



Planit Ref: 02275
Councils Ref: DA12/0170.11

8th January 2015

**The General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484**

Attention: Ms Michelle Lynton

**Development Application DA12/0170.11 – Hideaway Motel
Nos.19-25 Cypress Crescent & Nos.26-28 Tweed Coast Road, Cabarita Beach**

Dear Michelle,

With reference to the above application and Council's email dated the 8th January 2015 in which a copy of two (2) public submissions was provided, we write to respond to these submissions. Each submission is centred on perceived noise impact associated with the proposed modifications. We note initially that it is considered that neither submission raises valid grounds for refusal of the proposed modifications.

Specifically the project includes two elements, the following comment is provided against each:

- 1 – Providing an external terrace for the Northern Apartment. The terrace will be located on top of the approved lounge and function room outdoor roof. The terrace will be tiled and finished consistent with the terrace approved for the Southern Apartment. The terrace will incorporate a brick balustrade and full height timber privacy screen along the northern edge and a balustrade consistent with the remainder of the motel units along the eastern edge.

The proposed external terrace is for the private use of the guests within the Northern Apartment it is not an additional communal or common area. Further the location of the external terrace is such that it has significant separation to the nearest adjoining property (approximately 5m). Given the significant separation and the use of the terrace being for the guests of the Northern Apartment only, the claims within the submission that the provision of a terrace in this area will be a 'detriment to the surrounding community' is fallacious and should not be considered as part of the proposal.

- 2 – Removal of the trial period for the use of the outdoor facilities within point 2 of Condition 113A. We note condition 113A was imposed as part of a previous S96 application; hours of operation were originally controlled by condition 111 of the consent and permitted use of the outdoor facilities in perpetuity. Following receipt of legal advice the imposition of trial period within point 2 of condition 113A was beyond Councils power under S96 of the Act. As such we are seeking to have this removed.

As noted above, the proposal does not seek to change the approved operating hours for any of the elements of the proposal, rather it seeks to have reinstated previous provisions of the conditions that allowed the outdoor facilities to be used in perpetuity. The submissions seek to 'muddy' the waters by claiming the proposed modification seeks to amend the current approved operating hours. This is incorrect, the amendments only seeks to have the trial period removed.

Importantly, the operating hours for use of the outdoor facilities were previously assessed and deemed acceptable without a trial period. The consent includes significant other requirements to control noise; including the need for further acoustic assessment should valid noise complaints be received. Appropriate conditions exist within the consent to ensure amenity is maintained and as the trial period was imposed outside of the scope of S96 of the EP&A Act 1979 its removal is not 'detrimental to the surrounding community'.

The claims within the submission that removing the trial period for the use of the outdoor facilities will be a 'detriment to the surrounding community' is fallacious and should not be considered as part of the proposal.

Please proceed to assess the application in accordance with the requirements of the Environmental Planning & Assessment Act 1979. If you have any questions relating to the Development Application, please don't hesitate to contact our office on 02 6674 5001.

Yours sincerely



Lance Newley
Town Planner
Planit Consulting