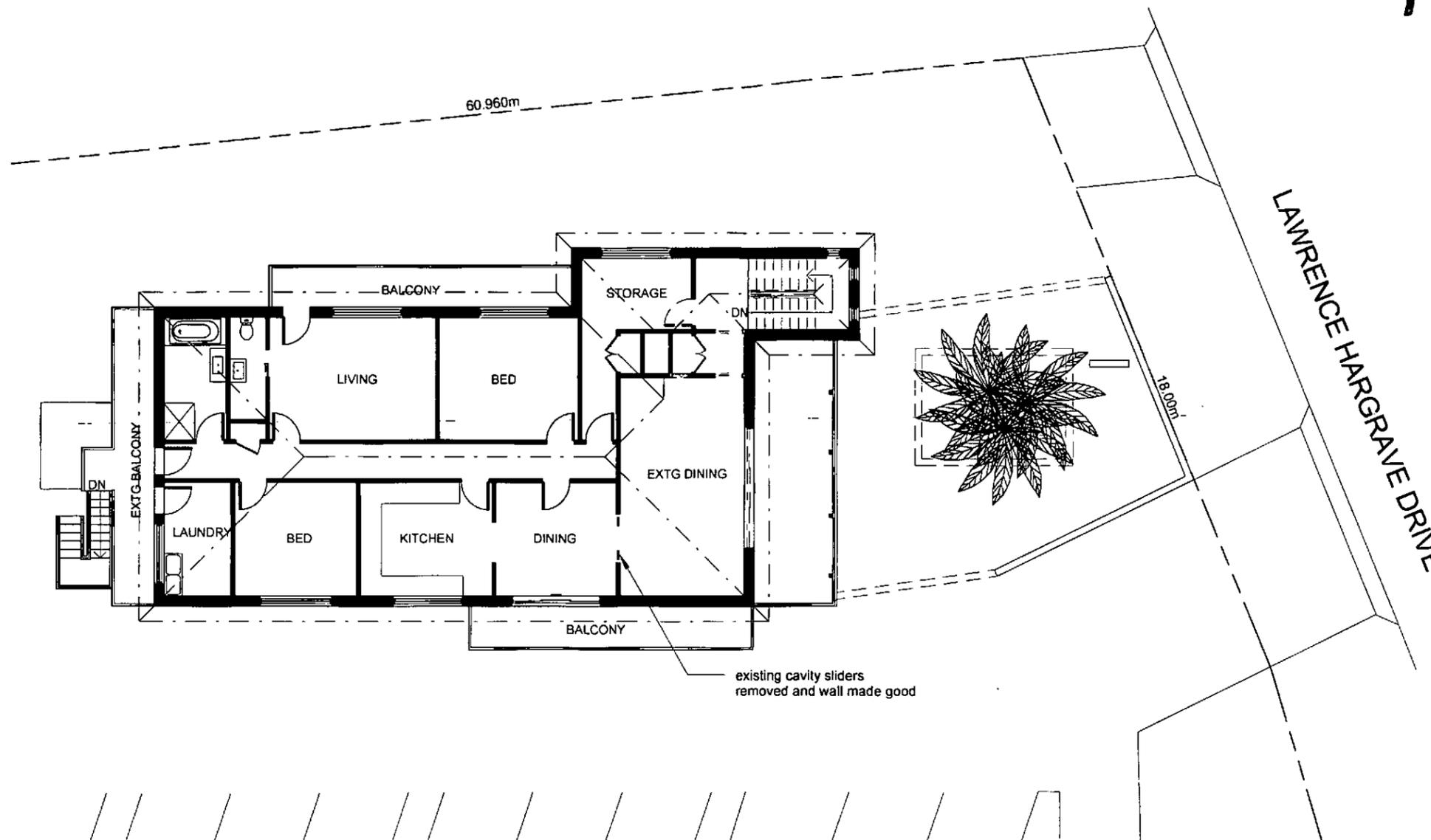
project:
**ALTERATIONS & ADDITIONS TO EXISTING
 MOTEL RESTAURANT**
 address:
 222 Lawrence Hargrave Drive, Thirroul
 Lot: 2 DP: 578279
 client:
THIRROUL MOTEL : CJ- JOE MCGUINNESS

title: EXISTING & DEMOLITION GROUND FLOOR PLAN
 job number: 15.13 drawing no: DA_02
 date: 06/08/15 drawn: BM scale @ A3: As indicated
 stage: DEVELOPMENT APPLICATION PLAN
 (not for construction) rev:

0mm 100mm 200mm 300mm

LEGEND
 ——— EXISTING STRUCTURE
 -X-X-X- PROPOSED STRUCTURE TO BE REMOVED
 ——— PROPOSED STRUCTURE

AMENDED



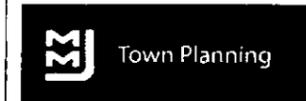
Existing & Demolition First Floor Plan
 Scale 1:150

WOLLONGONG CITY COUNCIL DEVELOPMENT CONSENT

This is the plan/document referred to in consent DA-215/672
 Dated: 30/1/15

Date	Rev	Amendment

design:



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project:

ALTERATIONS & ADDITIONS TO EXISTING
 MOTEL RESTAURANT
 address:
 222 Lawrence Hargrave Drive, Thirroul
 Lot: 2 DP: 578279
 client:
 THIRROUL MOTEL : C/- JOE MCGUINNESS

title: EXISTING & DEMOLITION FIRST FLOOR PLAN

job number: 15.13 drawing no: DA_03

date: 06/08/15 drawn: Author scale @ A3: As Indicated

stage: DEVELOPMENT APPLICATION PLAN
 (not for construction) rev:

0mm 100mm 200mm 300mm

AMENDED

existing dining and recreational area
use to be solely recreational use with
no further dining area allocation

1
DA_06

no change to existing crossovers
or site access conditions
existing hob wall removed and new wall as
shown construction to match

existing organic matter removed and new paving
to be laid in place (increased hardstand 73m2)

existing palms to remain in place with new
600mm high retaining wall and bench seating to
surrounds

LAWRENCE HARGRAVE DRIVE

no change to existing sharded driveway
and pedestrian way access point to site

100mm
screening to bin & waste
storage area

BIN/WASTE
STORAGE AREA
EXISTING
STORAGE ROOM

1
DA_07

EXCLUSIVE
RECTREATION AREA

WASH AREA DRY STORE COOL ROOM
KITCHEN & PREP AREA
SERVICE AREA

no change to existing access
to upper level manages unit.

upgrade to disabled WC
amenities to AS1428.1 (2009)

EXISTING
LOADING AREA

NO CHANGE TO EXISTING PARKING ARRANGEMENT

existing hob wall modified to accomodate
bench seating

primary entry point to service area

existing glazing replaced and existing opening
enclosed to match brickwork and new glazing

