

Council Reference: DA17/0128 LN7690
Your Reference:



17 May 2017

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Dear Shane,

Development Application for alterations and refurbishment of existing Imperial Hotel at Lot 2 DP 596914; No. 115 Murwillumbah Street MURWILLUMBAH

I refer to the above application for approval for alterations and refurbishment of existing Imperial Hotel and wish to advise that a satisfactory response is required in relation to the following matters:

Site works

A review of the sites history has revealed that an initial site inspection was undertaken 21 October 2016 in relation to compliance complaints received by Council. A review of the notes clearly states that you as the owner were advised that **“works were to cease until a development application (consent) has been obtained”**.

Since the subject application has been lodged with Council (13 March 2017) multiple inspections have been undertaken (8 May 2017, 10 May 2017 and 16 May 2017), at all inspections Council advised that works being undertaken were not exempt development and that **no works should be undertaken until such time that consent is issued and the works comply with any applicable conditions**.

Following conversations between Council and yourself an onsite meeting was held Tuesday 16 May 2017. The meeting was attended by Chris (on behalf of the owner), Councils Building Inspector (Robert Noakes) and Town Planner (Lydia Charman). Council arranged the meeting in an attempt to raise concerns in relation to fire safety issues with the subject application and to discuss a way forward with the development of the site as a whole (this is discussed further within this letter).

During the inspection it was evident that works were still being undertaken. Accordingly, Council advised that no works were to be undertaken.

Councils Town Planner was on site Wednesday 17 May 2017 and noted works were again being conducted (example images below).

Again, Council advised the contractors that all works were to cease immediately. It appeared that internal alterations including tiling of first floor bathrooms (which have no consent) were being undertaken.

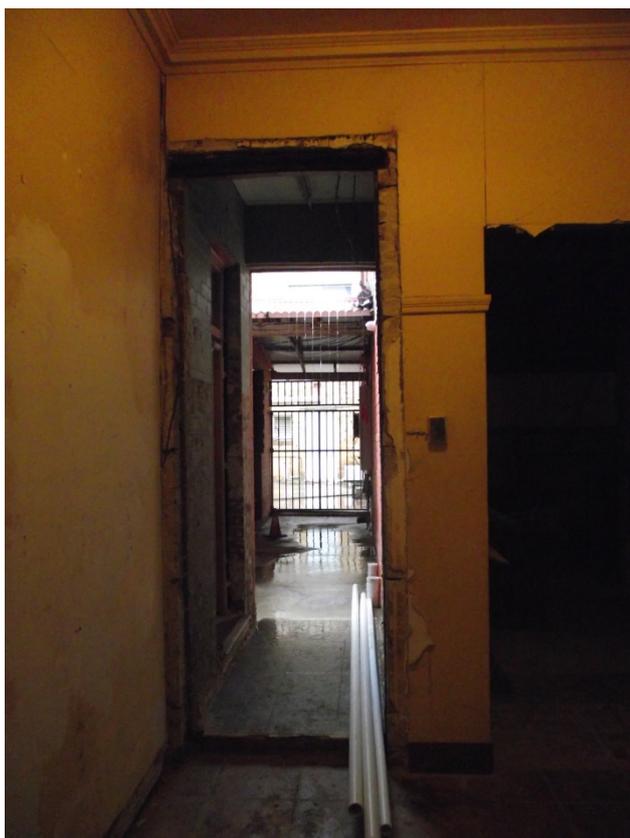


Figure 1: Entrance way from internal bar area to laneway (dated 8 May 2017)



Figure 2: View of above entrance (now bricked) from the laneway looking back into the rear bar area (dated 17 May 2017)



Figure 3: first floor bathroom (no consent) to previous Managers Residence (dated 16 May 2016)

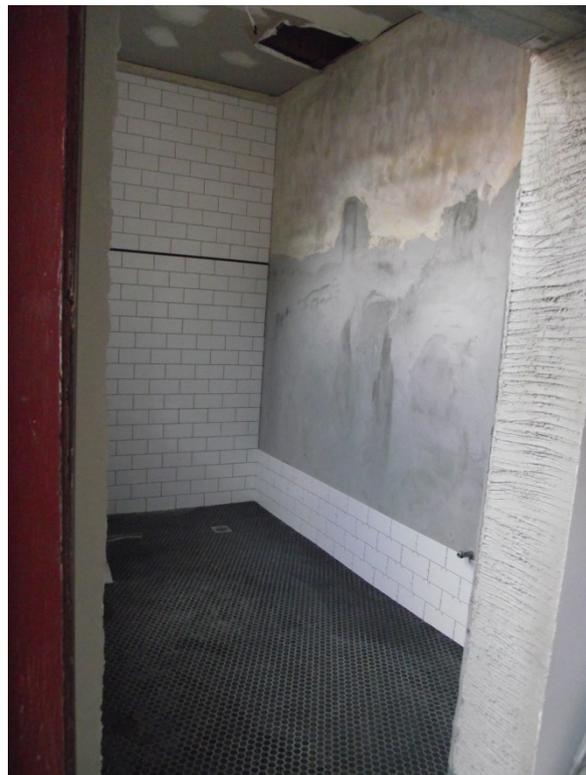


Figure 4: first floor bathrooms (no consent) to previous Managers Residence (dated 17 May 2017)

Given the abovementioned ongoing illegal works, the extent of further information requested within this letter and the anticipated amount of time required to supply this information to a satisfactory standard, it is requested that the application be withdrawn.

Whilst it is recommended that the application be withdrawn, Council has allowed a period of 21 days from the date of this letter for you to make the required changes to the submitted plans, lodge building certificates for the illegal works and to respond to the further information requested. If all of the additional information and changes can be made within 21 days from the date of this letter the current application need not be withdrawn.

Proposed uses

As discussed at a site inspection held 8 May 2017 the ground floor uses which are nominated as a shop/commercial premises need to be defined.

1. Please confirm in writing that the following tenancies will be nominated as commercial:
 - Tenancy 1
 - Tenancy 3
 - Tenancy 6
 - Tenancy 7

Please note that any future uses will be subject to a first use DA.

2. Please confirm in writing that tenancies 4 and 5 will remain as the existing pub and associated bistro and that these tenancies will be operated together.
3. Please confirm if the existing courtyard area is proposed to be used as dining area for the pub/bistro, or if this area will be used as children's play area for patrons.
4. Please confirm in writing that tenancy 2 will be used as a food and drink premises. The most recent approval for this area was under DA12/0042 which granted consent for a change of use from a bottle shop to refreshment room. This consent was issued over both proposed tenancies 1 and 2. The existing café will need to be formalised under this application.

Proposed works

5. The applicant shall submit to Council a table of all proposed works and all works previously undertaken. This table should include details as to works required to separate tenancies (e.g. tenancies 3 and 4 and 4 and 7).

Building Code of Australia

Due to the nature of the subject application (change of use) consideration of clauses 93 Fire Safety and 94 Buildings to be upgraded of the *Environmental Planning and Assessment Regulation 2000* must be considered. Consideration of these clauses must include the proposed uses for the first floor and associated works.

In order to satisfy Clauses 93 and 94 the following further information would be required by Council:

6. Modification of the current development application to include the current first floor plan detailing all uses and unauthorised building work (i.e. ensuite and room modifications, change in number of rooms and access arrangements).
7. Details of the proposed staging of tenancy fitout and BCA upgrading works.
8. Submission of a Building Certificate in respect of all unauthorised building works.