Proposed Ground Floor Plan
Scale 1:150

**WOLLONGONG CITY COUNCIL
DEVELOPMENT CONSENT**

This is the plan/document referred to in consent DA-2015/672

Dated: 30/9/15

Date	Rev	Amendment
06/08/15	A	revision to room use titles

design:
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Wollongong NSW 2500
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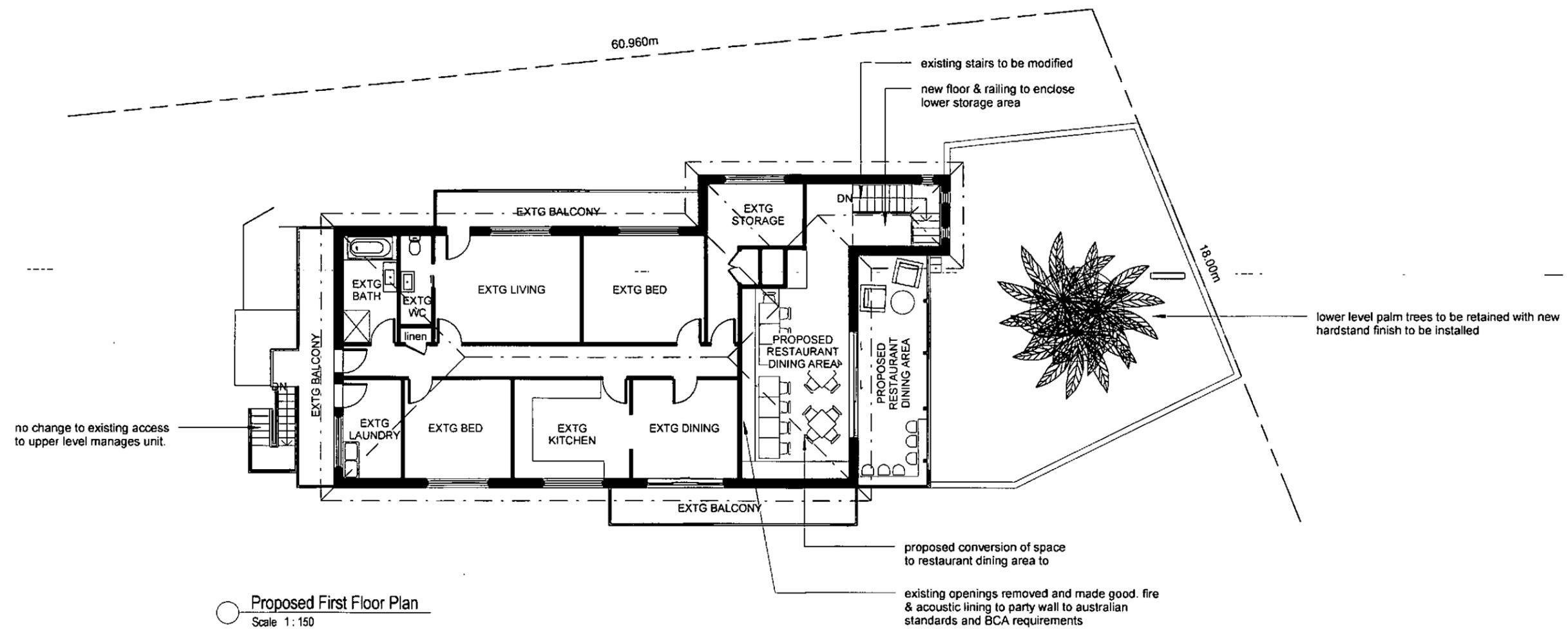
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project:
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**222 Lawrence Hargrave Drive, Thirroul
Lot 2 DP: 578279**
client:
THIRROUL MOTEL : C/- JOE MCGUINNESS

title: **PROPOSED GROUND FLOOR PLAN**
job number: 15.13 drawing no: **DA_04 A**
date: 06/08/15 drawn: Author scale @ A3: 1:150
stage: **DEVELOPMENT APPLICATION PLAN**
(not for construction) rev:

0mm 100mm 200mm 300mm

AMENDED



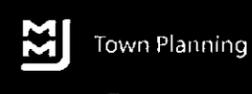
○ Proposed First Floor Plan
Scale 1:150

WOLLONGONG CITY COUNCIL DEVELOPMENT CONSENT

This is the plan/document referred to in consent DA-2015/672
Dated: 30/9/15

Date	Rev	Amendment

design:



MMJ Wollongong
6-8 Regent Street
PO Box 1167
Wollongong NSW 2500
p. 02 4228 5555
w. mmj.com.au