As previously advised it was evident upon inspection that there is a lack of fire separation between the ground and first floor, and between the first floor sole occupancy units. Accordingly, should development consent be issued the following condition (prior to the issue of a construction certificate) would apply:

The building is required to be upgraded to satisfy the requirements of the NCC-BCA to achieve a satisfactory level of fire safety. Due to the complexities associated with an upgrade in accordance with the prescriptive requirements and due to the age of the building it is appropriate to engage an appropriately accredited fire engineer to prepare a report containing alternative solutions addressing the Performance Requirements of Parts C, D and E as contained in Volume 1 of the NCC - Building Code of Australia. The report is to include the staging of BCA upgrading works relating to each tenancy of the ground floor and first floor residential sole occupancy units. This report is to be submitted to the nominated PCA for assessment and determination prior to issue of the Construction Certificate.

Environmental Health

9. In relation to proposed shops/ tenancies **2 and 5**, drawings to a scale of 1:50 detailing the following with regards to those food related areas shall be provided to Council's Environmental Health Section for assessment and approval:
 - a. Floor plan and sectional elevations in two directions
 - b. Layout of kitchens and bar showing all equipment
 - c. All internal finish details including benches and work surfaces, floors, wall, ceiling and lighting
 - d. Hydraulic design and in particular the method of disposal of trade waste
 - e. Mechanical exhaust ventilation as per the requirements of AS1668 Pts 1 & 2 where required
 - f. Servery areas including counters etc.

Heritage

Review of SOHI

The SOHI outlines important historical background that underpins the cultural heritage significance. The SOHI reviews the existing recognised cultural heritage significance and provides an assessment of the cultural heritage significance according to the criterion.

It is demonstrated that the main bar area (formerly the Saloon Bar, Public Bar, Parlour, cool room, office) and former entry foyer with fireplace and stair, together with the timber flooring in surrounding areas and surface finishes have been removed during the 1990s/2000s. However the major components and a large proportion of the

building, including the remaining internal walls, external walls and the architectural building form remain original.

In the SOHI, the Proposed Works (section 6.2) proposes a number of minor adaptations internally and a new front door. Re-roofing the rear wing is referred to as “Interior Works” which is inconsistent.

The SOHI does not describe the proposed new roof form shown in the drawings, in detail or discuss its impact on the original form of the hotel.

The SOHI does not describe the future floor area indicated in the section at the first floor courtyard area on the drawings or the impact of these works on the significant fabric.

Review of Tweed DCP Section A18 Requirements:

The Imperial Hotel is nominated as a Contributory building in Part 4.3 Murwillumbah Main Street HCA (MMSHCA) Contributory Buildings and Views. The Part 4.4 Objectives (particularly 4.4 Objective 03, 4.4 Objective 06 and 4.4 Objective 08) are not demonstrated in the proposed modification to the rear roof. Neither the SOHI nor the design drawings address the objectives outlined in the Tweed DCP Section 18 Part C Section 4, Objective 01 Retain the characteristic roof forms, elements and materials on heritage items and ***within heritage conservation areas***. The proposed rear roof does not meet with C1 of the Controls under part C Section 4.

Review of Significance:

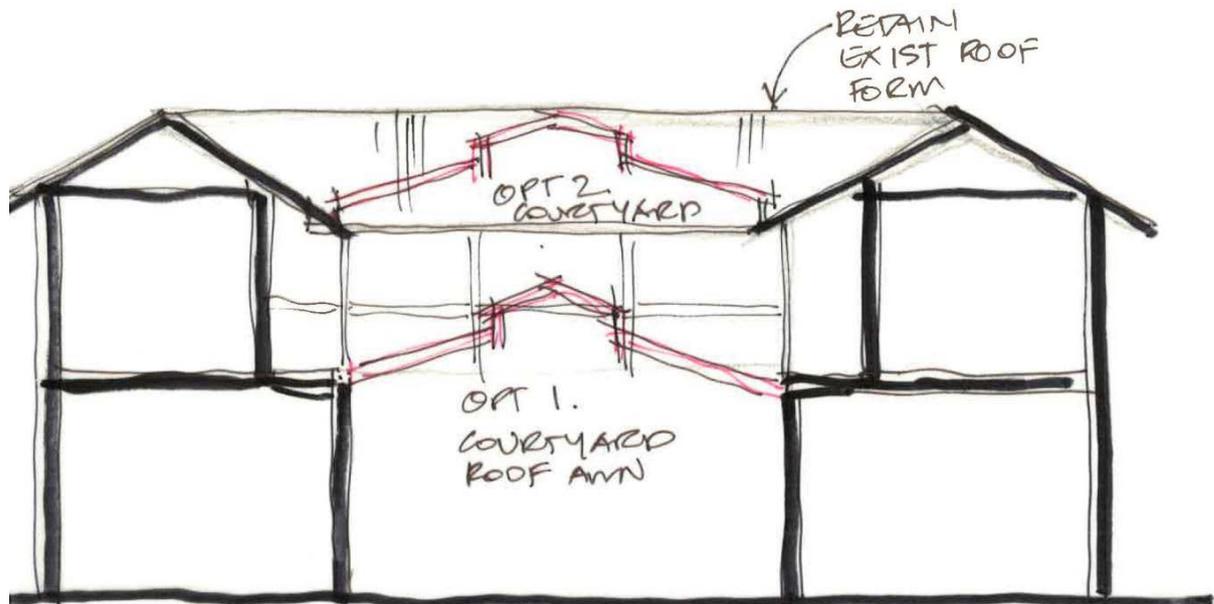
As noted in the SOHI the Imperial Hotel is of cultural heritage significance. The place is aesthetically significant for its design and form and it contributes importantly to the Heritage Conservation area. The plan form expressing the rear accommodation, kitchen and amenities wings encircling an internal courtyard survives as an important significant and discernible part of the hotel. While the internal courtyard has been roofed it remains clearly evident and there is good potential for the space to be re-instated to its original state.

The hotel site is captured within the Retail precinct of the MMSHCA and in addition to the retain objectives the general objectives and provisions of the MMSHCA do apply.

- Re-sheeting the existing roof over the brick walls to match the existing roof framing is acceptable.
 - Replacing the awning roof over the courtyard is acceptable at the same height as the existing awning with the ability to gain daylight. Consideration may be given to the awning roof as a separate roof above first floor level, with the ability to provide daylight, providing no first floor area is constructed and the awning roof does not protrude higher than the adjacent hip roof. Refer sketch below.
10. The applicant is requested to provide updated drawings to show:
- a. Complying toilet amenities for people with a disability (PWD) are not evident and will be necessary. Provide updated drawings to demonstrate how PWD amenities will be incorporated and how this may impact on significant fabric
 - b. Proposed internal wall partitions to proposed Shops 4 and 7.
 - c. Revised roof plan that retains the existing roof form expressing the courtyard.

Below is a sketch of courtyard roof recommendations.

The courtyard roof may be skillion, hipped or with skylights provided it does not protrude above the ridge lines of adjacent roof.



Conclusion

Given the contents of the above letter and the continuance of illegal works being undertaken Council Officers are requesting that you withdraw the subject application.

The changes required to include the first floor uses and nominate all works undertaken and submit an associated building certificate are substantial and it is anticipated that such changes would take a considerable amount of time to make.

Council cannot hold up the determination of this application for any longer than 21 days. If all the additional information and changes to the design can be made within 21 days from the date of this letter the current application need not be withdrawn.

However, if these changes cannot be made in this time Council Officers are requesting that you withdraw this application and re-submit when the changes have been made.

Should the above not be achieved and the application is not withdrawn within 21 days of the date of this letter, the application will be determined as is.

Please also be advised, that should the application be withdrawn or determined as is Council will need to pursue the illegal works as an ongoing compliance matter.

Yours faithfully

Denise Galle
Team Leader Development Assessment