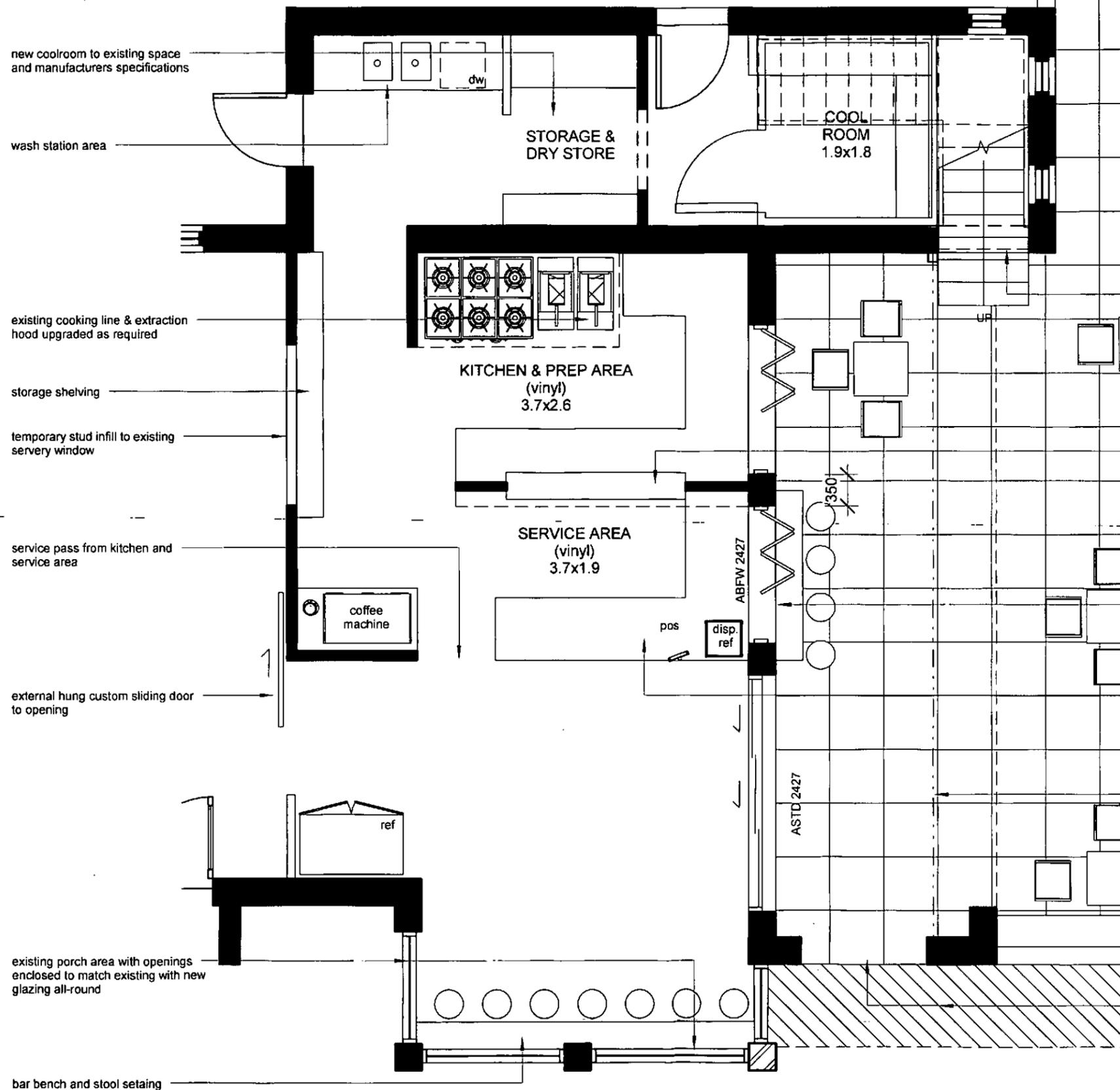
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project:
**ALTERATIONS & ADDITIONS TO EXISTING
MOTEL RESTAURANT**
address:
222 Lawrence Hargrave Drive, Thirroul
Lot: 2 DP: 578279
client:
THIRROUL MOTEL : C/- JOE MCGUINNESS

title: **PROPOSED FIRST FLOOR PLAN**
drawing no: **DA_05**
job number: 15.13
date: 06/08/15 drawn: BM scale @ A3: 1:150
stage: **DEVELOPMENT APPLICATION PLAN
(not for construction)** rev:

0mm 100mm 200mm 300mm

AMENDED



new coolroom to existing space and manufacturers specifications

wash station area

STORAGE & DRY STORE

COOL ROOM
1.9x1.8

existing cooking line & extraction hood upgraded as required

KITCHEN & PREP AREA
(vinyl)
3.7x2.6

storage shelving

temporary stud infill to existing servery window

SERVICE AREA
(vinyl)
3.7x1.9

service pass from kitchen and service area

coffee machine

pos

disp. ref

external hung custom sliding door to opening

existing conc. stairs to be modified with new access point to upper dining area. associated roller shutter to secure opening out of hours

500h servery window to partition wall with display shelving to bar area

bar seating to new bi-fold window opening

point of sale

new steel beam over with steel columns as required

existing porch area with openings enclosed to match existing with new glazing all-round

bar bench and stool seating

WOLLONGONG CITY COUNCIL DEVELOPMENT CONSENT

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Dated: 30/1/15

primary entry point and pedestrian way via adjoining driveway

Date	Rev	Amendment

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project:

ALTERATIONS & ADDITIONS TO EXISTING
MOTEL RESTAURANT
address:
222 Lawrence Hargrave Drive, Thirroul
Lot: 2 DP: 578279
client:
THIRROUL MOTEL : C/- JOE MCGUINNESS

title: RESTAURANT/CAFE FITOUT PLAN

job number: 15.13

drawing no: DA_06

date: 06/08/15

drawn: BM

scale @ A3: 1:50

stage: DEVELOPMENT APPLICATION PLAN
(not for construction)

rev:

0mm 100mm 200mm 300mm

AMENDED

no change to external building facade inlarge

▽ 9900 RL First CL

no change to existing signage structure

▽ 7200 RL First FL

▽ 4000 RL Ground FL

100mm

new brickwork hob to outdoor courtyard area

new screening to designated bin/waste storage area

North Elevation
Scale 1:100

200mm

First CL RL 9900

First FL RL 7200

Ground FL RL 4000

new beam to support upper level with the removal of the outer brickwork

existing porch area enclosed to match existing brick work and glazing

new glazed openings to lower level facade

2700

3200

existing arched openings and brickwork removed with new brickwork to make good as shown

new brickwork hob to outdoor courtyard area

East Elevation
Scale 1:100

WOLLONGONG CITY COUNCIL DEVELOPMENT CONSENT

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Dated: 30/9/15

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design:



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project:

ALTERATIONS & ADDITIONS TO EXISTING
MOTEL RESTAURANT
address:
222 Lawrence Hargrave Drive, Thirroul
Lot: 2 DP: 578279
client:
THIRROUL MOTEL : CJ- JOE MCGUINNESS

title: ELEVATIONS - NORTH & EAST

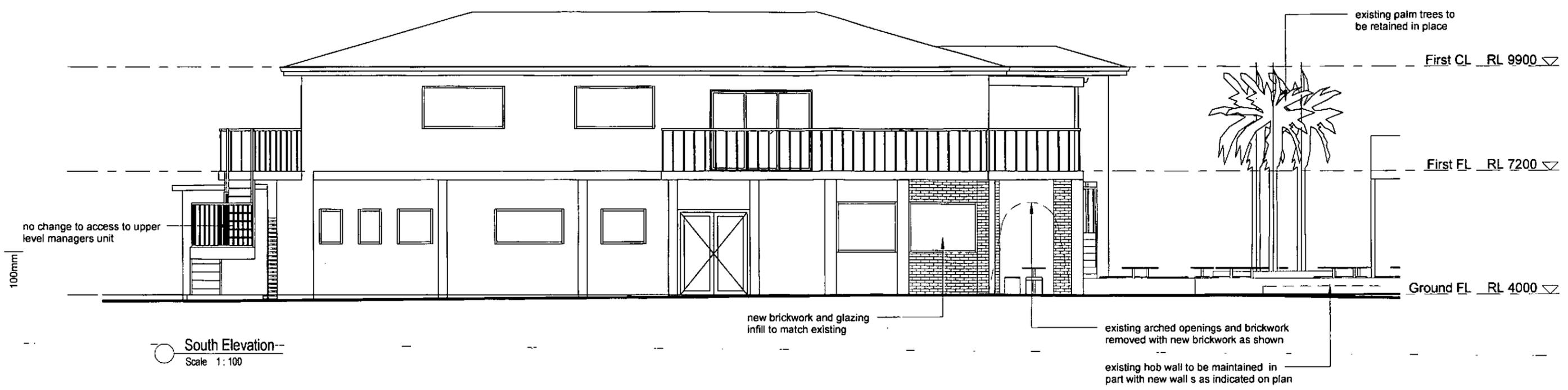
job number: 15.13 drawing no: DA_08

date: 06/08/15 drawn: BM scale @ A3: 1:100

stage: DEVELOPMENT APPLICATION PLAN
(not for construction) rev:

0mm 100mm 200mm 300mm

AMENDED



South Elevation
Scale 1:100



West Elevation
Scale 1:100

WOLLONGONG CITY COUNCIL DEVELOPMENT CONSENT

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Dated: 30/9/15

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project:
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Lot: 2 DP: 578279
client:
THIRROUL MOTEL : CI- JOE MCGUINNESS

title: ELEVATIONS - SOUTH & WEST
job number: 15.13 drawing no: DA_09
date: 06/08/15 drawn: BM scale @ A3: 1:100
stage: DEVELOPMENT APPLICATION PLAN
(not for construction) rev: