

Wollongong Local Planning Panel Assessment Report | 4 December 2019

WLPP No.	Item No. 2
DA No.	DA-2019/644
Proposal	Business Premises - Use of cafe/ restaurant
Property	222 - 226 Lawrence Hargrave Drive Thirroul
Applicant	MMJ Wollongong
Responsible Team	Development Assessment & Certification -City Wide Team (NA)

ASSESSMENT REPORT AND RECOMMENDATION

Executive Summary

Reason for consideration by Local Planning Panel

The proposal has been referred to Local Planning Panel for **determination** pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 of the Local Planning Panels Direction of 1 March 2018, the proposal is contentious development, having received ten unique submissions by way of objection.

Proposal

The proposal is for the use of a café/restaurant, open to the public.

Permissibility

The site is zoned R2 Low Density Residential pursuant to Wollongong Local Environmental Plan 2009. The proposal is categorised as a food and drink premises and is not permissible in the R2 Low Density Residential zone. The proposal relies on existing use provisions detailed in the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.

Consultation

The proposal was exhibited 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 noise, traffic and impacts from anti social behaviour. The application does not provide sufficient information in consideration of the impacts of flooding on the proposed development.

RECOMMENDATION

It is recommended that the application be refused.

1 APPLICATION OVERVIEW

1.1 DETAILED DESCRIPTION OF PROPOSAL

The proposal comprises the use of a dining room and terrace that is ancillary to the motel, as a food and drink premises (café/restaurant) that services the public. The café/restaurant is proposed to cater for up to 100 people and operates with up to 4 staff at any given time.

The operating hours are:

- Sunday to Wednesday (and public holidays): 7:00am to 10:00pm
- Thursday to Saturday: 7:00 am to 12:00am (midnight)

A total of 29 parking spaces exist on the site, servicing both the existing motel and the café/restaurant. Waste collection and deliveries can occur within the subject site.

1.1 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 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	Current

No pre-lodgement meeting was held for the proposal.

Customer service actions

The site /development is the subject of investigation by Council's Regulation and Enforcement Division. These complaints are largely based around the use of the subject and adjoining residential site and noise complaints. Council investigations into complaints in January 2019 revealed that not only were there unapproved uses occurring on the subject and adjoining site, the café/restaurant was also operating beyond the restricted consent period established by DA-2019/510.

The subject development application was lodged in response to Regulation and Enforcement action which is being held in abeyance until such time as this application is determined, as is Council practice. It is noted that the operation of the premises known as “Jose Jones” has continued throughout this period.

1.2 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, as well as the existing “recreation” area inside the building, 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 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 an existing motel dining room and terrace to allow public dining for up to 100 patrons, with a restricted consent period of 12 months. The intent of the restricted consent period as outlined in the assessment report was to enable consideration of any actual impacts of the development. 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. These matters include:

- registration of the occupation certificate for PC-2016/561 (relating to above DA-2015/672)
- construction certificate and occupation certificate to be obtained
- Site Emergency Flood Report to be identified on 149 Certificate

A review of Council’s records indicates that these conditions were not satisfied. It is noted that the restaurant has continued to trade to date.

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 L&GNSW were dealing with the matter under the disturbance provisions of the Liquor Act 2007. The recent finding as a result of those investigations was no further action by L&GNSW.

DA-2019/644 - Business Premises - Use of cafe/ restaurant (subject application)

- *The subject application was received on 21 June 2019.*
- *The application was placed on public exhibition from 27 June to 15 July 2019 and internal referrals also commenced on 27 June 2019*
- *Ten submissions were received following notification. The number of submissions resulted in the application requiring referral to the Wollongong Local Planning Panel for determination*

- *An application status letter was forwarded to the applicant on 26 August requesting withdrawal of the application due a range of significant matters that were required to be addressed, including*
 - *Inconsistencies between the plans and the building layout on site.*
 - *Outstanding matters associated with a previous consent on the site (DA-2015/672) and upon which this application was reliant*
 - *Failure of the application to address amenity impacts such as noise and anti social behaviour*
 - *The proposed hours of operation within a residential zoning, and intensification of the use.*
 - *Waste collection matters.*
 - *location of the required motorcycle and bicycle parking and a minor traffic matter*
 - *failure of the application submission to clearly demonstrate the continuation of use under existing use rights for the subject premises*
- *following representations by the applicant, the applicant was advised that the above matters could be addressed through the provision of additional information or amendments to the application as required*
- *an acoustic report was provided immediately (26 August), and Council responded shortly thereafter advising the applicant that the report was unsatisfactory for the purposes of assessment of the noise impacts of the proposed development. The correspondence outlined Council's requirements for an acoustic report in this regard.*
- *a response to matters raised in Council's initial correspondence was provided to Council on 13 November. The information was again referred internally. Public exhibition of the information was not carried out.*

DA-2015/672/A - 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

A modification to the previously issued DA-2015/672 was submitted on 19 August 2019. Following amendments to the proposed modification as part of the assessment process, the application for modification now proposes to seek consent for 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. This application is also being reported to the Wollongong Local Planning Panel for advice.

1.2 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 and assumed to be operating under existing use rights.

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).

There are no restrictions on the title

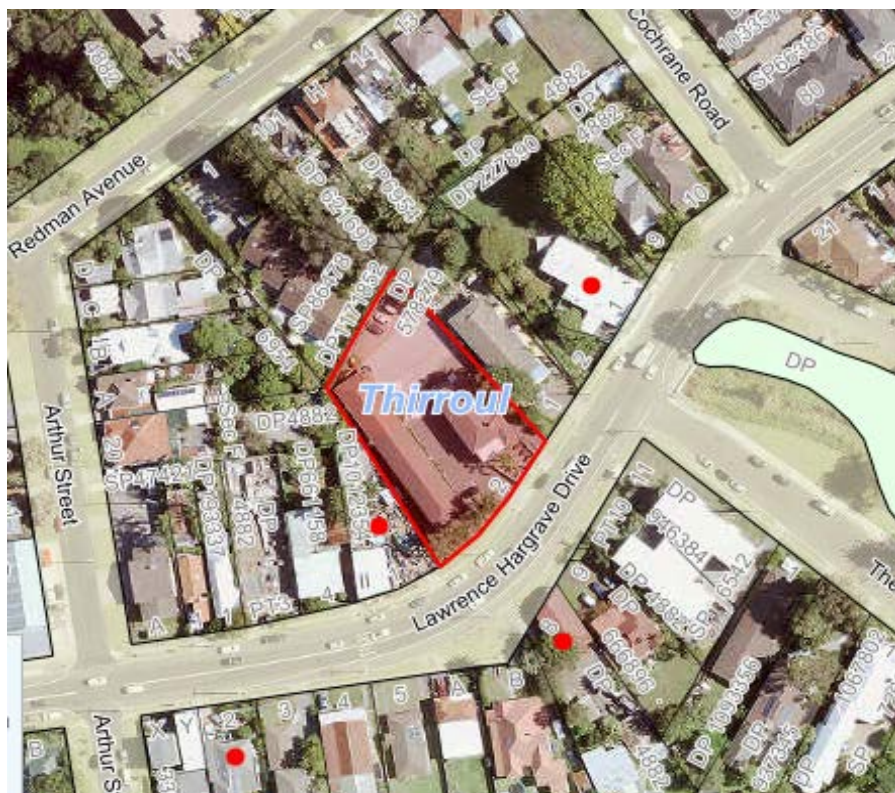


Figure 1: Aerial photograph

(red dots denote other commercial premises in residential zone in vicinity of subject site)

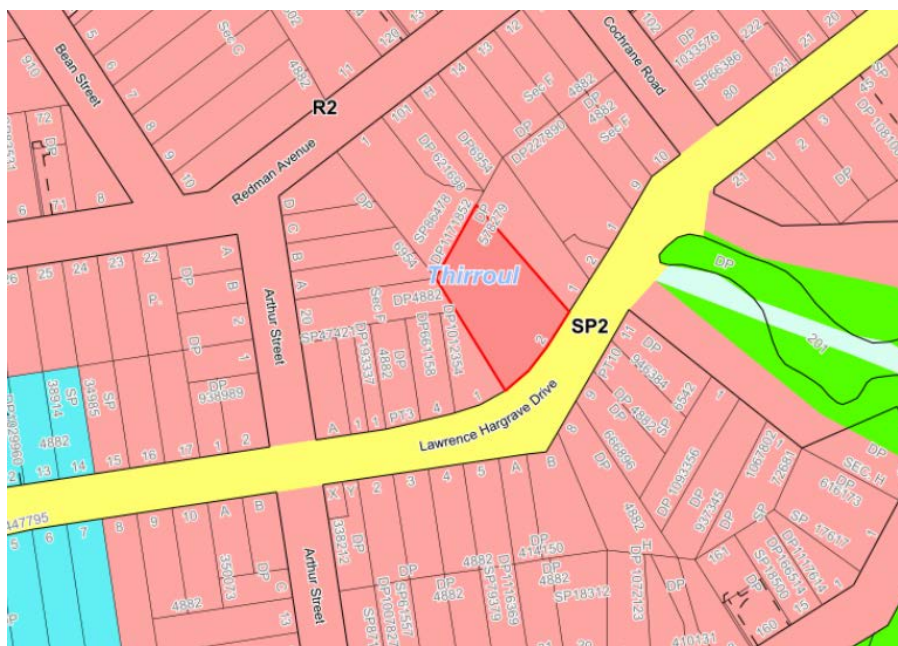


Figure 2: WLEP 2009 zoning map

1.3 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.

Table 1: Submissions

Concern	Comment
1. Noise <ul style="list-style-type: none"> excessive noise hours of noise amplified music 	The application is supported by a Noise Impact Assessment No.1907016E-R dated 11 November 2019 and prepared by Matthew Harwood. The report makes recommendations in relation to the operation of the premises to ensure noise levels are compliant with the various guidelines. The report and its recommendations are discussed further under Attachment 2. The Noise Assessment is not considered to be satisfactory.
2. Anti-social behaviour <ul style="list-style-type: none"> drunk patrons noise creation, including well past closing time urinating in public obscene language consuming alcohol in carpark area refuse/garbage left in front of adjoining properties general disregard for surrounding residents 	A Social Impact Assessment and Venue Management Plan were submitted in support of the proposed development. The reports are discussed further under Attachment 2. These documents are not considered to adequately address the anti-social behaviour arising from the development.

Concern	Comment
<ul style="list-style-type: none"> intoxicated customers staggering across road 	
<p>3. Parking impacts</p>	<p>Council's assessment of the provision of parking for the proposed development is discussed further under Section 2.3 below. The proposal has a shortfall of parking for the number of patrons being proposed, and this is considered to be unsatisfactory given the existing on street parking demand in the vicinity of the subject site.</p>
<p>4. Unsatisfactory management of premises</p> <ul style="list-style-type: none"> business owner disregards impacts of business on surrounding residents business owner disregards conditions of consent under which it was supposedly operating 	<p>An updated Venue Management Plan has been provided for consideration. The Management Plan is not considered to meet the relevant Planning Principles for Plans of Management as described in Attachment 2.</p> <p>Council also has concerns in relation to the Manager's commitment to fully implementing the Management Plan based on the recent history of the development.</p>
<p>5. Area at rear of site utilised as a beer garden, impacting on nearby residents</p>	<p>Whilst previous plans indicated a barbeque area near the rear boundary, the plans as lodged indicate the rear of the site being utilised for parking. Current aerial photography the existing use of the site in this manner. A condition of consent could be applied to any approval issued to ensure the approved use of that part of the land, where the application was to be supported.</p>
<p>6. Non compliance with planning requirements</p> <ul style="list-style-type: none"> operating after development consent had expired venue has in excess of 100 patrons on occasion characterisation of development 	<p>The proposal is defined as a food and drink premises under Wollongong Local Environmental Plan 2009. A food and drink premises is one where the retail sale of food or drink (or both) occurs, and includes a restaurant, café, pub, small bar and take away food and drink premises. The presence of a substantial number of tables and chairs indicates that the proposal is most appropriately defined as a restaurant or café, the principal purpose of which is the preparation and serving of food and drink to people for consumption on the premises, whether or not liquor or entertainment are also provided.</p> <p>The continued operation of Jose Jones is a matter under investigation by Council's Regulation and Enforcement Division.</p>
<p>7. commercial waste bins left on the kerb indefinitely</p>	<p>The application now proposes on site collection for its waste bins. This has been considered by Council's Traffic Officer who has not raised any objections. Conditions relating to suitable hours for waste collection having regard to the residential nature of surrounding development would be relevant if the application was</p>

Concern	Comment
	to be supported.
8. The use of an adjoining building under the same ownership as a backpackers hostel/accommodation for a surf school	This is a separate matter that is under investigation by Council's Regulation and Enforcement Division.
9. Proposal is inconsistent with R2 low density residential zoned area	Discussion in relation to the appropriateness of the development in the context of its low density residential location occurs throughout this assessment report. It is Council's position that the development as proposed is not in harmony with surrounding development.
10. Statement of Environmental Effects (SEE) <ul style="list-style-type: none"> fails to identify that music is played at the venue fails to address intensification of existing use 	<p>The matters of the playing of music at Jose Jones being omitted from SEE and the apparent intensification of development on the site were raised with the applicant. The applicant did not subsequently address these items.</p> <p>Regardless, Council has assessed the noise impacts and any proposed intensification of use at the premises throughout this report.</p>

1.4 CONSULTATION

1.4.1 INTERNAL CONSULTATION

Traffic Engineer

Council's Traffic Officer has reviewed the application and is not satisfied that the proposal demonstrates compliance with Chapter E3: Car Parking, Access, Servicing/Loading Facilities and Traffic Management. This is discussed in further detail under section 2.3 below.

Environment Officer

Council's Environment Officer has reviewed the application and is not satisfied that the application demonstrates that noise impacts will not be adverse. This is discussed in greater detail below under Section 2.1.5 and Attachment 2 in relation to existing use and intensification.

Social Planning Officer

Council's Social Planning Officer has reviewed the application and given a generally satisfactory referral. Conditions of consent relating to noise and premises management were recommended for inclusion on a consent should the application be supported.

Building Officer

Council's Building Officer has reviewed the application. It is noted that assessment of the development approved under DA-2016/510 indicated the following approved population:

The number of persons accommodated during the use of the premises is limited to the following:

Dining room/Area	Number of People
<i>Ground Floor</i>	
<i>Internal Seating</i>	7
<i>External Seating</i>	39

<i>Internal & External Standing</i>	23
<i>First Floor</i>	
<i>Internal Seating</i>	23
<i>External Seating</i>	8
TOTAL CAPACITY	100

The current application has removed all first floor dining, in effect resulting in the removal of an area that was previously available for 31 people. This has not been reflected in the detail provided with the application submission, which seeks consent for a population of 100 people.

The application is unsatisfactory in this regard.

Stormwater/Flooding Officer

Council's Stormwater/Flooding Officer and considers that insufficient information is provided with the application to enable assessment of the proposal. 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 contributing 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, risk of property/vehicle damage, intensification of the use of the High Flood Risk Precinct, and evacuation.*
- *It is proposed to expand patronage of the restaurant to include non-hotel guests, increase the maximum number of patrons from the approved number of 44 up to a proposed number of 100 and increase on site parking from a previously approved 23 spaces to 29 spaces. These aspects of the proposal are considered to be an intensification of use of the site, and will increase flood risk to life and property on the site, via increased frequency and number of people using the site (incl. car park which is likely to be unsafe during a flood, and restaurant area which is likely to be significantly affected by floodwaters during a flood with no suitable upper level flood refuge area for evacuation that is sufficiently sized to cater for the proposed patronage).*
- *In this regard, insufficient information is available to satisfy Council in relation to:*
 - *Clause 7.3(1)(b)&(e) and Clause 7.3(3) of the Wollongong LEP2009;*
 - *Objectives 3(e), 6.4.1(d), 6.4.1(f), 6.5.1(a), 6.5.1(b), and 6.5.1(d) of Chapter E13 of the Wollongong DCP2009;*
 - *Performance Criteria 6.4.2(a), 6.4.2(b), 6.4.2(c), 6.5.2(a), and 6.5.2(c) of Chapter E13 of the Wollongong DCP2009; and*

- *The prescriptive controls in Schedule 10 of Appendix C of Chapter E13 of the Wollongong DCP2009.*
- *In light of the above, the proposal in its current form cannot be supported.*

1.4.2 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 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 comprises one commercial use to another. No concerns are raised in regard to contamination as relates to the intended use of the land and the requirements of clause 7.

2.1.2 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.

2.1.3 STATE ENVIRONMENTAL PLANNING POLICY (COASTAL MANAGEMENT) 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 does not involve construction works beyond the provision of an acoustic screen and will likely require some acoustic work internally, there are not expected to be any adverse impacts arising on the matters identified within the SEPP.

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/ 2015/2100 timeline.

Minimal adverse impact on the coastal environment is anticipated as a result of the proposed development, and minimal adverse impacts on the development are expected as a result of coastal processes.

Council's practice is to utilise Chapter E13: Floodplain Management of Wollongong Development Control Plan 2009 to manage the coastal hazard of coastal inundation. Assessment under this Chapter is discussed further in this report under Section 2.3.

2.1.4 WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2009

Clause 1.4 Definitions

The relevant definitions are:

- **food and drink premises** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following:

- (a) a restaurant or cafe,
- (b) take away food and drink premises,
- (c) a pub,
- (d) a small bar.

Note.

Food and drink premises are a type of retail premises—see the definition of that term in this Dictionary.

- **retail premises** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following;

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Note.

Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

- **commercial premises** means any of the following:

- (a) business premises,
- (b) office premises,
- (c) retail premises.

Clause 1.8A Savings provision relating to pending development approvals

Not 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 generally not considered to be consistent with the above objectives as the characterisation of the proposal is not one that is considered to meet the day to day needs of residents.

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

Attached dwellings; Bed and breakfast accommodation; Boarding houses; Boat launching ramps; Centre-based child care facilities; 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; Oyster aquaculture; Places of public worship; Pond-based aquaculture; 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; Tank-based aquaculture; Veterinary hospitals

The proposal is categorised as a food and drink premises as defined above and is not permissible in the zone with development consent. The proposal relies on existing use rights as discussed below.

4.4 Floor space ratio

The development results in an increase in floor area of approximately 100m². This results in a proposed floor space ratio of 0.47:1. The permissible floor space ratio for the site is 0.5:1, and as such, the development does not exceed the maximum permissible floor space ratio.

2.1.5 EXISTING USE

The proposed café/restaurant is not a use permissible within the R2 Low Density Residential zone under WLEP 2009. The application for use as a café/restaurant relies on existing use rights, and the use from one commercial use to another commercial use, pursuant to Division 4.11 of the Environmental Planning and Assessment Act 1979 and Part 5 of the Environmental Planning and Assessment Regulation 2000.

“Existing uses” are defined in the Act as follows

- (a) the use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for this Division, have the effect of prohibiting that use, and
- (b) the use of a building, work or land—

- (i) for which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use, and
- (ii) that has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.

The motel was originally approved in September 1969 under the Illawarra Planning Scheme Ordinance 1968. The existing motel use was a lawful use prior to Wollongong Local Environmental Plan 2009 (WLEP 2009) coming into force. WLEP 2009 now prohibits tourist and visitor accommodation, of which one type is **hotel or motel accommodation**, in the R2 Low Density Residential zone. During the assessment of the proposal, the applicant was requested to clearly demonstrate the continuation of use under existing use rights. This matter has not been addressed by the applicant.

The Environmental Planning and Assessment Regulations provide a further framework for assessing existing use rights. Clause 41(1)(e) identifies that an existing use may, if it is a commercial use, be changed to another commercial use, including one that would otherwise be prohibited under the Act. This Clause defines a commercial use as *“the use of a building, work or land for the purpose of office premises, business premises or retail premises (as those terms are defined in the Standard Instrument)”*.

In this regard, the proposed application is for the use of a motel to a café/restaurant, both considered as commercial uses for the purposes of this Clause.

Clause 41 goes on to further stipulate that the use must not be changed under Clause 41(1)(e) unless that change meets satisfies the requirements of the Clause as discussed below.

	Council comments
<i>(a) involves only alterations or additions that are minor in nature, and</i>	<p>The proposal would likely require some alterations to the building to achieve the recommendations of the acoustic report in order to address the reverberant build up of noise to the internal ground floor area. These works are considered minor in nature. It is noted that the approved development the subject of DA-2015/672 which involved alterations and additions to the motel use has facilitated the area available for use for the proposed café/restaurant.</p> <p>However, the issue of flooding impacts on the proposed use remains unresolved and it is possible that works to the building may be required to ensure the safety of patrons in a flooding emergency. As such, Council cannot be satisfied that all required works have been included with the information at hand.</p>
<i>(b) does not involve an increase of more than 10% in the floor space of the premises associated with the existing use, and</i>	<p>There is a minor increase in floor space proposed as part of this application arising from the proposed noise barrier that is 2.7m around the terrace, however the increase in area does not involve an increase of more than 10% of the floor space of the premises associated with the existing use. Comments above relating to flooding are relevant to this matter.</p>
<i>(c) does not involve the rebuilding of the premises associated</i>	<p>There is no rebuilding of the premises proposed as part of this application.</p>

with the existing use, and	
(d) does not involve a significant intensification of that existing use	<p>DA-2015/672 approved a maximum population of 44 people in the motel services building, which includes both the dining area (for guests only) and the manager's residence. The subject application proposes an increase to 100 people within the café/restaurant. This in effect would more than double the approved population in that building.</p> <p>In addition, the hours of operation of the proposed café/restaurant are as follows:</p> <ul style="list-style-type: none"> • Sunday to Wednesday (and public holidays): 7:00am to 10:00pm • Thursday to Saturday: 7:00am to 12:00am <p>Increased hours of operation and population do not necessarily translate as an intensification of an existing use. Planning principles established in <i>Fodor Investments v Hornsby Shire Council [2005] NSWLEC 71</i> provide a guide on how to assess the merit of applications involving existing use rights, and in this instance where there is a change of use the most relevant planning principle relates to the impacts of the proposal on adjoining land. Similarly, in <i>Randall Pty Ltd v Leichardt Council [2004] NSWLEC 277</i>, the planning principles consider the extension or intensification of use which may impact on residential amenity.</p> <p>In considering the case law, the matter of intensification can be assessed largely through the consideration of impacts of the proposed use as compared with impacts arising from the existing use. Assessment of the proposal against the planning principles detailed in the citations above is included at Attachment 2.</p> <p>The assessment identifies that the proposed development represents an increase in impacts on residential amenity as compared with the existing motel use in terms of noise, anti-social and parking impacts, thus resulting in an intensification of the existing use. The application submission fails to demonstrate that the impacts of the proposed use can be suitably mitigated by the implementation of the Venue Management Plan and Noise Policy as presented.</p>

As such, it is considered that the proposed development does not satisfy the conditions specified in Clause 41(2) that enable a use under Clause 41(1)(e).

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

2.3.1 WOLLONGONG DEVELOPMENT CONTROL PLAN 2009

CHAPTER D1 – CHARACTER STATEMENTS

Thirroul

The proposal is considered to be inconsistent with the existing and desired future character for the locality.

The northern side of the Thirroul village is the core focal point for retail and community services within the suburb. The future desired character of the area is to maintain the significance of the village centre as a retail and business precinct by the consolidation of the existing retail and business centre.

The existing retail and business centre sits within the area covered by the Thirroul Village Centre Precinct Plan (Chapter D12 WDCP 2009). Chapter D1 states that the Village Centre should remain the social / cultural hub by continuing to feature a combination of unique specialty retail shops, cafes, restaurants and other businesses. The subject site sits outside of this defined “Village Centre” area. As such, intensification of commercial development outside of the retail and business centre undermines the aims of the Precinct Plan, and is inconsistent with the desired future character of Thirroul.

Further, Chapter D1 identifies that only low key tourism development should be supported that complements the village character of Thirroul. The proposal involving patronage of 100 people in a café/restaurant/bar premises that offers live music is not considered to be “low key” and therefore does not contribute to, or complement, the village character of Thirroul.

CHAPTER E1: ACCESS FOR PEOPLE WITH A DISABILITY

This matter has been addressed under DA-2015/672. Access for people with a disability is possible given the levels of the site, and appropriate sanitary facilities have been provided under the previous consent.

CHAPTER E2: CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN

<i>Control/objective</i>	<i>Comment</i>	<i>Compliance</i>
<u>3.1 Lighting</u>	The Social Impact Assessment notes that lighting can be provided, however detail has not been provided. It is considered that this matter could be conditioned where the support of the proposal is to be recommended.	Condition if supported
<u>3.2 Natural surveillance and sightlines</u>	The proposed acoustic barrier at the front of the premises is to be constructed of glass, thus ensuring unimpeded sight lines to the street. The area of the café/restaurant is open and generally provides for good natural surveillance and sightlines.	Yes
<u>3.3 Signage</u>	There is no signage proposed.	NA

<u>3.4 Building design</u>	There are no significant changes to the building design proposed, beyond those required to address the recommendations of the Acoustic Report.	NA
<u>3.5 Landscaping</u>	There is no landscaping proposed	NA
<u>3.6 Public open space and parks.</u>	Not applicable	NA
<u>3.7 Community facilities and public amenities</u>	Not applicable	NA
<u>3.8 Bus stops and taxi ranks</u>	Not applicable	NA

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

7 Parking demand and servicing requirements

A traffic impact assessment was not required for the development as the Chapter contains parking rates for the uses on site. The proposal was assessed against the parking requirements of the Chapter as follows:

	Car parking	Motorbike Parking	Bicycle Parking
Motel	23 (1 space per room plus one space/2 staff members)	1 per ten units	NA
Café/restaurant	25 spaces for 100 patrons plus 1 space for staff (1 per 4 seats plus 1 per 4 staff)	1 per 25 parking spaces	1 per 200m ² GFA
Total Required (not including waiver)	49 spaces required	2 required	1 required
Total provided	29 spaces provided	2 provided	1 provided

Exemptions

7.4 Waiver or Reduction of Parking Spaces

The site qualifies for a 30% reduction based on proximity to the rail station, public car parking and bus stops.

Following the application of the 30% reduction to all uses on the site, 35 parking spaces are required, indicating a **shortfall of 6 spaces**. Given the on street parking pressures that exist in Thirroul, this shortfall is considered to be unacceptable.

At the parking rate provided, the maximum number of people that could be accepted for the café/restaurant is 65.

8 Vehicular access

Driveway grades are existing and compliant. The sight distance when exiting the driveway was raised as an issue with the applicant, and although compliant, the applicant has proposed speed humps along the driveway to reduce the speed of vehicles exiting the site.

9 Loading / unloading facilities and service vehicle manoeuvring

The development complies with AS 2890.2.

Waste servicing will occur from within the site. It is considered there is sufficient room on site for the collection to occur, and the premises are serviced by a loop driveway with separate entry and exit points, thus negating the need for the vehicles to make a complete turning manoeuvre.

10 Pedestrian access

The proposal is satisfactory with regard to pedestrian access into the site and along the frontage.

11 Safety & security (Crime Prevention through Environmental Design) measures for car parking areas

The proposal is considered to be generally satisfactory with regard to the principles of CPTED.

CHAPTER E7: WASTE MANAGEMENT

Waste servicing arrangements are now indicated to occur on the subject site. Relevant conditions in relation to on site waste collection, including collection times, could be applied to any consent issued.

CHAPTER E13 FLOODPLAIN MANAGEMENT

Previous DA-2015/672 was referred to Council's Stormwater/Flooding Officer who provided a range of conditions that were subsequently applied to that consent. Given the flooding risk on site, one of the conditions required the provision of an emergency response plan and procedure that would apply to the motel facilities building and would ultimately be placed against the 149 certificate applicable to the land as follows:

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.

To date, Council has not received a copy of this plan.

As the site is located in an uncategorised flood risk precinct, the subject application was referred to Council's Stormwater/Flooding Officer for comment. It is considered that the proposal does not address the requirements of this Chapter, particularly in relation to risk to life, risk of property/vehicle damage, intensification of the use of the High Flood Risk Precinct, and evacuation.

Council's Stormwater/Flooding Officer response states:

- *It is proposed to expand patronage of the restaurant to include non-hotel guests, increase the maximum number of patrons from the approved number of 44 up to a proposed number of 100 and increase on site parking from a previously approved 23*

spaces to 29 spaces. These aspects of the proposal are considered to be an intensification of use of the site, and will increase flood risk to life and property on the site, via increased frequency and number of people using the site (incl. car park which is likely to be unsafe during a flood, and restaurant area which is likely to be significantly affected by floodwaters during a flood with no suitable upper level flood refuge area for evacuation that is sufficiently sized to cater for the proposed patronage).

- *In this regard, insufficient information is available to satisfy Council in relation to:*
 - *Clause 7.3(1)(b)&(e) and Clause 7.3(3) of the Wollongong LEP2009;*
 - *Objectives 3(e), 6.4.1(d), 6.4.1(f), 6.5.1(a), 6.5.1(b), and 6.5.1(d) of Chapter E13 of the Wollongong DCP2009;*
 - *Performance Criteria 6.4.2(a), 6.4.2(b), 6.4.2(c), 6.5.2(a), and 6.5.2(c) of Chapter E13 of the Wollongong DCP2009; and*
 - *The prescriptive controls in Schedule 10 of Appendix C of Chapter E13 of the Wollongong DCP2009.*
- *In light of the above, the proposal in its current form cannot be supported.*

2.3.2 WOLLONGONG CITY WIDE DEVELOPMENT CONTRIBUTIONS PLAN 2018

The estimated cost of works is \$5 000 and a levy is not applicable under this plan as the threshold value is \$100 000.

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 is no demolition proposed.

93 Fire safety and other considerations

This matter has been considered by Council's Building Officer as satisfactory.

94 Consent authority may require buildings to be upgraded

Not applicable, as the application is not for development involving the rebuilding, alteration, enlargement or extension of an existing building.

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

Context and Setting:

The beachside location of Thirroul results in an influx of visitors to the area resulting in increased on street parking demands, particularly in the vicinity of the proposal. The area also enjoys a substantial café culture, with many eating and drinking opportunities located throughout the Thirroul Village Centre.

The setting of the proposed development is a residential area located to the north of the Thirroul Village Centre that contains a few commercial uses assumed to operate under existing use right provisions. These existing commercial uses, including the motel at the subject site, exist in relative harmony with the surrounding residential uses.

The proposed change of use of part of the motel from an inhouse dining room to a café/restaurant servicing the general public was approved under DA-2016/510 with a restricted consent period consent. In this regard, Council has some understanding of the actual impacts arising from the development as proposed.

In regard to the matter of context, the planning principle in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191 is relevant in that it provides guidance in the assessment of compatibility. The two major aspects of compatibility are physical impact and visual impact.

It is acknowledged that the proposal has a negligible impact on the visual catchment of the area because of the limited changes required to the built form. However, the physical impacts arising from the development include noise and parking impacts and impacts arising from anti-social behaviour. Due to a range of matters referred to in Attachment 2, the Venue Management Plan and Noise Policy are not considered to satisfactorily mitigate the impacts of the proposed development.

In this regard, the proposed development is not considered to be in harmony with the surrounding context. The proposal has been assessed with regard to the arising amenity impacts from the proposed development, and existing and future character of the area, and as proposed is considered to be incompatible with the local area.

Access, Transport and Traffic:

There are 29 spaces proposed for the development, however a total of 35 are required for a population of 100 people. In this regard the proposal is unsatisfactory. A variation justification statement was not provided in support of the variation.

Public Domain:

Submissions indicate that the development has resulted in anti-social impacts within the public domain. The submitted Venue Management Plan is not considered to adequately address the issue of patron behaviour when leaving the premises and making their way to distant transport options. Further the lack of on site parking contributes to increased parking pressures within the public domain. As such, impacts on the public domain are considered to be unsatisfactory.

Utilities:

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

Heritage:

No heritage items will be impacted by the proposal.

Other land resources:

There are not expected to be unreasonable impacts on land resources.

Water:

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

Soils:

The site is affected by acid sulphate soils however there is no excavation proposed and as such there are not expected to be adverse impacts arising on soil.

Air and Microclimate:

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

Flora and Fauna:

There is no vegetation removal or landscaping proposed or required.

Waste:

Waste collection is to be provided on site and is considered acceptable.

Energy:

The proposal is not envisaged to have unreasonable energy consumption.

Noise and vibration:

The proposal is considered to affect adjoining properties as a result of noise impacts. As discussed in Attachment 2, the Noise Assessment is not considered to satisfactorily assess the impacts on all relevant noise receptors, and the hours identified are not consistent with the other components of the application. Further, Council considers the proposed management of the impacts may not be achievable as recommended. The proposal is unsatisfactory with respect to noise impacts.

Natural hazards:

The site is located in an uncategorised flood risk precinct. As discussed above, the application fails to provide sufficient information to satisfy Council in relation to risk to life, risk of property/vehicle damage, intensification of the use of the High Flood Risk Precinct, and evacuation.

Technological hazards:

There are no technological hazards affecting the site that would prevent the proposal. Whilst the site is affected by acid sulphate soils, there is no excavation proposed.

Safety, Security and Crime Prevention:

It is considered that there are likely to be adverse impacts arising from the proposal in relation to antisocial behaviour. The Social Impact Assessment provided in support of the application does not sufficiently address this matter, and the Plan of Management does not propose sufficient mitigation measures, or measures that are likely to be implemented with any certainty.

Social Impact:

As discussed above, the Social Impact Assessment is not considered to sufficiently detail and address the social impacts specifically arising from the proposed development.

Economic Impact:

The proposal is not expected to create negative economic impact.

Site Design and Internal Design:

The application results in a shortfall of parking required by Council's development control plans as outlined above. A variation justification statement was not provided in support of the variation.

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.

A condition can be attached to any consent granted that all works are to be in compliance with the Building Code of Australia.

Cumulative Impacts:

The proposal is considered to result in an intensification on the site and is likely to result in negative cumulative impacts in relation to noise, hours of and behaviours of patrons exiting the site. The management plans do not sufficiently manage these impacts.

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

Does the proposal fit in the locality?

The proposal is not considered to be appropriate with regard to the surrounding context. There are likely to be adverse impacts on the amenity of the locality and on residential amenity in the area.

Are the site attributes conducive to development?

The site is in an uncategorised flood risk precinct. This attribute is not conducive to the development and Council is not satisfied that the development will result in risk to life, risk of property/vehicle damage and intensification of the use of the High Flood Risk Precinct.

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

As detailed above under Section 1.3

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

The application is expected to have unreasonable impacts on the amenity of the locality. Further Council is not satisfied that the proposal will not result in risk to life, risk of property/vehicle damage and intensification of the use of the High Flood Risk Precinct. It is not considered appropriate with consideration to the character of the area and is therefore 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 54.15(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.

Matters relating to flooding are threshold issues. The application submission fails to satisfy Council that the intensification of the use of the site will not result in an increased risk on the site arising from flooding impacts. Matters to be addressed include, but are not limited to, the increased risk to property arising from an increase in parking and the increased risk to life arising from the lack of a suitable place of refuge for the occupants of the building.

Additionally, the application submission also fails to satisfy Council that impacts on residential amenity are not adverse. In this regard, revised acoustic and social impact assessments could provide the basis for the proposal at a reduced scale following Council's satisfaction as to flooding matters, such that:

- The number of patrons is restricted to 65 people

- Hours of operation do not extend beyond 10.30pm on Thursdays to Saturdays and 10.00pm on Sundays, Wednesdays and Public Holidays
- Security guards are employed from 9.30 pm until all patrons have left the premises and surrounding area on Thursdays, Fridays and Saturdays to ensure that patrons leaving the premises leave the area shortly thereafter and do not behave in an anti-social manner or create noise while they are leaving the premises and surrounding area
- The premises are fitted with an electronic noise limiting device set to a level that ensures noise limits are achieved. The device should disconnect power to the sound system if the noise limits are reached and exceeded for a period greater than 60 seconds.

However, the use as a café/restaurant as currently proposed is unable to be supported.

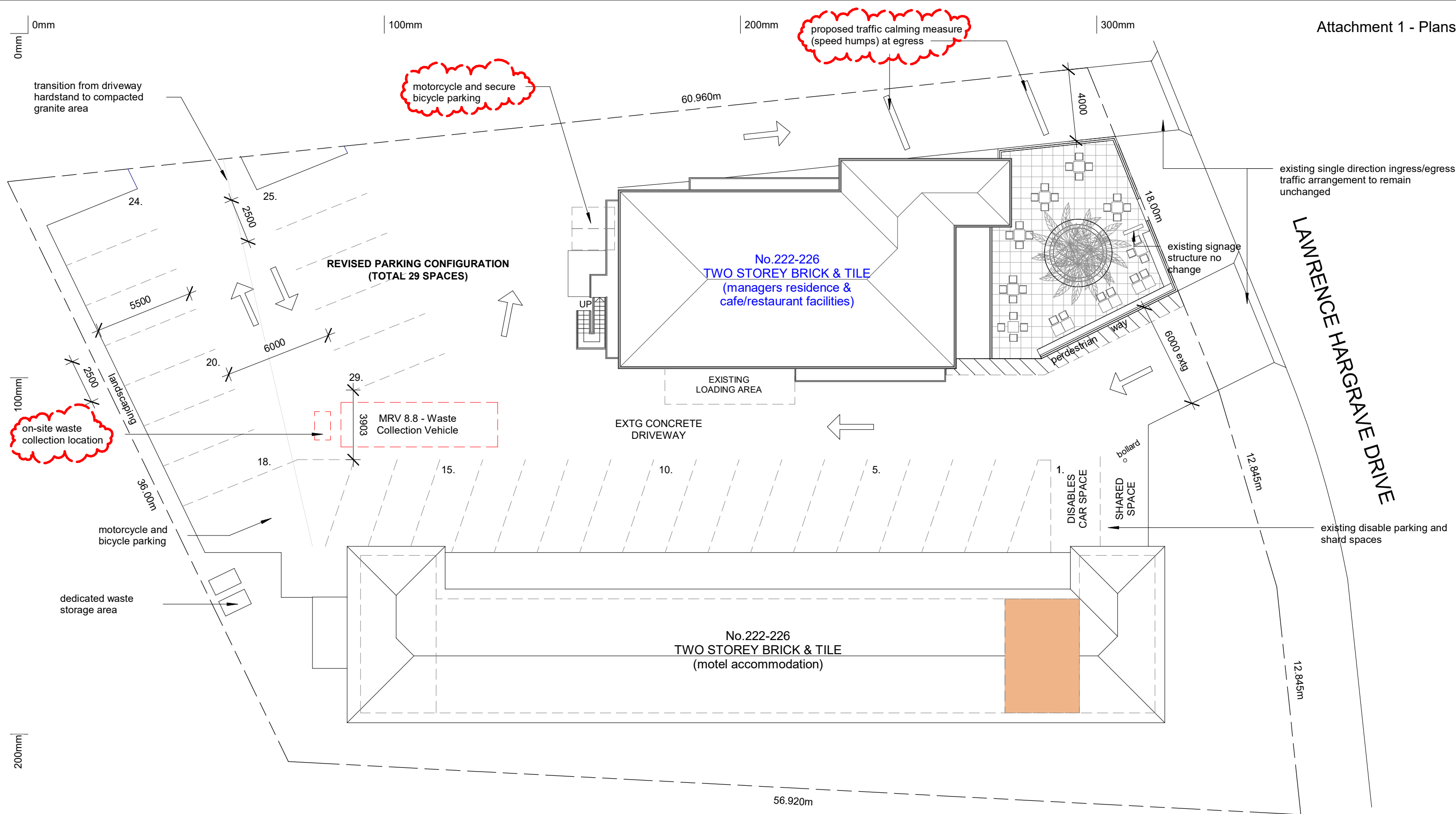
3 RECOMMENDATION

It is recommended that the development application be refused for the following reasons:

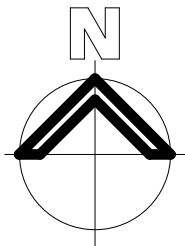
- 1 Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the application submission has failed to demonstrate consistency with Wollongong Local Environmental Plan 2009 with respect to Clause 7.3 Flood planning and evacuation from the site.
- 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 has failed to demonstrate consistency with the provisions of Wollongong City Council's Development Control Plan 2009 Chapter with respect to:
 - Chapter E3: Car Parking, Access, Servicing/ Loading Facilities and Traffic Management.
 - Chapter E13 Floodplain Management.
 - Chapter D1 Character Statements – Thirroul.
- 3 Pursuant to the provisions of Section 4.15 (1)(a)(iv) of the Environmental Planning and Assessment Act 1979, it is considered that the application submission has failed to demonstrate consistency with the Environmental Planning and Assessment Regulation 2000 in that:
 - the continuance of the existing use on the site has not been demonstrated, and
 - the proposed use from an existing commercial use to another commercial use is considered to involve a significant intensification of that existing use.
- 4 Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, it is considered that the application submission has failed to demonstrate that the likely impacts of the development would not be adverse.
- 5 Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, it is considered that the application submission has failed to demonstrate that the site is suitable for the development.
- 6 Pursuant to the provisions of Section 4.15 (1)(d) & (e) of the Environmental Planning and Assessment Act 1979 it is considered that with the submission 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

- Attachment 1 Plans
- Attachment 2 Consideration of Impacts of Proposed Development
- Attachment 3 Noise Impact Assessment
- Attachment 4 Social Impact Assessment
- Attachment 5 Venue Management Plan
- Attachment 6 Noise Policy
- Attachment 7 DA-2016/510 Consent



Site Analysis Plan
Scale 1 : 200



Date	Rev	Amendment
Date 1	1	Revision 1

design:



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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 MCGUINNESS

title: **SITE ANALYSIS PLAN**

job number: **15.13** drawing no: **DA_01**

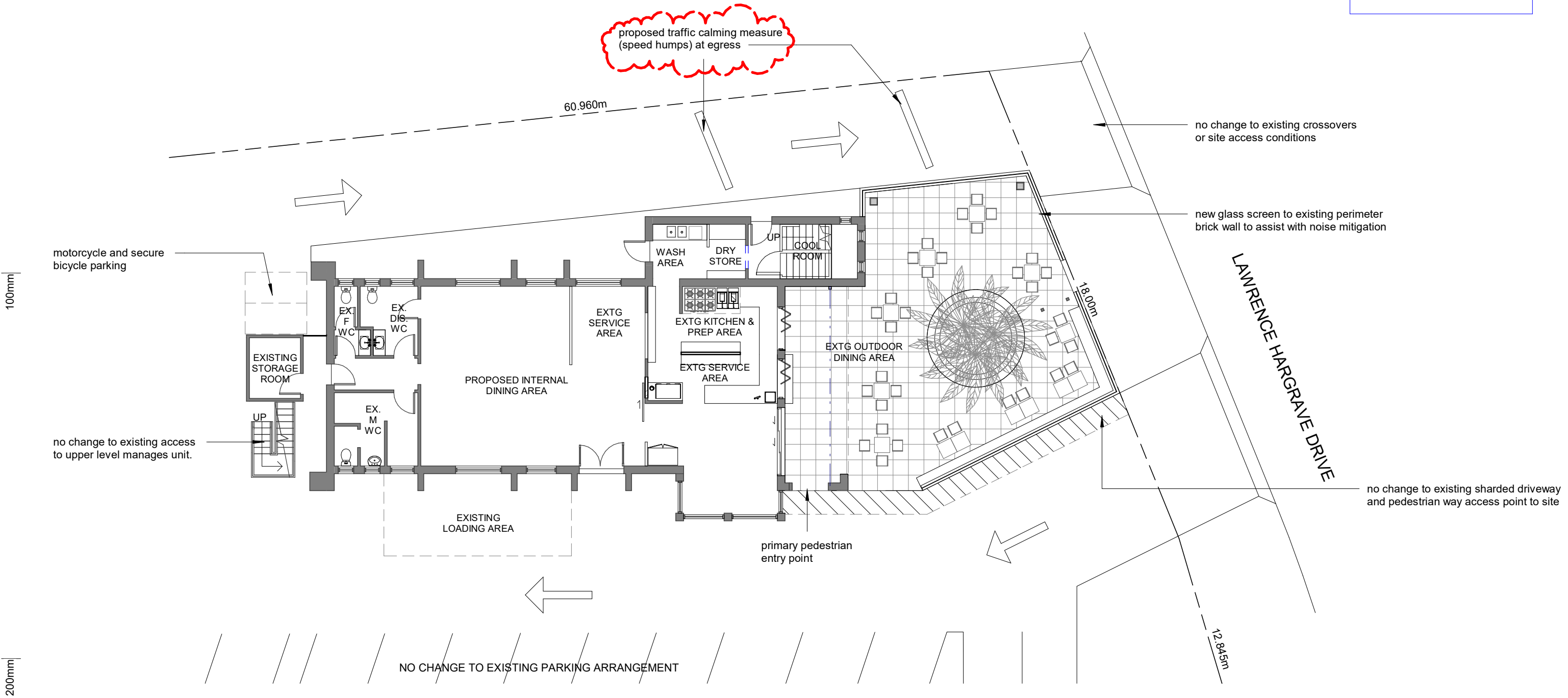
date: Nov 19 drawn: BM scale @ A3: **1 : 200**

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

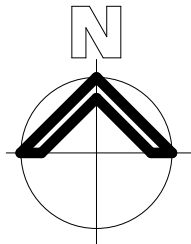
rev: **A**

0mm 100mm 200mm 300mm

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



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 MCGUINNESS

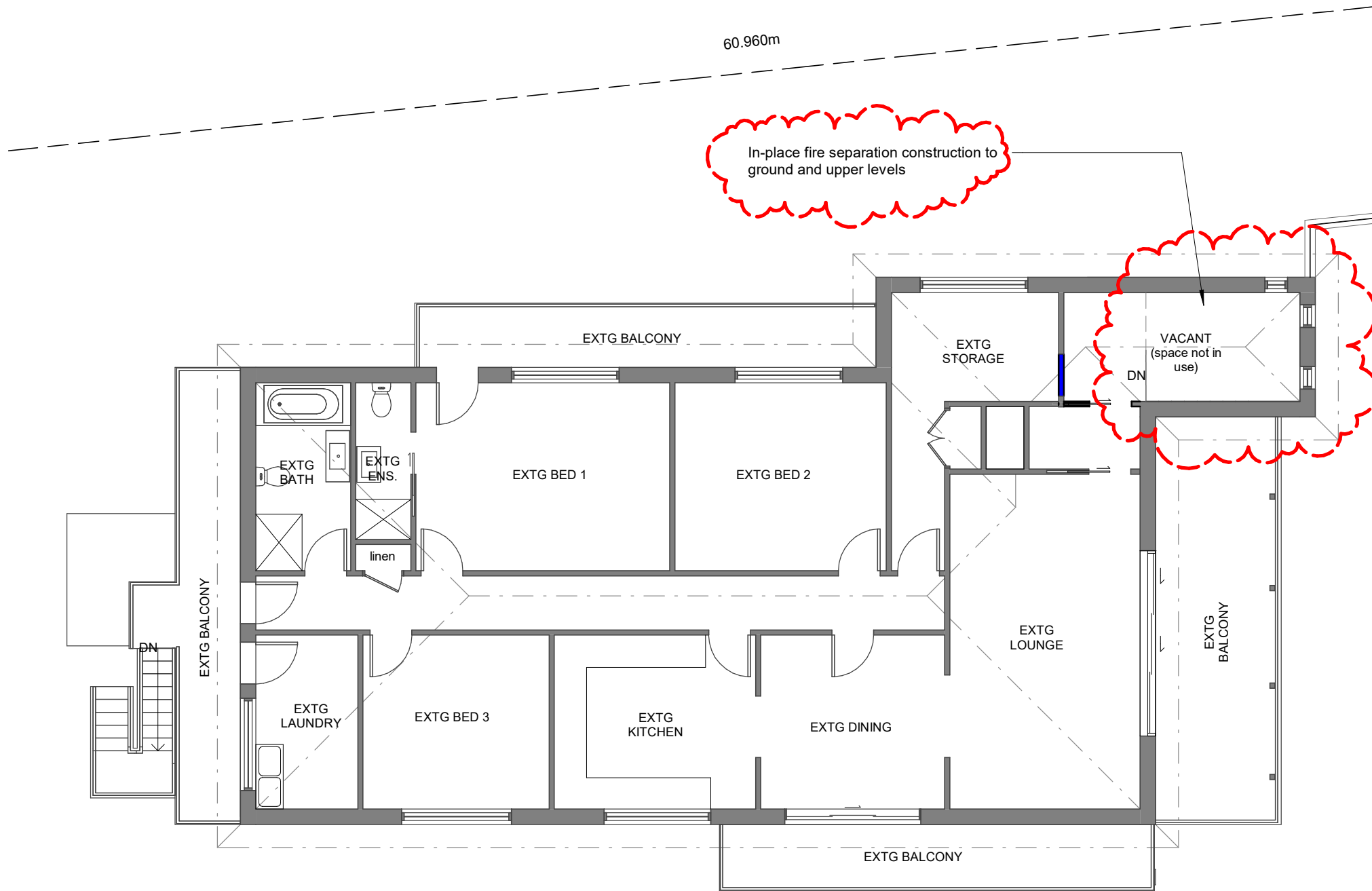
title: **GROUND FLOOR PLAN**

job number: **15.13** drawing no: **DA_02**

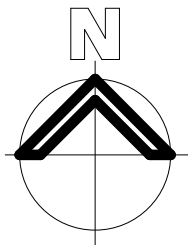
date: Nov 19 drawn: Author scale @ A3: **1 : 150**

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

rev: **A**



○ First Floor Plan - Motel Unit
Scale 1 : 100



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 MCGUINNESS

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**

0mm

0mm

100mm

200mm

300mm

no change to external building
facade

▽ 9900 RL First CL

no change to existing
signage structure

▽ 7200 RL First FL

2000

▽ 4000 RL Ground FL

new glass screening to
existing brick hob

North Elevation

Scale 1 : 100

200mm

First CL RL 9900 ▽

First FL RL 7200 ▽

Ground FL RL 4000 ▽

new glass screening to
existing brick hob

East Elevation

Scale 1 : 100

Date	Rev

Amendment

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 MCGUINNESS

title: **ELEVATIONS - NORTH & EAST**

job number: **15.13**

drawing no: **DA_04**

date: Nov 19

drawn: BM

scale @ A3: **1 : 100**

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

rev: **A**

0mm

0mm

100mm

200mm

300mm

100mm

no change to access to
upper level managers unit

First CL RL 9900

First FL RL 7200

Ground FL RL 4000

2000

new glass screening to existing
brick hob

South Elevation
Scale 1 : 100

200mm

new opaque glass screening to
existing brick hob

2000

First CL RL 9900

First FL RL 7200

Ground FL RL 4000

no change to access to
upper level managers unit

West Elevation
Scale 1 : 100

Date	Rev

Amendment

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 MCGUINNESS

title: **ELEVATIONS - SOUTH & WEST**

job number: **15.13**

drawing no: **DA_05**

date: Nov 19

drawn: BM

scale @ A3: **1 : 100**

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

rev: **A**

Attachment 2: Consideration of Impacts of Proposed Development

The following provides a consideration of the impacts of the proposal against the relevant planning principles contained within *Fodor Investments v Hornsby Shire Council* [2005] NSWLEC 71 and *Randall Pty Ltd v Leichardt Council* [2004] NSWLEC 277:

- *Is the impact of the existing use on residential amenity acceptable?*

Anecdotal evidence provided by surrounding residents in their submissions in response to notification of the subject application suggests that there were very few issues arising in relation to impacts on adjoining properties from the use of the site as a motel (including the restaurant that was required to only service motel guests). Further, an interrogation of Council's customer request database reveals that between 2006 and 2016 (when the restricted consent period consent was issued for use of restaurant for public dining) there were no recorded complaints received in relation to the operation of the Motel in terms of noise or parking matters.

This suggests that the impact of the use of the motel restaurant for motel occupants only on surrounding residential amenity was acceptable.

- *What are the impacts of the proposed use on adjoining land?*

The issuing of a restricted consent period consent under DA-2016/510 has enabled the development to operate for a period of time and in effect has provided the opportunity for Council to review the actual impacts arising from the development, as opposed to those considered likely to occur.

Based on the submissions received and the content of Council's customer service requests against the property, the impacts of the proposed use can be summarised by the following:

- Noise impacts- both the level of noise and the lateness of the noise
- Anti social behaviour – occurring as patrons leave the premises as well as loitering around the area
- Parking impacts- insufficient parking on site resulting in additional street parking pressure
- *If the impact of the existing use on residential amenity is acceptable as discussed above, is the impact of the proposed extension or intensification still acceptable?*

The unmitigated impacts arising from the proposed use are considered to be unacceptable. In response to concerns regarding intensification and matters raised in submissions, the applicant provided the following information in support of the application:

- Noise Impact Assessment Jose Jones Restaurant & Bar No 1907016E-R dated 11 November 2019 and prepared by Matthew Harwood
- Jose Jones Noise Policy 2019
- Social Impact Assessment No 19268 dated 25 October 2019 prepared by EPlanning
- Jose Jones Updated Venue Management Plan for Licensed Premises dated 19 September 2019

Council's consideration of these documents is as follows:

1. Noise Impact Assessment Jose Jones Restaurant & Bar No 1907016E-R dated 11 November 2019 and prepared by Matthew Harwood

The Noise Impact Assessment was referred to Council's Environment Officer for assessment. Council's Environmental Officer provided the following points in relation to the assessment:

- The hours of operation identified within the Assessment are not consistent with those identified in the Statement of Environmental Effects (SEE). The hours of operation in the SEE indicate the proposed hours for the proposal are 7.00am to 12.00pm Thursday to Saturday, with no use of the outdoor area after 10.00pm. The Assessment does not demonstrate that predicted noise level arising after 10.00pm at all residential receptors is compliant
- The Assessment does not indicate the population upon which the predicted noise levels of patrons is based
- The report identifies that the northern adjoining residential property (No 220 Lawrence Hargrave Drive) is under the same ownership as the Thirroul Beach Motel, and as such, the

nearest residences considered in the Assessment for determining the potential noise impact are located opposite the site to the south and south east and directly behind the site to the north. Council notes that the northern adjoining property is under the same ownership as the Motel, however this adjoining property is located on its own parcel of land. As such, there is no guarantee into the future that this property will be retained in the current ownership, and therefore this property should be considered by the Assessment as a residential receptor for the purposes of establishing impacts.

- The Assessment identifies that a screen with a minimum height of 2.7metres is required above the finished ground level of the outdoor area. The plans show a screen with a height of 2.0 metres- this is inconsistent with the noise assessment
- Proposed management controls such as “drums and base guitars should be avoided”, “drums should be avoided” are not a practical method of noise control to implement

2. Jose Jones Noise Policy 2019

The Noise Policy is considered to be an appropriate tool to assist in noise mitigation, particularly the reduction of noise impacts on sensitive residential receivers.

Subject to the matters discussed above being addressed by the Noise Assessment, the Noise Policy if implemented as stated will assist with the following:

- General control of noise- the Policy identifies that regular decibel readings will be reported each night and logged by an approved person. It is Council's preference that an electronic noise limiting device is installed inside the restaurant as described by the Noise Assessment under section 6.4.1. This device can automatically shut down power to the sound system where a pre-set noise limit is reached and exceeded for a 60 second period.
- The cessation of live music in the outdoor area after 6pm
- The cessation of live music by 9pm
- No use of the outdoor area after 10pm

3. Social Impact Assessment No 19268 dated 25 October 2019 prepared by EPlanning

It is noted that the Social Impact Assessment provides some very generic recommendations in regards to managing potential social impacts. The Social Impact Assessment was referred to Council's Social Planning Officer who considered that all recommendations from the Social Impact Assessment should be incorporated into the design and operation of the premises.

The report itself contains inaccuracies in relation to the location of the site as being within the Thirroul Village Centre, being subject to the Thirroul Masterplan and being within a commercial zone, all of which are incorrect. The report also refers to unrelated development located outside of the Local Government Area. In this regard, the report is considered to provide limited value, failing to comprehensively address who will be affected, how they will be affected, how long the impacts will last and what the real and perceived safety impacts on residents are within the area with any specificity.

4. Jose Jones Updated Venue Management Plan for Licensed Premises dated 19 September 2019

The planning principle expressed in *Renaldo Plus 3 Pty Ltd v Hurstville City Council [2005] NSWLEC 315* details a series of questions that can be asked to determine if a Plan of Management is appropriate for a particular use and situation. Question 6 was slightly amended to reflect that below in *Amazonia Hotels Pty Ltd v Council of the City of Sydney [2014] NSWLEC 1247*. The Venue Management Plan, as well as the Noise Policy, are evaluated against these questions as follows:

1. Do the requirements in the Management Plan relate to the proposed use and complement any conditions of approval?

The requirements of the Management Plan and Noise Policy relate to the proposed use of the venue as a café/restaurant. There are some conflicts between the Plan and other documents provided in support of the proposal. These include the hours of alcohol sales (eg: stating “to 12pm”, which is midday, Monday to Saturday); the Management Plan indicates a capacity of 100 people, which is not supported; Table 1.2 is described as a summary of hours of operation, entertainment and liquor trading, but only references liquor trading hours which are not the same

as the hours proposed or supported; truck deliveries on Sundays are not supported and the emptying of glass bins should occur prior to 6pm in the absence of information detailing the impacts of this function.

2. Do the requirements in the Management Plan require people to act in a manner that would be unlikely or unreasonable in the circumstances of the case?

There is a requirement within the Noise Policy that noise levels are taken regularly each night on separate times and locations, with no indication of what is "regular" or identification of appropriate locations. Further it is considered unlikely that in a café/restaurant with 100 patrons, as proposed, and a maximum of four staff working during busy periods, that staff skilled in the use of a noise meter would have the opportunity to take regular noise levels.

Additionally, the ability of staff to deal with anti social behaviour arising from patrons leaving the premises late at night and ensuring there is no loitering in the area is questionable and unlikely and does not appear to occur under the current operation. The presence of a security guard is likely the only way this could be managed effectively.

3. Can the source of any breaches of the Management Plan be readily identified to allow for any enforcement action?

The responsibility of the enforcement of both the Management Plan and Noise Policy rests with staff and management of the premises. Identifying breaches not only relies on staff carrying out the required monitoring and reporting, but for noise also relies on an accurate instrument that has been calibrated as required. This becomes reliant on good operational management and record keeping as described in the plan.

4. Do the requirements in the Management Plan require absolute compliance to achieve an acceptable outcome?

Whilst absolute compliance all of the time is not required to achieve an acceptable outcome, the Management Plan and Noise Policy require tight control to ensure there is no cumulative impact arising from a number of breaches or ongoing minor breaches.

5. Can the people the subject of the Management Plan be reasonably expected to know of its requirements?

Yes, the Management Plan and Noise Policy are documents that can be provided directly to staff with a briefing at the commencement of their employment, and at relevant periods over the course of their employment.

6. Is the Management Plan incorporated in the conditions of consent, and to be enforced as a condition of consent?

The Management Plan and Noise Policy would be incorporated into conditions of consent subject to the support of the proposal overall where it resulted in a consent being issued.

7. Does the Management Plan contain complaint management procedures?

Yes

8. Is there a procedure for updating and changing the Management Plan, including the advertising of any changes?

The Management Plan includes a procedure that does not involve advertising the changes. The Noise Policy does not contain a procedure for updating/changing the Policy.

Based on the above assessment, it is considered that both the Venue Management Plan and Noise Policy would require amendment/the provision of additional matters in order to be considered as satisfactory for the purposes of including on a consent and mitigating impacts arising from the proposed development.

Summary:

The existing use of the motel with an associated restaurant servicing motel guests only, whilst prohibited in the R2 low density residential zone, was considered to be compatible with the surrounding residential context. The proposed use as a café/restaurant for 100 people has demonstrated not only that the use as proposed is not harmonious with adjoining residential development, but that as a result of impacts from the development, that the proposal represents an intensification of the existing use. Whilst there is potential for the supporting management documents

discussed above to mitigate some of those impacts, at present the Venue Management Plan and Noise Policy are not capable of being supported.



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Noise Impact Assessment

Jose Jones Restaurant & Bar

At:-

222-226 Lawrence Hargrave Drive,
Thirroul, NSW 2540

Prepared for:-

Jose Jones Bar and Restaurant
C/- MMJ Real Estate (Wollongong) Pty Ltd
6-8 Regent Street
Wollongong NSW 2500

Attention: Mr Ben McNamara

Reference: 1907016E-R

Prepared by:-

Matthew Harwood MAAS
11th November 2019



Environmental
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Acoustics

Architectural
Acoustics

Transportation
Acoustics



Document Control Page

Revision	Author	Released By	Date
Draft	MH	MH	21/10/2019
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MMJ Real Estate (Wollongong) on behalf of Jose Jones Restaurant and Bar commissioned Harwood Acoustics to carry out a noise impact assessment at the Jose Jones Bar and Restaurant located at 222-226 Lawrence Hargrave Drive, Thirroul, NSW.

Accordingly, Harwood Acoustics has prepared this report for the exclusive use of the Client identified on the title page. The report is prepared in accordance with the brief and scope of works agreed between the Client and Harwood Acoustics and may not be suitable for use beyond that scope.

Harwood Acoustics undertakes no duty nor accepts any responsibility to any third party who may rely upon this report.

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1. INTRODUCTION AND SUMMARY

Jose Jones Restaurant and Bar (the Restaurant) is located at 222-226 Lawrence Hargrave Drive, Thirroul, NSW (the Site) and is a part of the Thirroul Beach Motel. The owners are currently in the process of seeking development consent from Wollongong City Council to formalise the use of the Restaurant. It is a requirement of Council that a Noise Impact Assessment is prepared to be submitted with the application.

The Restaurant is located on the north western side of Lawrence Hargrave Drive in a mixed residential and commercial area. Bounding the Site to the west are commercial premises with residences beyond in Arthur Street. Bounding the Site to the north are residences in Redman Avenue. Bounding the Site to the east is a residence with commercial premises beyond. Opposite the Site to the south are a combination of residential and commercial premises as well as Flanagans Creek and a public beach car park.

The residence adjoining the Site to the east is owned by the owners of Jose Jones Restaurant and Bar. The nearest residences considered in this assessment for determining the potential for noise impact are therefore located opposite the Site to the south and south east and directly behind the Site to the north. The Site and nearest receptors are shown in Figure 1.

The Restaurant includes an indoor dining area, bar and an alfresco dining area and is open during the following times:-

- Wednesday 11 am to 10 pm,
- Thursday and Friday 11 am to 10.30 pm,
- Saturday 8 am to 10.30 pm,
- Sunday 8 am to 10 pm, and
- Closed Monday and Tuesday.

There is live amplified music played at the Restaurant on Thursday and Friday evenings as well as on Sunday afternoons.

Acceptable noise limits are derived from Liquor and Gaming NSW's standard noise conditions for patron and music noise and the NSW *Noise Guide for Local Government* (2013) for any mechanical plant and on-site motor vehicle movements.

A combination of long-term unattended and short-term attended background noise measurements have been undertaken in proximity of the nearest residences to establish the design noise limits.

Recommendations are made in Section 5 of this Report to ensure compliance with the noise limits in future. These include limiting the level and style of pre-recorded or live music played at the Restaurant, limiting the times when music is played, reducing the reverberant build-up of sound inside the bar area, and implementing a noise management plan.

Providing the noise control recommendations are implemented and adhered to, noise from the premises can be controlled so as to meet Liquor and Gaming NSW and Council's standard noise limits.

2. SITE AND DEVELOPMENT DESCRIPTION

2.1 Site Description

The Restaurant is located on the north western side of Lawrence Hargrave Drive in a mixed residential and commercial area. Bounding the Site to the west are commercial premises with residences beyond in Arthur Street. Bounding the Site to the north are residences in Redman Avenue. Bounding the Site to the east is a residence with commercial premises beyond. Opposite the Site to the south are a combination of residential and commercial premises as well as Flanagans Creek and a public beach car park.

The residence adjoining the Site to the east is owned by the owners of Jose Jones Restaurant and Bar. The nearest residences considered in this assessment for determining the potential for noise impact are therefore located opposite the Site to the south and south east and directly behind the Site to the north.

The closest residential receptors to the Restaurant are shown in Figure 1 below and are as follows:-

R1 – 235 Lawrence Hargrave Drive
(circa 35 metres)

R2 – 233 Lawrence Hargrave Drive
(Circa 90 metres)

R3 – 25 Redman Avenue
(circa 55 metres)

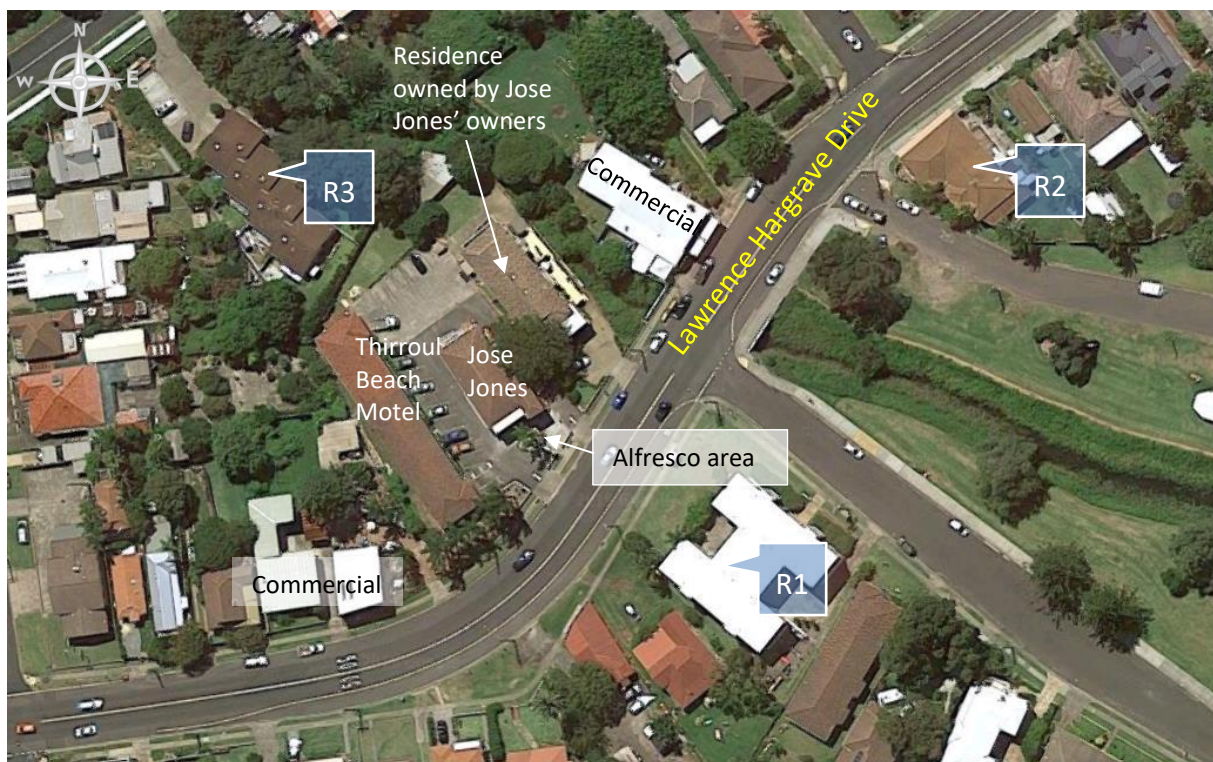


Figure 1. Location Plan – 222-226 Lawrence Hargrave Drive, Thirroul, NSW

(Source: Google Maps © 2019)

2.2 Development Description

The Restaurant includes indoor dining areas, bar area and an alfresco dining area and is open during the following times:-

- Wednesday 11 am to 10 pm,
- Thursday and Friday 11 am to 10.30 pm,
- Saturday 8 am to 10.30 pm,
- Sunday 8 am to 10 pm, and
- Closed Monday and Tuesday.

There is live amplified music played at the Restaurant on Thursday and Friday evenings as well as on Sunday afternoons.

Figure 2 below shows a photograph taken on Sunday 4 August 2019 during noise compliance testing at the time. The photograph indicates the location of the solo artist's set up, being in between the bar and alfresco area.

Figure 2 also indicates the alternative location for artists to set up, being just inside the doorway, adjacent to the bar with the bi-fold doors to the alfresco area open.



Figure 2. Photograph of Jose Jones Alfresco Area

(source: Author 04/08/2019.)

3. NOISE CRITERIA

This section outlines the noise guidelines applicable to this proposal and establishes the project specific noise goals.

3.1 NSW Liquor and Gaming

Liquor and Gaming NSW (formerly the NSW Office of Liquor, Gaming and Racing), requires the following in relation to noise emission from music and patrons inside licensed premises:-

“The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The L_{A10} noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am”.

The above criteria are conditioned in the Hotel’s liquor licence.

3.2 NSW Environment Protection Authority’s Noise Guide for Local Government

The Environment Protection Authority (EPA) published the *Noise Guide for Local Government* in June 2013. The policy is specifically aimed at assessing noise from light industry, shops, entertainment, public buildings, air conditioners, pool pumps and other noise sources in residential areas.

The EPA in Section 2.2.1 of the *Noise Guide for Local Government* states that a noise source is generally considered to be intrusive if the noise from the source when measured over a 15 minute period ($L_{eq, 15 \text{ minute}}$), exceeds the background noise ($L_{90, 15 \text{ minute}}$) by more than 5 dB. This criteria ins in keeping with the EPA’s *Noise policy for Industry* (2017) Intrusiveness Noise Goals and generally with Council’s standard noise conditions.

3.3 Measured Background Noise Levels

In order to establish the noise design goals, it is necessary to determine the background noise levels in the vicinity of all potentially affected residential receptors.

The background noise level is defined by the EPA as ‘the underlying level of noise present in ambient noise when all unusual extraneous noise is removed’ and is considered to be represented by the $L_{A90, 15 \text{ minute}}$ descriptor. This is a statistical measure of the sound pressure level that is exceeded for 90 % of the time.

A noise logger was placed at 203 Lawrence Hargrave Drive to measure background noise levels between Tuesday 24 and Sunday 29 September 2019. This location is approximately 350 metres to the north east of the site and is considered representative of all residences in the proximity of the Site.

Several short-term attended background noise measurements were also taken to the south and south west of the Restaurant in August 2019.

The results of the long-term background noise survey are shown in Table 1 below as well as in graphical format in Appendix C. The results of the short-term attended noise surveys are shown in Table 2 below.

Instrumentation used during the noise surveys is shown in the Appendix B.

Table 1 Rating Background Levels – 203 Lawrence Hargrave Drive – September 2019

Time of Day	Rating Background Level (L ₉₀)
Day (7 am to 6 pm)	52 dBA
Evening (6 pm to 10 pm)	46 dBA
Night (10 pm to 7 am)	41 dBA
Early night (10 pm to 12 am)	44 dBA

Table 2 Short-term L₉₀ Background Noise Levels – Lawrence Hargrave Drive – August 2019

Day / Time	dBA	Sound Pressure Levels (dB) at Octave Band Centre Frequencies (Hz)								
		31.5	63	125	250	500	1k	2k	4k	8k
Friday 5.15 – 5.25 pm	62	65	64	63	56	55	58	56	48	40
Friday 9.20 – 9.35 pm*	57	62	62	58	54	52	53	50	44	77
Sunday 1.30 to 1.45 pm	59	61	61	56	53	53	56	53	41	38
Sunday 3.45 to 4.00 pm*	59	58	61	59	54	53	55	52	45	35

* taken to the south west of the Restaurant where patron and music noise was not audible.

The acoustical environment in the area is dominated by road traffic using Lawrence Hargrave Drive.

The noise logger was located at the side of the property at 203 Lawrence Hargrave Drive which is partially shielded from the road by brick walls. The short-term measurement location in August was directly adjacent to Lawrence Hargrave Drive in line with the residential façade of Receptor R1. Additionally, the Rating Background Noise Level (RBL) shown in Table 1, is the noise level that is exceeded for 90 % of the entire period (i.e. day, evening or night) whereas short-term measurements are 15 minute samples. These factors explain why the background noise levels obtained during short-term measurements are higher than those established at the logger location.

The Liquor and Gaming NSW noise limits apply at any given time that noise compliance assessments are undertaken and are based on the background noise levels (L₉₀) at that time. It is very likely that the background noise level at the time the Restaurant is in use will be higher than the RBLs for the entire day, evening or night periods shown in Table 1. This will particularly be the case at the receptor opposite the Site at location R1.

None the less, the RBLs are used in this assessment to establish design noise goals for the Restaurant as conservative approach and as requested by Wollongong City Council.

3.4 Sleep Disturbance Criteria

The following sections detail current best practice assessment and guidelines relating to the assessment of the potential for sleep disturbance to occur. For licensed premises the Liquor and Gaming NSW noise limits account for sleep disturbance when assessing music and voice noise. The trigger levels established using the following sections are therefore applied to on-site motor vehicle noise after 10 pm.

3.4.1 Noise Policy for Industry 2017

Section 2.5 'Maximum noise level event assessment' states: -

"The potential for sleep disturbance from maximum noise level events from premises during the night-time period needs to be considered. Sleep disturbance is considered to be both awakenings and disturbance to sleep stages.

Where the subject development/premises night-time noise levels at a residential location exceed:

- $L_{Aeq,15min}$ 40 dB(A) or the prevailing RBL plus 5 dB, whichever is the greater, and/or
- L_{AFmax} 52 dB(A) or the prevailing RBL plus 15 dB, whichever is the greater,

a detailed maximum noise level event assessment should be undertaken.

The detailed assessment should cover the maximum noise level, the extent to which the maximum noise level exceeds the rating background noise level, and the number of times this happens during the night-time period. Some guidance on possible impact is contained in the review of research results in the NSW Road Noise Policy."

3.4.2 Noise Guide for Local Government

The EPA's Noise Guide for Local Government 2013 states in Section 2.2.4 that where sleep disturbance is being assessed, the $L_{A1, 1 \text{ minute}}$ or L_{Amax} noise level is most appropriate, and the measurement position should be outside the bedroom window. Sleep may be disturbed if the source noise level exceeds the background noise by more than 15 dB.

3.4.3 EPA's Road Noise Policy 2011 (Sleep disturbance)

Section 5.4 of the NSW EPA's Road Noise Policy states:-

"Further studies by the enHealth Council (2004) and the guidelines published by the World Health Organisation (1999) were reviewed and analysed in terms of the guidance on noise exposure and sleep disturbance. The enHealth report states that: 'as a rule, for planning for short-term or transient noise events, for good sleep over 8 hours the indoor sound pressure level measured as a maximum instantaneous value should not exceed approximately 45 dB(A) L_{Max} more than 10 or 15 times per night'."

3.4.4 Environmental Criteria for Road Traffic Noise 2009

Appendix B5 of the NSW EPA's Environmental Criteria for Road Traffic Noise (ECRTN) reviews the current level of knowledge and concludes that maximum internal noise levels below 50–55 dBA are unlikely to cause awakening reactions, and that one or two noise events per night with maximum internal noise levels of 65–70 dBA are not likely to affect health and wellbeing significantly.

3.5 On Road Traffic Noise Criteria – Road Noise Policy

The NSW EPA published the NSW Road Noise Policy in March 2011.

The Policy contains strategies to address the issue of road traffic noise from, among other things, traffic generating developments.

3.5.1 Noise Assessment Criteria – Residential Land Uses

Section 2.3.1 of the Policy 'Noise assessment criteria – residential land uses' sets out the assessment criteria for residences to be applied to particular types of project, road category and land use.

The relevant parts of the EPA's Table 3 are replicated in Table 2 below.

Table 2 Road Traffic Noise Assessment Criteria

Road Category	Type of Project / Land Use	Assessment Criteria, dBA	
		Day (7 am – 10 pm)	Night (10 pm – 7 am)
Local Roads	6. Existing residences affected by additional traffic on existing local roads generated by land use developments	L _{Aeq} (1 hour) 55 (external)	L _{Aeq} (1 hour) 50 (external)

3.6 Project Specific Noise Goals

Noise emission from guests and music is assessed against the Liquor and Gaming NSW noise criteria. Noise from on-site motor vehicles and mechanical plant is assessed against the EPA noise guidelines.

People and Music Noise

The short-term background noise levels have been adjusted to reflect the RBLs from long-term measurements and the project specific noise goals are shown in Table 3 below.

Table 3 L₁₀ Noise Level Criteria at nearest Residences

Description	dBA	Sound Pressure Levels (dB) at Octave Band Centre Frequencies (Hz)								
		31.5	63	125	250	500	1k	2k	4k	8k
Day time period	57	62	62	58	54	52	53	50	44	37
Evening time period	51	56	56	52	48	46	47	44	38	31
Early night (10 pm to 12 am)	49	54	54	50	46	44	45	42	36	29
Night time period	46	51	51	47	43	41	42	39	33	26

The Restaurant is not open past midnight on any day and as such no consideration is required to be given to Liquor and Gaming NSW criteria for inaudibility after midnight.

Motor Vehicles and Mechanical Plant

The measured background noise levels are also used to establish noise criteria for the operation of mechanical plant or movement of on-site motor vehicles, as follows:-

Residential receptors

- (52 + 5 =) **57 dBA** L_{eq, 15 minute} during the day time period,

- $(46 + 5 =) 51 \text{ dBA } L_{eq, 15 \text{ minute}}$ during the evening time period,
- $(41 + 5 =) 46 \text{ dBA } L_{eq, 15 \text{ minute}}$ during the night time period,
- $(44^* + 5 =) 49 \text{ dBA } L_{eq, 15 \text{ minute}}$ during the period between 10 pm and 12 am (midnight),
- $(44^* + 15 =) 59 \text{ dBA } L_{1, 1 \text{ minute}}$ at night as an external screening test for sleep disturbance,
- **45 – 55 dBA** $L_{1, 1 \text{ minute}}$ at night as a further internal test for the potential for sleep disturbance,

* Derived from the background noise level between 10 pm and 12 am.

The criteria are to be assessed at the most affected point at or within the receptor's boundary, or if that is more than 30 metres from the residence, at the reasonably most affected point within 30 metres of the residence but no closer than 3 metres from a reflective surface and at a height of between 1.2 and 1.5 metres.

For multi-storey residential buildings (greater than two storeys) where a ground floor assessment location is deemed to be unrepresentative of the exposure of upper stories, the assessment may be undertaken at a representative elevation.

4. BAR AND RESTAURANT NOISE EMISSION

4.1 Patron and Music Noise

A noise model has been developed for the calculation of noise generated by people indoors or outdoors. This is based on sound pressure level data for one person as given in Kryter¹, Harris² and from the author's database compiled over many years of similar assessments.

This includes noise validation measurements taken at Jose Jones Restaurant and Bar on Friday 2 and Sunday 4 August 2019 (Report reference 1907018E-R, dated 8 August 2019).

Table 4 below shows the calculated sound power levels for human voice noise and amplified music which was used in the noise modelling.

Table 4 L₁₀ Sound Power Levels – Patrons Talking and Music Noise

Description	dBA	L ₁₀ Sound Power Levels (dB) at Octave Band Centre Frequencies (Hz)								
		31.5	63	125	250	500	1k	2k	4k	8k
One man talking loudly	83	50	55	65	73	87	79	74	68	60
One man talking with raised voice	72	46	51	61	67	72	67	62	58	51
One man talking normally	65	42	47	57	63	66	58	54	51	46
Background Music	75	60	65	70	73	71	70	69	65	63
Live / Amplified Music	97	82	87	95	95	94	90	89	88	87

¹ 'The Effects of Noise on Man' by Karl Kryter, Academic Press (1985)

² 'Handbook of Acoustical Measurements and Noise Control' 3rd Edition by Cyril M. Harris, McGraw-Hill Inc (1991)

The noise emission of people talking was modelled based on measurements and data from other sites as well as the following typical scenarios:-

- Bar & Restaurant area during entertainment: patrons talking loudly (10%), patrons talking with raised voice (20%), patrons talking normally (20%) with the remainder not talking / listening (50%), and
- Dining areas when dining only: patrons talking with raised voice (30%), patrons talking normally (20%) and the remainder are not talking / listening (50%).

In this instance the entire Restaurant is modelled on the first scenario and assumes that it operates more like a bar than a dining only venue with respect to people talking. During meal times when there is no entertainment the noise levels will be significantly lower than those predicted in this Report.

4.2 Motor Vehicle Noise

The Restaurant is part of the Thirroul Beach Motel and shares the same car park.

For the purpose of assessing the noise emission from on-site vehicle movements it is assumed that there may be 6 vehicle movements in the car park in any given 15 minute period that are associated with the Restaurant.

The L_{eq} sound power level of cars is given in Table 5 below. Table 5 also shows the $L_{1, 1 \text{ minute}}$ sound power level of vehicle activity for sleep disturbance assessment.

Table 5 L_{eq} and L_1 Sound Power Levels of Typical Motor Vehicle Movements

Description	Sound Power Level dBA
$L_{eq, 15 \text{ minute}}$ 1 x vehicle movement	69
$L_1, 1 \text{ minute}$ vehicle door closing	84
$L_1, 1 \text{ minute}$ 1 x car or bus passing	89

4.3 Mechanical Plant Noise

The level of noise emission from mechanical plant associated with the Restaurant is not measurable or audible at any existing receptor locations. Recommendations are made in Section 6 of this report to ensure that noise emission from any new mechanical plant that may be installed at the restaurant does not exceed the acceptable noise limits at receptor locations.

5. NOISE LEVEL PREDICTIONS

5.1 Modelling Equations

For patrons and music within the restaurant building, the level of noise emission has been calculated from the formula:-

$$Lp_2 = Lp_1 - R_w + 10 \log_{10} S - 20 \log_{10} r - 14 + DI \text{ dBA}$$

Where:

- Lp_2 is the predicted noise level at the receiver,
- Lp_1 is the internal noise level,
- R_w is the weighted sound reduction index of the building element (wall, roof, windows, openings, etc),
- S is the area of the building element (m^2),
- r is the distance between the receiver and the building element,
- DI is the directivity index of the façade.

For patrons and music located outside in the alfresco area, the level of noise emission at each receptor has been calculated from the formula: -

$$L_{eq} = L_w + Dc - A$$

Where:

- L_w is the sound power level of the noise source;
- Dc is directivity correction; and
- A is the attenuation that occurs during the propagation from source to receiver.

The term A in the equation includes attenuation from geometric divergence (distance loss), atmospheric absorption, ground absorption, barrier effects and other miscellaneous effects.

This model derives from the International Standard ISO 9613-2 (1996(E)) '*Acoustic – Attenuation of sound during propagation outdoors Part 2 General method of calculation*'. The method described in the Standard is general in the sense that it may be applied to a wide variety of noise sources and covers the major mechanism of sound attenuation. The method allows for propagation conditions with the wind blowing from the source to the receiver.

5.2 Predicted Noise Levels

The predicted noise levels at the closest receptor are shown in Tables 6 to 10 inclusive below, where:-

- Tables 6, 7 and 8 show the predicted noise level from patrons and music at each receptor respectively, during the evening for assessment against the noise limits between 6 pm and 10 pm,
- Table 9 shows the predicted noise level at each receptor for on-site motor vehicle movements for assessment against the noise design goal of 49 dBA $L_{eq, 15 \text{ minute}}$ after 10 pm when patrons leave,
- Table 10 shows the predicted noise level at each receptor for on-site vehicle activity (doors closing, etc) for assessment against the external trigger level for potential sleep disturbance of 59 dBA $L_1, 1 \text{ minute}$.

The predicted noise levels are compared to the most relevant and stringent noise goals at the time during which they may occur. For example, the level of noise emission from patrons and music is compared to the evening criteria between 6 pm and 10 pm, rather than the day time

criterion. Similarly, noise from motor-vehicles in the car park is assessed against the noise design goals after 10 pm rather than in the day time.

All predictions assume that the noise control recommendations made in Section 6 of this Report are implemented and adhered to.

Table 6 Predicted L₁₀ Noise Levels – Receptor R1 (up to 10 pm)

Description	dBA	Predicted L ₁₀ Sound Pressure Levels (dB) at Octave Band Centre Frequencies (Hz)								
		31.5	63	125	250	500	1k	2k	4k	8k
Noise Goal – 6 pm to 10 pm	51	56	56	52	48	46	47	44	38	31
Patrons	40	22	27	30	36	40	35	28	18	9
Music	46	33	38	46	46	45	40	38	35	21
Combined	47	33	38	46	46	46	41	39	36	21
Complies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Table 7 Predicted L₁₀ Noise Levels – Receptor R2 (up to 10 pm)

Description	dBA	Predicted L ₁₀ Sound Pressure Levels (dB) at Octave Band Centre Frequencies (Hz)								
		31.5	63	125	250	500	1k	2k	4k	8k
Noise Goal – 6 pm to 10 pm	51	56	56	52	48	46	47	44	38	31
Patrons	30	15	20	22	28	30	25	18	10	<5
Music	38	26	31	39	39	37	32	29	24	<10
Combined	39	27	32	39	39	38	33	29	25	<10
Complies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Table 8 Predicted L₁₀ Noise Levels – Receptor R3 (up to 10 pm)

Description	dBA	Predicted L ₁₀ Sound Pressure Levels (dB) at Octave Band Centre Frequencies (Hz)								
		31.5	63	125	250	500	1k	2k	4k	8k
Noise Goal – 6 pm to 10 pm	51	56	56	52	48	46	47	44	38	31
Patrons	40	15	20	25	33	38	36	32	24	14
Music	46	32	37	44	47	45	39	38	36	24
Combined	47	32	37	44	47	46	41	39	37	24
Complies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Table 9 Predicted L_{eq} Noise Levels – On-Site Motor Vehicles

Description	Predicted Noise Level L _{eq} , 15 minute (dBA) at Receptor Locations		
	R1	R2	R3
Noise Goal (night time – after 10 pm)	49	49	49
Motor Vehicle Movements on-site	36	<20	45
Complies	Yes	Yes	Yes

Table 10 Predicted L_{1, 1 minute} Noise Levels – Motor Vehicle Movements On-Site (Sleep Disturbance Assessment)

Description	Predicted Noise Level L _{1, 1 minute} (dBA) at Receptor Locations		
	R1	R2	R3
Sleep Disturbance Trigger Level (external)	59	59	59
Car doors closing, cars moving, etc	43 – 48	27 – 30	56 – 59
Complies	Yes	Yes	Yes

6. RECOMMENDED NOISE CONTROLS

6.1 Amplified Music Level

The style and volume of music played at the Restaurant along with the type of artist are significant factors in achieving compliance with the acceptable noise limits at remote locations.

In order to ensure ongoing compliance with the acceptable noise limits, amplified music should not exceed an L₁₀ sound pressure level, when measured over a period of 3 minutes, as follows:-

Doors Open and / or Music Outside – Evenings after 6 pm

When the bi-fold doors to the restaurant are open or the musician set up in the alfresco area, the following noise levels should not be exceeded:-

- **86 dBA** when measured at approximately 3 metres from the artist or loudspeaker inside the bar or restaurant in a reverberant space, or
- **81 dBA** when measured at 3 metres from the artist or loudspeaker in the alfresco area, outdoors in the free field (i.e. away from any reflective surfaces other than the floor).

The levels equate to a sound power level of **97 dBA** which is based on, for example, a solo artist, a duo or low level of pre-recorded amplified music (i-Pod, DJ, etc).

Drums and bass guitars should be avoided even if the overall noise level can be achieved.

Doors Open and / or Music Outside – Day time / Afternoons Prior to 6 pm

When the bi-fold doors to the restaurant are open or the musician set up in the alfresco area, the following noise levels should not be exceeded on Sunday afternoons, prior to 6 pm:-

- **91 dBA** when measured at approximately 3 metres from the artist or loudspeaker inside the bar or restaurant in a reverberant space, or
- **86 dBA** when measured at 3 metres from the artist or loudspeaker in the alfresco area, outdoors in the free field (i.e. away from any reflective surfaces other than the floor).

The levels are based on, for example, a solo artist, a duo or low to medium level of pre-recorded amplified music (i-Pod, DJ, etc).

Drums and bass guitars should be avoided even if the overall noise level can be achieved.

Doors Closed with Music Inside

The level of music played may be significantly higher if the musician are located inside the restaurant building and all doors and windows remain closed whilst amplified music is played.

In this instance, the following noise levels should not be exceeded:-

- **96 dBA** when measured at approximately 3 metres from the artist or loudspeaker inside the bar or restaurant in a reverberant space, or
- **91 dBA** when measured at 3 metres from the artist or loudspeaker in the alfresco area, outdoors in the free field (i.e. away from any reflective surfaces other than the floor).

The levels equate to a sound power level of **107 dBA** which is based on, for example, a medium sized and or medium to high level of amplified music (i-Pod, DJ, etc).

Again, drums should be avoided even if the overall noise level can be achieved.

6.2 Sound Barrier Screening

Providing that the recommended amplified music noise levels can be achieved a sound barrier screen should be erected around the external alfresco area as follows:-

- Erect a sound barrier screen / glass balustrade around the entire perimeter of the alfresco area as shown in the attached Appendix A,
- The screen should be erected to a minimum height of **2.7 metres** above the finished ground level of the outdoor area,
- The screen may be constructed from any impervious material such as standard thickness glazing, lapped and capped timber, masonry, 10 mm thick polycarbonate or a combination of materials providing there are no gaps other than a maximum 20 mm at the base if required.

6.3 Reverberant Build Up of Sound

In order to minimise the reverberant build-up of sound within the restaurant area, particularly where the artist sets up near the entrance and bar, acoustical absorptive material should be applied to as much of the ceiling as is practicable.

This may be done by, for example:-

- Removing every second timber beam and fixing acoustical absorptive material (e.g. 50 mm thick glasswool or polyester insulation (minimum density 32 kg/m³) between the remaining beams,
- Alternatively, consideration may be given to adhering or fixing acoustical absorptive material directly to the underside of the ceilings in this area
- Any acoustical absorptive material should achieve a minimum Noise Reduction Coefficient (NRC) rating of 0.75.

6.4 Noise Management Plan

6.4.1 Managing Amplified Music Levels

If necessary, an electronic noise limiting device may be installed inside the restaurant. The device may be calibrated and set to a level that ensures the noise limits are achieved. The device will provide a warning to the management, or artist via LED sequential lighting that the maximum noise level is close to being reached. If the pre-set noise limit is reached and then exceeded for a period of approximately 60 seconds, the power to the sound system may be disconnected. The option to disconnect the power is optional as the device may be used simply as an indication of the noise levels being emitted.

The electronic device can provide an assurance that the noise levels can be controlled without the need to rely solely on human intervention.

Alternatively, or additionally, a sound level meter may be purchased from an electronics store so that the owner or duty manager may 'spot check' for noise compliance during or prior to commencement of live entertainment. Whilst the sound level meter will not be a Class 1 or Type 2 instrument, the sound level meter can be calibrated by a suitably qualified acoustical consultant to determine where the level that the meter displays that equates to the levels recommended in Section 6.1 at 3 metres from the loudspeakers.

6.4.2 Allowable hours for Amplified Music

- There should be no amplified or live music played at the Restaurant, either inside when the doors are open, or outside in the alfresco area after 10 pm on any day,
- Amplified music may be played within the Restaurant between 10 pm and when the venue closes at 10.30 pm providing all doors are closed.

6.4.3 General Noise Management Plan

- Management procedures should be put in place to prevent shouting, swearing, loud speech or other unsociable behaviour so far as is reasonably practicable,
- There should be no noise producing activity on the Site after midnight on any day.

6.5 Mechanical Plant

The level of noise emission from the kitchen exhaust fan located on the south western corner of the roof is not audible or measurable at either of the receptor locations shown in Figure 1 and is therefore acceptable. Any new mechanical plant that may be installed at the Site should not exceed an energy average sound pressure level of 46 dBA $L_{eq, 15 \text{ minute}}$ when measured at any affected residence if operating at night, or 51 $L_{eq, 15 \text{ minute}}$ if operating between 6 pm and 10 pm. In order to achieve this any new plant should not exceed a sound power level (L_w) of 85 dBA $L_{eq, 15 \text{ minute}}$ at night or 90 dBA $L_{eq, 15 \text{ minute}}$ in the evening.

This assumes any new plant is located no closer than 35 metres from any residence with direct line of sight and no additional attenuation from, building structures, shielding, etc. Depending on the location of mechanical plant the allowable sound power level may be considerably higher in practice.

In any event compliance with the noise goals for mechanical plant noise should be easily achievable and a final assessment may be undertaken prior to installation if any new mechanical plant is proposed.

7. CONCLUSION

A noise impact assessment for noise arising from Jose Jones Restaurant and Bar located at 222-226 Lawrence Hargrave Drive, Thirroul, NSW has been undertaken.

Recommendations are made in Section 6 of this Report to ensure that the noise limits and noise goals set by Liquor and Gaming NSW and recommended by Wollongong City Council and the NSW EPA can be met for this development.



Matthew Harwood, MAAS

Principal Acoustical Consultant

Attachments:-

Important Note

Appendix A – Recommended Acoustical Screening

Appendix B – Noise Survey Instrumentation

Appendix C – Background Noise Survey Results

Important Note

*All products and materials suggested by Harwood Acoustics are selected for their acoustical properties only. Recommendations made in this report are intended to resolve acoustical problems only, therefore all other properties such as aesthetics, air flows, chemical, corrosion, combustion, construction details, decomposition, expansion, fire rating, fumes, grout or tile cracking, loading, shrinkage, smoke, ventilation etc. are outside Harwood Acoustic's field of expertise and **must** be checked with the supplier or suitably qualified specialist before purchase.*

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Recommended Acoustical Screening**Appendix A**

Noise Survey Instrumentation	Appendix B
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The instrumentation used during the noise surveys consisted of the following:-

Description	Model No.	Serial No.
SVAN Sound Level Meter	957	15395
Svantek Acoustical Calibrator	SV 34A	58762
Bruel & Kjaer Sound Level Meter	2260	244 3406
Bruel & Kjaer Acoustical Calibrator	4231	243 9033
Infobyte Im4 Noise Logger	Im4	104

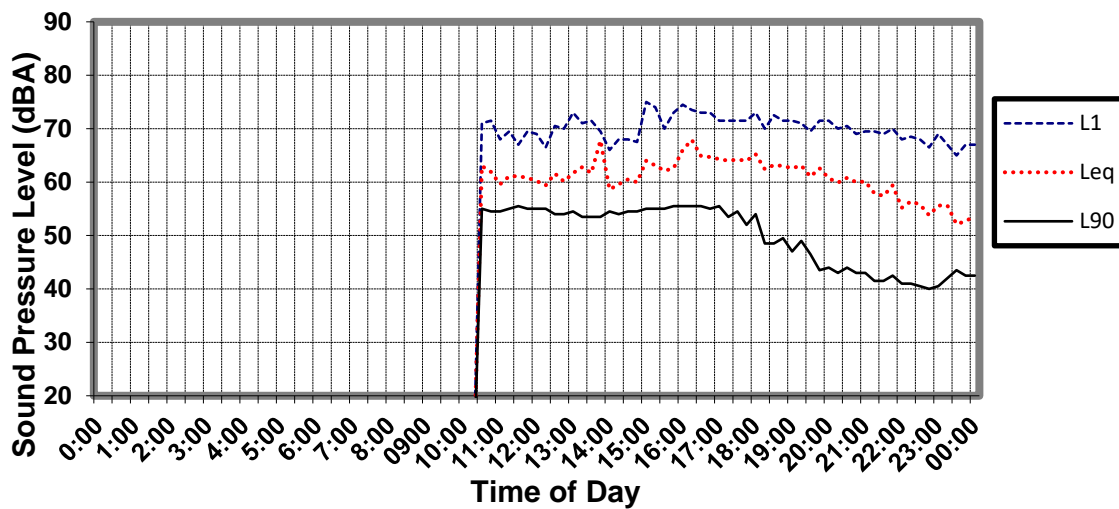
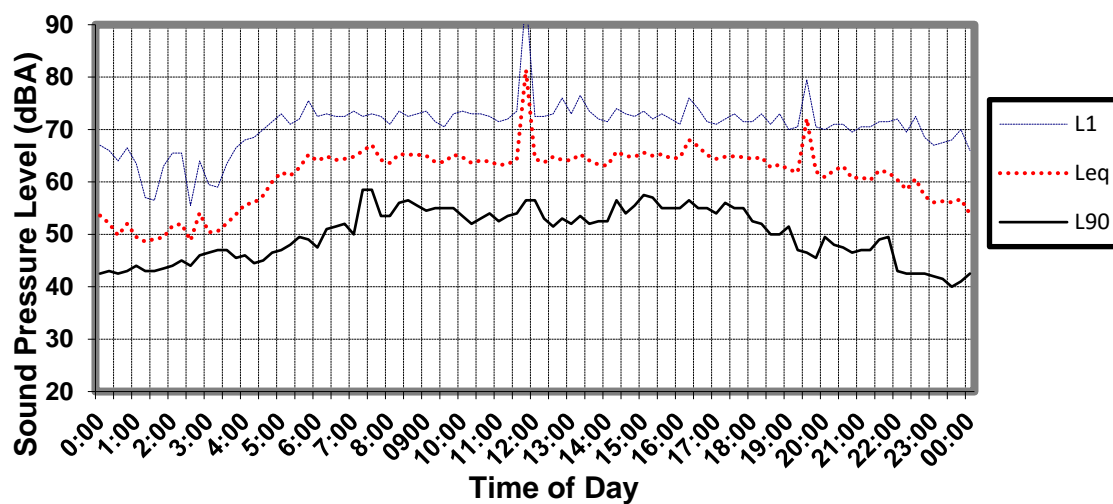
The sound level meters conform to Australian Standard AS IEC 61672.1-2004: 'Electroacoustics - Sound level meters – Specifications' as Class 1 precision sound level meters. The noise logger conforms to Australian Standard AS1259 as a Type 2 sound level meter.

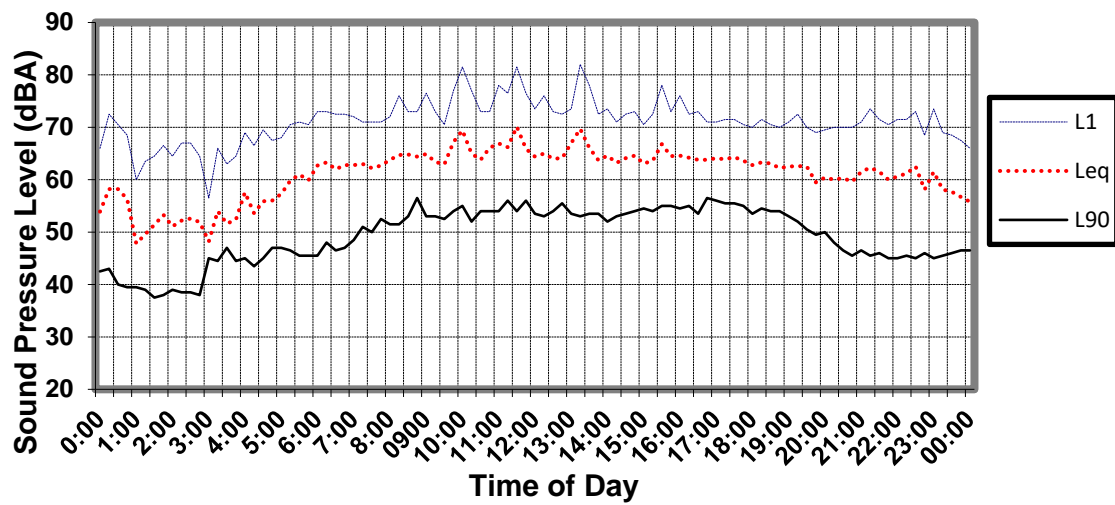
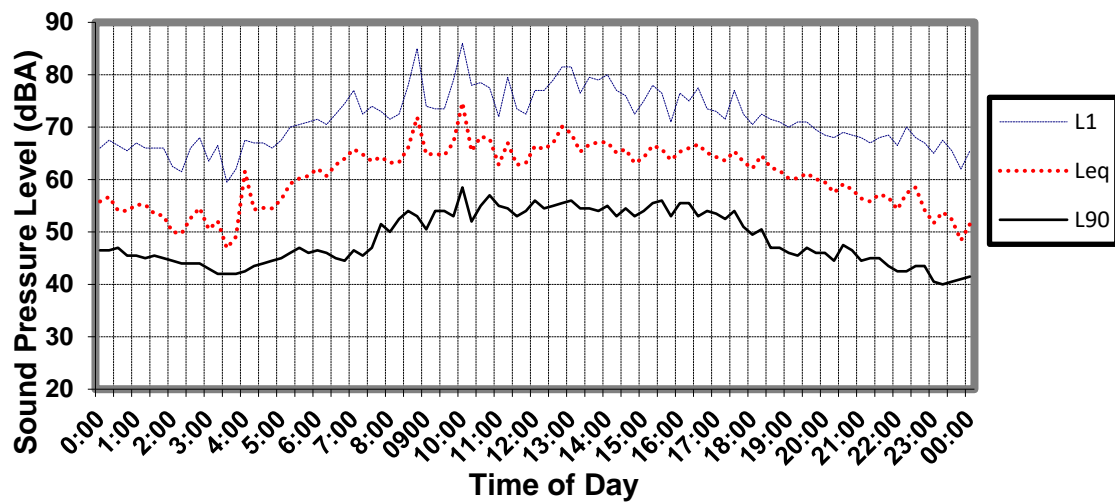
The calibration of the meters and logger was checked before and after the measurement periods. No significant system drift occurred over the measurement periods.

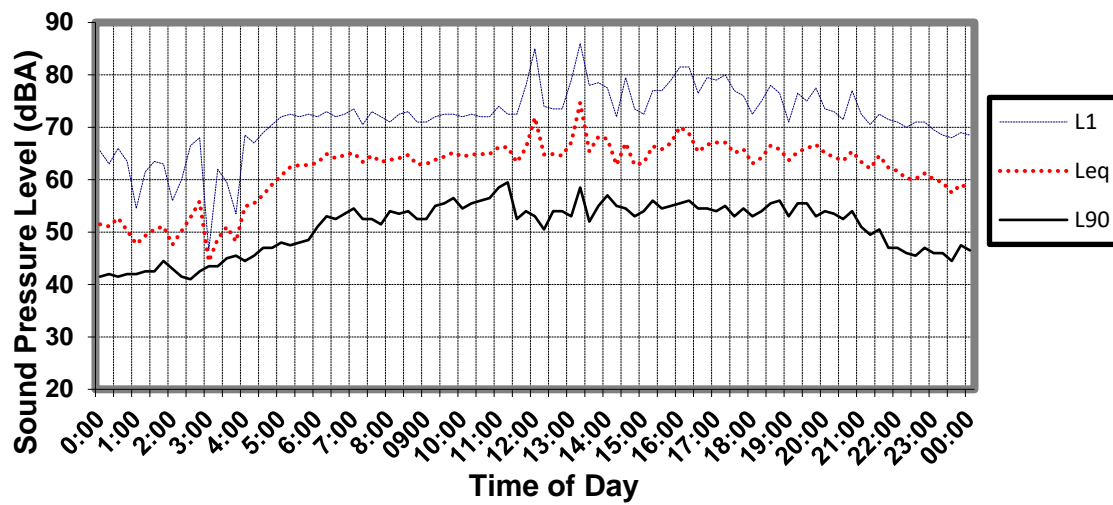
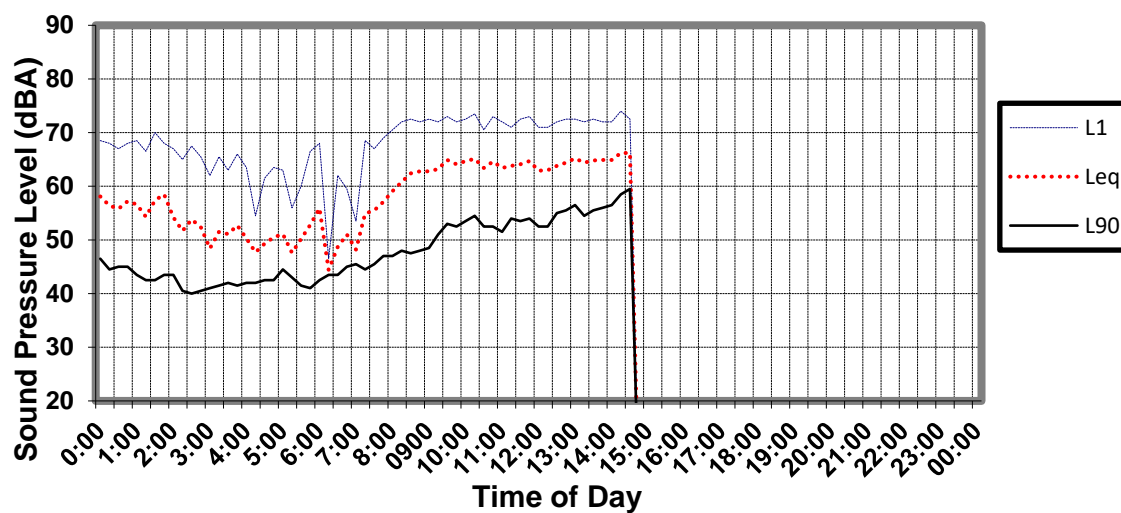
The sound level meter and calibrators have been checked, adjusted and aligned to conform to the factory specifications and issued with conformance certificates as required by the regulations.

Background Noise Survey Results

Appendix C

Tuesday September 24th 2019Wednesday September 25th 2019

Thursday September 26th 2019**Friday September 27th 2016**

Saturday September 28th 2019**Sunday Septmeber 29th 2019**

Social Impact Assessment



The Proposal: Café / Restaurant Change of Use to an existing Motel Restaurant

Project Address: Lot: 2 DP: 578279 No. 222-226 Lawrence Hargrave Drive, Thirroul.

Report Date: 25th October 2019

Our Project Number: 19268

This submission has been prepared by

EPlanning Pty Ltd

B Cotton

Barry Cotton
MPIA CPP

Disclaimer

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A number of issues within this report may be recognised to be interpretive. Where issues of this type are encountered, interpretations are made that are considered consistent with standard industry practice and those interpretations viewed by the author EPlanning.

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1.0 SOCIAL IMPACT ASSESSMENT INTRODUCTION

This Social Impact Assessment (SIA) report has been prepared to accompany a Development Application submission to the local Consent authority of Wollongong City Council for a development proposing a Café/Restaurant Change of Use to an existing Motel Restaurant at Lot: 2 DP: 578279 No. 222-226 Lawrence Hargrave Drive, Thirroul.

The purpose of this Social Impact Assessment (SIA) is to understand, anticipate and predict what may happen either positive or negative as a result of the proposed development. In doing this, it aims to maximise the preferred restaurant/business outcomes and benefits to the Thirroul Village Centre and its greater community, whilst minimising and mitigating any impacts upon the site and its surrounds including any residential in proximity to the site.

The need for a Social Impact Assessment (SIA) in this instance has come about by Wollongong City Council requesting such an assessment, with their request to address the following:

- *Who will be affected by the proposal*
- *How they will be affected*
- *How long the impacts will last*
- *The level of social change that will occur as a result of the impacts/proposal*
- *Increases in noise arising from the proposal*
- *Real and perceived safety impacts on residents within the area*

Thirroul Village should remain as a social / cultural hub by continuing to feature a combination of unique specialty retail shops, cafes, restaurants and other businesses (Chapter D1: Character Statements – Wollongong City Council). Outdoor dining/street trading areas in the public place should provide a sense of security for patrons and pedestrians at all at times during their operation. Patrons and staff can enhance the sense of security in the street through informal surveillance.

This Social Impact Assessment (SIA) will generally focus on the human dimension of environments. It will seek to address the question “what will be the impact of a project/development on people ?” and to anticipate outcomes that may flow from a proposed development which may affect people’s way of life, their culture and/or their community. Social Impact Assessments are not a tool to stop development, but is to assist in the assessment of development proposals so that the best development results.

Wollongong City Council has an obligation to consider the social impact of such development proposals under the provisions of *Section 4.15* of the *Environmental Planning and Assessment Act, 1979* (as amended). This SIA is based on and should be read in conjunction with the detailed specialist documentation to be submitted with the Change of Use for this proposal, and in particular the Statement of Environmental Effects (SOEE) prepared by Martin Morris & Jones Pty Limited (MMJ Wollongong).

The subject site contains the Thirroul Beach Motel complex, which incorporates traditional motel rooms, with indoor recreation area and indoor/outdoor café/restaurant. Historically, this café/restaurant has primarily serviced visitors and patrons of the motel, however, this proposal seeks a change of use to allow operators (Jose Jones) to cater to and serve both motel guests, as well as the general public (as it has been for the last few years) (reference MMJ).

The site is located on the western side of Lawrence Hargrave Drive, Thirroul, some 100m to the east of the intersection with Arthur Street (see Plate below). The property address is referred to as 222-226 Lawrence Hargrave Drive, Thirroul, and incorporates a single landholding described as Lot 2 in Deposited Plan 578279. This land has a road frontage to Lawrence Hargrave (43.69 metres total) and a total site area of approximately 2,269.35m² (see Plate below).



Plate: Site Plan (six maps)



Plate: Jose Jones Building

Known as Thirroul Beach Motel, the existing motel accommodation complex was established in the 1960s and has been operating for this purpose since that time. The development within the site incorporates two large two-storey buildings, together with associated carpark and landscaped areas. The existing Jose Jones Café (subject to this application) has been operating at the site for a number of years now already and is a popular business within the local community. (Reference MMJ)

As aforementioned, this application seeks Council's support for a proposed café/restaurant change of use at No 222-226 Lawrence Hargrave Drive, Thirroul. The subject site contains the Thirroul Beach Motel complex, which incorporates traditional motel rooms, with indoor recreation area and indoor/outdoor café/restaurant. Historically, this café/restaurant has primarily serviced visitors and patrons of the motel, however, consistent with DA-2016/510 this proposal seeks a change of use to allow the café operators (Jose Jones) to cater to and serve both motel guests, as well as the general public.

With the exception of implementation of glass screening to the perimeter of the outdoor dining area, there will be no physical changes to the existing café/restaurant or existing carparking arrangements (total of 29 x off-street parking spaces) as a result of this application. The purpose for the installation of the glass screening is to improve better amenity both internally and externally of the subject outdoor seating area, by way of weather protection along acoustic benefits for surrounding residents. A combined height (including existing brick hob and proposed glazing) is proposed to extend to approximately 2.0m. Additional acoustic and wind mitigation measures are to be implemented will assist with noise generation from the café and weather conditions onsite. (Reference MMJ).

This Social Impact Assessment (SIA) report outlines the social impact assessment process, including planning, acquiring information about the development which has triggered the assessment, exploring conditions within the relevant locality, identifying the potential social impact and segments of the affected community and consulting with appropriate stakeholders.

Within the greater Wollongong area, population growth and the associated increase in population and outdoor style living is influenced by the lifestyle available, the development of vibrant strategic Centres and the amenity of coastal communities. Greater Retail choice in and around existing town Centres is needed to cater for the increase in population and lifestyle growths.

Providing additional restaurant/business premises (such as the development proposed) will result in Wollongong residents having access to a broader range of Retail premises that suit different needs, budgets and lifestyle choices. It also assists to place minor downward pressure on retail prices to the benefit of the residents and reduce travel to other Centres.

A balanced development takes into account the **Social**, environmental and biodiversity impacts of economic development. Social Impact Assessment (SIA) are some of the methods that aid in the planning and decision making process.

The purpose of this particular Social Impact Assessment (SIA) is to:

- Assist in establishing the full facts about the new Retail premises to support a well-informed decision about the appropriateness of the development as proposed,
- Minimise any perceived adverse impacts and maximise beneficial impacts of the development,
- Assess the impacts of the development on future generations,
- Inform Wollongong City Council and Local community and facilitate participation by the community in the planning and development assessment process, and
- Enhance the planning and development assessment process.

Therefore, In summary:

The development is Socially sustainable:

- that is, the proposal is high qualitative and quantitative in its ongoing operation, including noise mitigation measures.
- That is, the proposal satisfies the Thirroul Village remaining as a social / cultural hub by continuing to feature a combination of unique specialty retail shops, cafes, restaurants and other businesses.
- That is, a Noise Assessment report has been provided in relation to the Use – *Refer to Harwood Acoustics, Noise Impact Assessment dated 21st October 2019*

- That is, the premises has prepared a Noise Policy
- That is, a Plan of Management (POM) has been prepared in relation to the ongoing Use and operation of the business.

The development will have no measurable detrimental social impact on the locality.

- that is, the proposal will provide for a rather diverse set of social business profiles, which reflects more varied restaurant opportunities, and
- that is, the social investment will be positive.

The development meets social restaurant trends.

- that is, the restaurant premise is in a locality where operation of the business and associated Hotel has been undertaken for many years and fits social trends in the locality for both accommodation and dining of this nature.

Provide a reasonable level of Restaurant premises that is of a type that is in need in Thirroul.

- that is, providing affordable restaurant / dining choices in the locality to ensure local residents are not required to travel long distances for restaurants of similar quality.

Align with Wollongong City Council's Strategy

- that is, a greater increase in restaurant premises and opportunity choice for increasing local neighbourhood business premises.
- That is, improve economic development within Thirroul by creating greater certainty for project investment and increase the chance of project success

It adds vibrancy and activity to the street frontages and public places

- that is, there is a social benefit to traders and the community and aims to facilitate these activities in a safe and responsible manner and activate the Street frontage.

Provides for adequate location of restaurants close to City Centre and Public transport nodes

- that is, the site is located within close proximity to public transport and located within appropriate Commercial zones, and
- that is, the proposal will satisfy the strategic / social outcomes and objectives of Thirroul Masterplan

The proposal is discussed further below.

2.0 A FRAMEWORK FOR SIA ACCEPTED PRACTICE

The process of Social Impact Assessment (SIA) includes a number of core generic procedural steps. The following steps are considered accepted practice:

- i) **Scoping** – Identification of issues to be addressed in the SIA.
- ii) **Profiling** – Describing the past and existing social conditions in the affected community.
- iii) **Prediction** – The information obtained from the scoping and profiling stages is used to identify and describe the social changes or effects to be expected and the impacts in terms of the following dimensions.
- iv) **Evaluation** – This is the process of determining the community and stakeholder acceptability of the impacts identified in the prediction phase.
- v) **Mitigation** – Focuses on addressing how any negative impacts may be ameliorated in order to minimise the level of disruption and impacts on those likely to be affected by the change.
- vi) **Consultation** – This is process of consulting the perceived affected communities and business.
- vii) **Monitoring** – Establishment of a monitoring programme in order to ensure that no unforeseen impacts are occurring and that any mitigation strategies that have been developed and implemented are functioning and operating as intended.

Consultation and Submissions - Council will need to undertake consultation in accordance with the requirements contained within the Wollongong Development Control Plan 2009 (WDGP2009). In this regard, any submissions received in relation to the development will be reviewed and considered.

The subject site is located within Wollongong Police District Command (WPD) geographic area. This review found that it is anticipated that the Wollongong Police District Command (WPD) may conduct Safer by Design Crime Risk Evaluation at request of Wollongong City Council, should it be referred upon development submission being made.

3.0 WHAT ARE THE SOCIAL IMPACTS?

There are many different social implications that may occur with a development. For example, these can include, but are not limited to the following:-

- access and mobility;
- community structure, culture and values;
- public safety;
- health;
- land use compatibility;
- Economic;
- employment and economic effects;
- recreation and public facilities;
- residential amenity and quality of life; and
- social needs and equity (displacement, needs of disadvantaged groups, etc.)

In order to ensure its delivery and support for restaurant premises there is need for such proposals to be an integral part of the planning system. Stakeholders consider that statutory planning mechanisms are needed that encourage the delivery of Restaurant premises in a commercially attractive manner in response to differing market conditions in different locations.

The need to deliver Restaurant premises in core Village and City Centres and accessible locations should be integrated into all strategic planning, including regional and local strategies.

Social Impacts (as is this case) can be defined in terms of efforts to assess or estimate, in advance, the social consequences that are likely or unlikely to follow specific Land Use. It is a process that provides a framework for prioritizing, gathering, analyzing, and incorporating social information and participation (as relevant) into the design and delivery of development proposals. The Urban form in this instance is minimal given the existing structure and social impact also low scale.

Restaurant managers are responsible for monitoring and managing patron behavior and must ensure that if they operate licensed premises (if they serve alcohol) that staff practices responsible serving of alcohol. Selection of an appropriate site for the business, appropriate operating hours and regular staff monitoring of the outdoor dining/street trading area will minimise unnecessary noise and nuisance.

Maintaining social amenity in a residential area of traditional residential neighborhood's are especially sensitive to commercial activity, particularly when this activity is in the public place. The social sustainability of these areas is dependent on the compatibility of an outdoor dining and street trading area with the residential and community access and use of the area. The design and operation of restaurant trading area in a residential area is subject to detailed assessment against a set of additional criteria, and in this instance Noise nuisance. It is important that restaurants do not unnecessarily or unreasonably compromise other activities, particularly residential activities.

Dining in residential area's are particularly sensitive to the location and operation of commercial businesses, including outdoor dining areas. Applications for outdoor dining areas in residential areas will be assessed against rigorous criteria to ensure appropriate decisions are made with regard to character of the area, trading hours, noise levels, safety and amenity of the immediate area. The proposal will not impact unnecessarily on residential amenity, and will protect the existing character, safety and amenity of residential areas.

At all times, the licensee of the premises is to have consideration for the amenity of neighbours and shall take reasonable measures to ensure no adverse impacts to residents within the surrounding area. Upon entering or leaving the premises and the building the licensee shall take reasonable measures to ensure that the behaviour of both patrons and staff have no adverse impact upon the amenity of the surrounding area. The premises shall be managed in such a manner so as to not interfere with the quiet and good order of the neighbourhood by noise, vibration, smell, fumes, vapour, soot ash, dust, waste water, waste products, grit, oil or otherwise.

The following social criteria should be met where appropriate:

1. **Character of the area** - Consideration should be given to the visual impact of the proposal on the traditional use of open space, existing heritage elements and other key features of the local environment.

Comment: As noted, the traditional Use of the building for many years directly relates to the current Use proposed and therefore the social precedence of the Use and impacts are established. There are no heritage or environmental or visual impacts proposed and the proposed use is established as a key social fabric of the site and locality.

2. **Operation of the site** - The applicant should demonstrate how the proposal will address a local demand and result in a net benefit to local residents and the community. The applicant must consider the impact of the proposal on the cleanliness of the area including general rubbish, specialized wastes, bottles and other recyclable storage and removal arrangements such as hours of pick up. Arrangements for deliveries to and from the outdoor dining area, including the times this will occur, must be provided by the applicant. The introduction of an outdoor dining area in a primarily residential area can influence proposed hours of operation. The applicant must consider excessive noise and nuisance created by early morning and evening trade. This includes noise from deliveries and the impact caused to existing traffic conditions.

Comment: The Applicant has provided a detailed Plan of Management (POM) of which outlines all social fabrics associated with the Use including, Noise mitigation, deliveries of materials, hours of operation and complaint registers etc.

3. **Suitability of outdoor dining area** - Any benefits the outdoor dining area may bring to the residential area should be outlined, and the applicant should specify whether the proposal is for a temporary activity, such as in conjunction with a festival or event.

Comment: The Applicant has provided a detailed Plan of Management (POM) and Noise Assessment report of which outlines all Noise mitigation measures and streetscape character improvements.

4. **Safety** - Appropriate safety measures for energy sources and connections should be considered by the applicant. The outdoor dining area design must consider any potential encroachments into the public place. Residential safety and property security issues that might affect the application must be considered by the applicant as well as any traffic issues that might make the site unsafe

Comment: The Applicant has provided a detailed Plan of Management (POM) that addresses safety. As well as this POM, provided below is an assessment against the CPTED principles.

Outdoor dining areas are generally permitted to trade between the hours of 7am and 10pm Monday to Sunday. Summary of Hours of Operation, Entertainment and Liquor Trading is noted below.

Day of Week	Liquor Trading Hours as per Liquor Licence Application (internal areas)	Liquor Trading Hours as per Liquor Licence Application (external areas)
<i>Sunday</i>	10 am to 10 pm	10 am to 10 pm
<i>Monday</i>	10 am to 10 pm	10 am to 10 pm
<i>Tuesday</i>	10 am to 10 pm	10 am to 10 pm
<i>Wednesday</i>	10 am to 10 pm	10 am to 10 pm
<i>Thursday</i>	10 am to 12 pm	10 am to 10 pm
<i>Friday</i>	10 am to 12 pm	10 am to 10 pm
<i>Saturday</i>	10 am to 12 pm	10 am to 10 pm

4.0 THE STRATEGIC SOCIAL PLANNING CONTEXT

4.1 *Environmental Planning & Assessment Act, 1979*

Section 4.15 Evaluation - Matters for Consideration, of the Environmental Planning and Assessment Act 1979, provide for those matters that may be taken into consideration as applicable.

(1) *Matters for Consideration – general*

In determining a development application consideration of the following matters are to be taken into consideration as are of relevance to the development the subject of the development application:

a) the provision of:

- (i) any environmental planning instrument; and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan;*
- (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, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph);*

that apply to the land to which the development application relates

- b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c) the suitability of the site for the development;*
- d) any submissions made in accordance with the Act or the regulations; and*
- e) the public interest.*

Section 1.3 Objects of Act

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,***
- (c) to promote the orderly and economic use and development of land,***
- (d) to promote the delivery and maintenance of affordable housing,*

- (e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) ***to promote good design and amenity of the built environment,***
- (h) ***to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,***
- (i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) *to provide increased opportunity for community participation in environmental planning and assessment.*

One or more of the objectives of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979) is satisfied, including to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment and to promote good design and amenity of the built environment. It is considered that the proposal will satisfy these two particular Social Objectives.

4.2 Illawarra-Shoalhaven Regional Plans

Illawarra Regional Strategy 2006-31

The primary purpose of the Illawarra Regional Strategy 2006-31 is to ensure that adequate land is available and appropriately located to accommodate the projected housing and employment needs of the region's population over the next 25 years. The Illawarra-Shoalhaven region consists of four local government areas: Wollongong, Shellharbour, Kiama and Shoalhaven.

The Regional Plan sets out five goals for the Illawarra-Shoalhaven Region:

- A prosperous Illawarra-Shoalhaven.
- A variety of housing choices, with homes that meet needs and lifestyles.
- A region with communities that are strong, healthy and well-connected.
- A region that makes appropriate use of agricultural and resource lands.
- A region that protects and enhances the natural environment.

TABLE 1: PROJECTED HOUSING NEED BY LOCAL GOVERNMENT AREA 2016-36

LOCAL GOVERNMENT AREA	PROJECTED HOUSING NEED
Wollongong	14,600
Shellharbour	9,350
Kiama	2,850
Shoalhaven	8,600

The Illawarra-Shoalhaven region will need at least 35,400 new homes between 2016 and 2036 to meet the demands of population growth and change. This is an average of 1,770 each year. Based on these housing figures, new Restaurant premises will be required to meet the demands of the increased populations and their retail / commercial needs.

Thirroul Village

The Thirroul Village Centre Precinct Plan is contained in Chapter D12: Thirroul Village Centre of Wollongong Development Control Plan 2009 (WDCP2009).

The aim of the Thirroul Village Centre Precinct Plan is to strengthen the role of the centre as an economic and cultural hub through enhancing the existing character of Thirroul. Improvements to pedestrian, bicycle and vehicular connections into and out of the Village Centre, the consolidation of parking facilities, as well as the encouragement of residential and retail/commercial uses particularly in a variety of mixed use developments is promoted.

The desired future character of Thirroul Village Centre is:

The significance of the Thirroul Village Centre as a commercial and retail precinct with cultural linkages to the community of Thirroul as well as Thirroul's history can be strengthened through the expansion of existing commercial/retail operations, the encouragement of mixed-use development designed to foster a lively main street Village Centre, and improvements to community facility provisions.

Therefore, Chapter D12: Thirroul Village Centre of Wollongong Development Control Plan 2009 (WDCP2009) highlights the existing and future social and cultural outcomes for the village center. The proposed Café/Restaurant Change of Use to an existing Motel Restaurant is compatible with this future social / character outcomes.

4.3 State Environmental Planning Policy (Infrastructure) 2007

The State Environmental Planning Policy (Infrastructure) 2007 assists the NSW Government, private infrastructure providers, local councils and the communities they support by simplifying the process for providing infrastructure like hospitals, roads, railways, emergency services, water supply and electricity delivery. The Infrastructure SEPP plays a key role in helping to deliver the NSW Government's infrastructure works.

Noise pollution has a heavy social and territorial impact. The high noise levels along busy roads in the Centre of towns may result in an exodus to the calmer suburbs. This change is not without consequences on social mixing, with the lowest income earners not being able to escape the noise. Noise seems to be a factor that reinforces social and territorial inequalities. The cost of this pertains to:

- the social costs related to the health impact of noise (medical treatment of cardiovascular disease, sickness leave, insurance costs, intangible costs related to loss of well-being, loss of concentration, tiredness, and pain and suffering for the ill and their loved ones);
- the economic repercussions of noise in terms of the devaluation of property prices, loss of attractiveness of certain sectors and loss of productivity due to the effects of noise on health

Restaurant trading adds vibrancy and colour to any City. However, if sound or loud music from these activities is not appropriately managed, it can cause a nuisance to traders, businesses and pedestrians.

Noise from audio equipment used in association with an outdoor dining or street trading area must not cause detriment to the amenity of the neighbourhood. Restaurant operator need to be aware of these noise/nuisance impacts and operate accordingly. The POM addresses these concerns.

In this instance, given that there appears to be No major roadways or railway lines in the vicinity of the site and feeder roads, the measure & impact of external Noise sources will be minimal. A Noise Impact Assessment report has been prepared by Harwood Acoustic Consultants which outlines that a proposed restaurant is likely to generate minimal noise intrusion. This impact in the adjoining residents is minuscule.

4.4 Wollongong Local Environmental Plan 2009 (WLEP2009)

One of the key environmental planning instruments applying to the land is acknowledged as the Wollongong Local Environmental Plan 2009 (WLEP2009)

Clause 1.2 Aims of Plan

- (1) *This Plan aims to make local environmental planning provisions for land in Wollongong in accordance with the relevant standard environmental planning instrument under section 33A of the Act.*
- (2) *The particular aims of this Plan are as follows:*
- (a) *to provide a framework for land use management,*
 - (b) *to encourage economic and business development to increase employment opportunities,*
 - (c) *to encourage a range of housing choices consistent with the capacity of the land,*
 - (d) *to improve the quality of life and the social well-being and amenity of residents, business operators, workers and visitors,*
 - (e) *to conserve and enhance remnant terrestrial, aquatic and riparian habitats, native vegetation and fauna species,*

- (f) to conserve and enhance heritage,*
- (g) to ensure that development is consistent with the constraints of the land and can be appropriately serviced by infrastructure,*
- (h) to ensure that significant landscapes are conserved, including the Illawarra Escarpment, Lake Illawarra, the drinking water catchment and the coastline.*

One or more of the main Aims of the Wollongong Local Environmental Plan 2009 (WLEP2009) will be satisfied including, to encourage economic and business development to increase employment opportunities and to improve the quality of life and the social well-being and amenity of residents, business operators, workers and visitors. The proposal will achieve the social outcomes of the Wollongong Local Environmental Plan 2009 (WLEP2009).

The subject site is zoned R2 Low Density Residential. The objectives of these zones are noted below.

Objectives of zone

- 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.*

One or more of the objectives of the Environmental Planning and Assessment Act 1979 (EP&A Act1979) is satisfied, including to enable other land uses that provide facilities or services to meet the day to day needs of residents, in this instance a restaurant within an existing motel complex.

5.0 THE WOLLONGONG / THIRROUL SUBBURB PROFILE

Local Population

The plates / Tables below highlight the Thirroul & surrounds Social Data for the region.

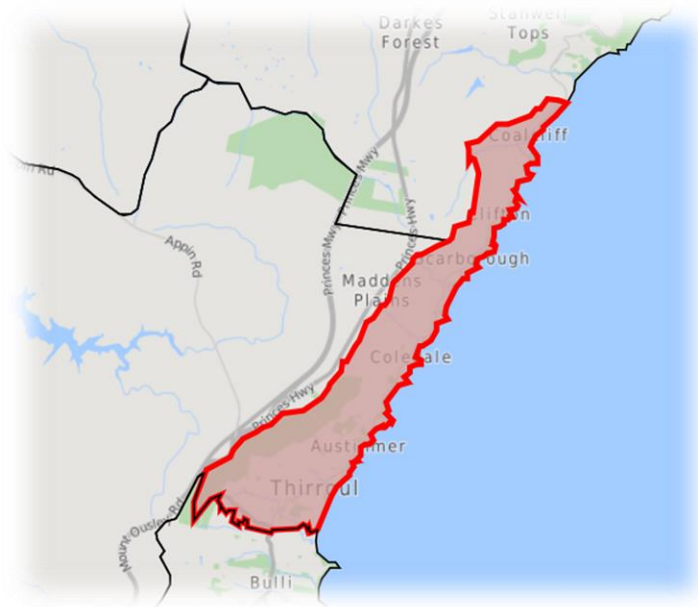


Plate 3: Source ABS Data – Thirroul Suburb

	2013	2014	2015	2016	2017	2018
Number of Businesses - As at 30 June						
Number of non-employing businesses (no.)	--	495	523	543	554	607
Number of employing businesses: 1-4 employees (no.)	--	289	301	333	344	368
Number of employing businesses: 5-19 employees (no.)	--	64	66	81	84	88
Number of employing businesses: 20 or more employees (no.)	--	11	13	6	6	10
Total number of businesses (no.)	--	864	902	964	991	1 080
Business Entries - Year ended 30 June						
Number of non-employing business entries (no.)	--	--	85	79	97	121
Number of employing business entries: 1-4 employees (no.)	--	--	38	47	53	63
Number of employing business entries: 5-19 employees (no.)	--	--	--	8	5	4
Total number of business entries (no.)	--	--	129	132	151	190

Plate: Business Numbers in Thirroul

As noted in the above Table, business numbers are slowly increasing over a period of some 5 years. This trend increases the social fabric of businesses in the area and should be continued with the proposal satisfying the social dynamics of the type of business entering into the suburb.

	2013	2014	2015	2016	2017	2018
Number of Businesses by Industry - As at 30 June						
Agriculture, forestry and fishing (no.)	--	8	12	9	9	7
Mining (no.)	--	4	4	3	4	7
Manufacturing (no.)	--	26	24	25	25	33
Electricity	--	3	3	3	3	3
Construction (no.)	--	143	153	168	185	208
Wholesale trade (no.)	--	22	15	16	10	16
Retail trade (no.)	--	64	68	71	55	61
Accommodation and food services (no.)	--	32	37	46	41	46
Transport, postal and warehousing (no.)	--	17	21	21	22	28
Information media and telecommunications (no.)	--	13	8	12	11	22
Financial and insurance services (no.)	--	75	83	84	91	89
Rental, hiring and real estate services (no.)	--	75	70	82	83	77
Professional Scientific & Technical Services (no.)	--	155	154	174	184	204
Administrative and support services (no.)	--	33	37	43	42	47
Education and training (no.)	--	17	22	22	29	27
Health care and social assistance (no.)	--	90	103	108	115	125
Arts and recreation services (no.)	--	32	33	25	29	30
Other services (no.)	--	37	41	41	42	46
Currently unknown (no.)	--	8	12	5	9	6
Number of Businesses by Industry - Total (no.)	--	864	902	964	991	1 080

Plate: Business Numbers by Industry

As noted in the above Table, Restaurant / retail premises are consistent with long term trends. This trend is expected to be maintained throughout the forthcoming years.

	2013	2014	2015	2016	2017	2018
Establishments with 15 or more rooms (no.)	--	--	1	1	--	--
					2011	2016

Industry of Employment - Proportion of Employed Persons - Census

Agriculture, forestry and fishing (no.)	0.2	0.4
Mining (%)	2.8	2
Manufacturing (%)	5.8	4
Electricity, gas water and waste services (no.)	0.9	0.8
Construction (%)	7.4	8.2
Wholesale trade (%)	2.3	1.6
Retail trade (%)	7.2	6.2
Accommodation and food services (%)	5.1	4.8
Transport, postal and warehousing (no.)	4.4	4.1
Information media and telecommunications (%)	2.5	2.3
Financial and insurance services (%)	3	3.4
Rental, hiring and real estate services (no.)	1.8	1.7
Professional Scientific & Technical Services (%)	8.4	9.3
Administrative and support services (%)	2.4	2.5
Public administration and safety (%)	7.9	8
Education and training (%)	17	17.6
Health care and social assistance (%)	14	14.6
Arts and recreation services (%)	2.3	2.4
Other services (%)	3.1	2.7
Total persons employed (no.)	5 250	5 504

Plate: Industry employment proportions

As noted in the above Table, Restaurant / food services premises are declining within the area and therefore prejudicing the social fabric of the business and workers and employees of the area. The proposal will assist greatly in n providing employment opportunities.

Crime Assessment in Thirroul & Surrounds

Social cohesion and equity challenges

Social cohesion can be defined as the level to which people in a society feel committed towards the well being of others, and to the shared systems which form the foundations of the society. Although many people migrate to cities to find more or better employment opportunities, urbanisation usually brings higher unemployment rates and subsequent increases in criminal activity. This type of anti-social behaviour, along with vandalism and a lack of respect for public property, often symbolise a reduction in social cohesion.

These problems are heightened by the isolation often felt in poorly-serviced fringe suburbs (dwellings on the outskirts of cities), which tend to become neglected. As they have less access to the benefits of the city (including employment opportunities, shared public places and other forms of infrastructure), suburbs on the outskirts often reflect the lack of equity inherent in many major metropolitan areas. Often they also have a higher level of poverty, which is one example of how urbanisation can lead to increased levels of spatial inequality.

Located in Wollongong Police District Command (WPDC) geographic area, this review found:

- It is anticipated that the Wollongong Police District Command (WPDC) District may conducted *Safer by Design Crime Risk Evaluation* at request of Thirroul Village (however this proposal is small nature and would not be evaluated).
- Found it improbable that reported crime will increase in the future as a result of the proposed development, and that Crime Prevention through Environmental Design (CPTED) options be considered to reduce opportunities for crime.
- Found crime risk rating for the proposed development as Low to Insignificant, with the proposal introducing limited new potential crime victims; opportunities; and offenders to the proposal and its surroundings

In response to the 'unlikely' incidents and Wollongong Police District Command (WPDC) District intelligence of underage drinking and anti-social behavior during night time hours, following BOCSAR data reviewed:

- Assault
- Malicious damage to property
- Theft – break and enter, motor vehicle, steal from dwelling, steal from person
- Disorderly conduct
- Drug offences

Reviewing the items noted above and table below, the likelihood of crimes to Commercial property and persons is quite low. Particularly Assaults and Break and Enter to persons and property is steadily decreasing.

The Thirroul area has a generally lower rate of these offences, as compared to adjoining areas. The design (layout) of the proposal will minimise opportunities for crime offences to occur and mitigate the risk of malicious damage to property, break and enter, motor vehicle theft, and stealing from a motor vehicle.

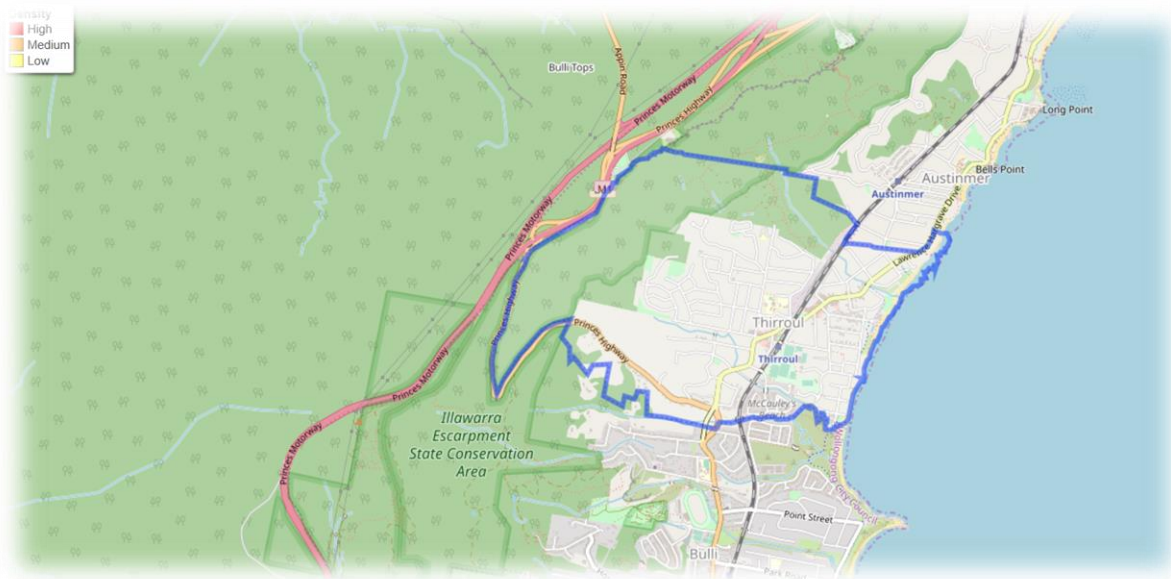


Plate: Crime Hot Spots.

From the Plate above, it is concluded that the nearest Crime Hotspot is located within the Wollongong CBD, and not in the vicinity of the subject site. Thirroul areas as a whole has not been rated by BOSCAR as a Crime Hot Spot.

Table 9: Example of Bus Route within Thirroul



Plate: Alcohol Related Offences.

In considering characteristics of the incidents, victims and offenders of these selected offences compared with relevant geographies, it is evident the crime profile for Thirroul and surrounding areas reflects more opportunistic crime, rather than any deeper underlying social issue.

Local Government Area Ranking Tool

Download this report as a file: [PDF](#)

You have asked where the **WOLLONGONG** Local Government Area ranks for **Liquor offences**

In 2018 the recorded rate of **Liquor offences** in **WOLLONGONG** Local Government Area was ranked 67 out of the 120 Local Government Areas that have populations greater than 3000*. 5 Local Government Areas had no recorded incidents of **Liquor offences** in 2018 and as such were ranked equal last.

Table 1. Recorded criminal incidents of **Liquor offences; number, rate and rank in Local Government Areas within the Illawarra Statistical Subdivision.**

	2014	2015	2016	2017	2018
WOLLONGONG Local Government Area					
Rate per 100,000 population	157.9	110.4	162.1	172.2	121.1
Number of Incidents	326	230	341	367	258
Population	206415	208313	210394	213132	213132
Rank	63	67	40	44	67
Other Local Government Areas in the Illawarra Statistical Subdivision					
KIAMA Local Government Area					
Rate per 100,000 population	166.6	219.3	343.7	209.4	133.6
Number of Incidents	36	48	76	47	30
Population	21612	21890	22110	22450	22450
Rank	60	29	10	32	57
SHELLHARBOUR Local Government Area					
Rate per 100,000 population	158.8	110.8	113.7	57.8	69.0
Number of Incidents	109	77	80	41	49
Population	68658	69474	70391	70994	70994
Rank	62	66	68	98	90

Plate: Local Government Ranking

In 2018 the recorded rate of Liquor offences in Wollongong Local Government Area was ranked 67 out of the 120 Local Government Areas that have populations greater than 3000.

A total of 5 Local Government Areas had no recorded incidents of Liquor offences in 2018 and as such were ranked equal last.

Premises Type *	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Public Transport Facilities	3	9	2	4	4	4	13	31	32	15	14	31	20	24	20	19	12	15	10	5
Retail/Wholesale	3	6	2	4	3	3	1	4	3	8	1	5	3	0	3	1	2	2	8	4
Personal Services	0	0	0	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0
Financial Institutions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Office	2	1	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
Business - Unknown	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Outdoor/Public Place	91	83	45	137	83	83	126	155	175	133	134	132	77	42	34	16	27	58	54	39
Recreational Facilities	3	2	4	9	4	0	4	4	17	2	1	0	1	0	0	1	3	1	0	1
Utilities	0	4	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0
Industrial Sites	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0
Adult Entertainment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Residential - Dwelling	0	1	0	1	2	0	1	3	2	1	3	4	2	0	3	1	0	0	0	1
Residential - Outside of Dwelling	1	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Residential - Temporary Accommodation	0	0	0	1	5	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0
Residential - Unknown	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Carpark	12	8	4	9	1	6	3	9	11	8	5	4	5	3	0	3	1	2	1	0
Education	0	0	1	1	0	2	2	2	1	0	0	1	0	0	0	0	2	0	5	0
Health	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Law Enforcement, Courts, Prison etc.	0	0	0	0	0	0	0	1	0	0	1	2	0	0	1	0	1	0	1	0
Licensed Premises	100	107	76	153	309	246	153	182	275	355	458	428	320	265	299	285	182	262	288	208
Place of Worship	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
Agriculture	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Dock/Marina/Wharf/Jetty	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Vehicle/Vessel/Aircraft	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Firearms	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Unknown	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0
Total	215	221	136	322	413	344	303	393	517	525	617	608	428	336	360	326	230	341	367	258

Plate: Criminal Incidents

Recorded criminal incidents of Liquor offences occurring in Wollongong Local Government Area by premises type and year. These incidents are very minor and non existing for the Thirroul suburb, and indeed are steadily decreasing.

Crime Prevention Through Environmental Design

The Crime Prevention Through Environmental Design (CPTED) guidelines were prepared by the NSW Police in conjunction with the NSW Department of Planning and Environment. CPTED provides a clear approach to crime prevention and focuses on the planning, design and structure of cities and neighbourhoods.

The main aims of the guidelines are to:

- Limit opportunities for crime;
- Manage space to create a safe environment through common ownership and encouraging the public to become active guardians; and
- Increase the perceived risk involved in committing crime

Natural Surveillance

1. Criminals usually do not want to be seen. Placing physical features, activities and people in ways that maximise the ability to see what is happening discourages crime. For example, placing cafes and kiosks in parks increases natural surveillance by park users. Another example would be placing clotheslines near play equipment in multiple unit developments, increases natural surveillance of the play area. Inappropriately placed barriers, such as bushes or sheds, can make it difficult to observe activity.

Access Control

1. Access can be restricted by physical barriers such as bollards, fences, doorways and landscaping or by security hardware such as locks, chains and alarms. Human measures can also be utilised such as security guards. All of these methods aim to direct and/or restrict access into an area and therefore increase the effort required to commit a crime.

Ownership (Territorial Reinforcement)

1. People usually protect territory that they feel is their own and have a certain respect for the territory of others. Fences, paving, art, signs, good maintenance and landscaping are some ways

	Provisions Objectives	Response	Compliance
Lighting	<p>(a) To promote legitimate activity by users of public spaces after dark.</p> <p>(b) To encourage the use of appropriate types of lighting fixtures.</p> <p>(c) To ensure the appropriate placement of lighting to avoid shadows and glare which may put users of the area at risk.</p>	<p>Appropriate lighting will be installed throughout the development deemed necessary.</p> <p>Light spillage to adjoining dwellings will not occur.</p>	Yes
Natural surveillance and sightlines	<p>Objectives</p> <p>a) To provide unimpeded sight lines, particularly along pedestrian pathways.</p> <p>b) To encourage natural surveillance from surrounding buildings and land uses.</p> <p>c) To improve natural surveillance through increased legitimate use of spaces.</p>	<p>The location of the buildings windows and doors will provide natural surveillance.</p> <p>The proposal incorporates rooms and entrance doors facing the front of the site. This will provide passive surveillance.</p>	<p>Yes</p> <p>Yes</p>
Building design	<p>a) To integrate public buildings into the wider public realm;</p> <p>b) To use buildings to support natural surveillance of adjacent open space;</p> <p>c) To construct, sturdy, attractive, environmentally sensitive buildings to reduce temptations for vandalism and graffiti; and</p> <p>d) To reduce the risk of public buildings contributing to crime or safety problems</p>	<p>The buildings integrate into the Lawrence Hargrave streetscape well.</p>	Yes
Landscaping	Objectives		Yes

		<p>a) To create a friendly and pleasant environment that attracts users and at the same time is safe.</p> <p>b) To support ease of maintenance by not creating fragile landscaped areas in public use areas.</p> <p>c) To support and reinforce security Principles such as natural surveillance, by the careful selection and placement of appropriate landscaping</p>	<p>Landscaping is active and provides for ease of maintenance.</p>	
Spaces from entrapment	safe	<p>Objectives</p> <p>a) To reduce the risk of attack by hidden persons.</p> <p>b) To eliminate possible entrapment spaces and reduce the danger of people being attacked where they have no direct means of escape.</p> <p>c) To ensure that the location and design of facilities, such as automatic teller machines do not create entrapment spaces.</p>	<p>No entrapment areas provided.</p> <p>The proposal provides well-designed spaces.</p>	Yes
Management and maintenance		<p>a) To ensure prompt maintenance and repairs</p> <p>b) To facilitate prompt reporting of any damage or repair needs.</p> <p>c) To promote a perception that an area is well maintained and is well cared for by its local community.</p> <p>d) To discourage graffiti and vandalism.</p> <p>e) To install equipment and fixtures that are vandal resistant and can be easily cleaned</p>	<p>The site will provide for management and maintenance.</p> <p>A detailed POM and Noise Assessment report has been provided in relation to the proposal.</p>	Yes



There are a number of community services proximate to the proposed development. Generally, these services are accessible from the proposed development by bus public transport. Whilst these services provide services for potential workers and customers, for example the elderly and persons with a disability, the number of such services is unknown. It is therefore likely that the proposed development is adequately serviced by these social services.

5.0 SOCIAL ASSESSMENT OF PROPOSAL

This Social Impact Assessment (SIA) report has been prepared to accompany a Development Application submission to the local Consent authority of Wollongong City Council for a development proposing a Café/Restaurant Change of Use to an existing Motel Restaurant at Lot: 2 DP: 578279 No. 222-226 Lawrence Hargrave Drive, Thirroul.

The potential immediate site noise impacts are noted below.

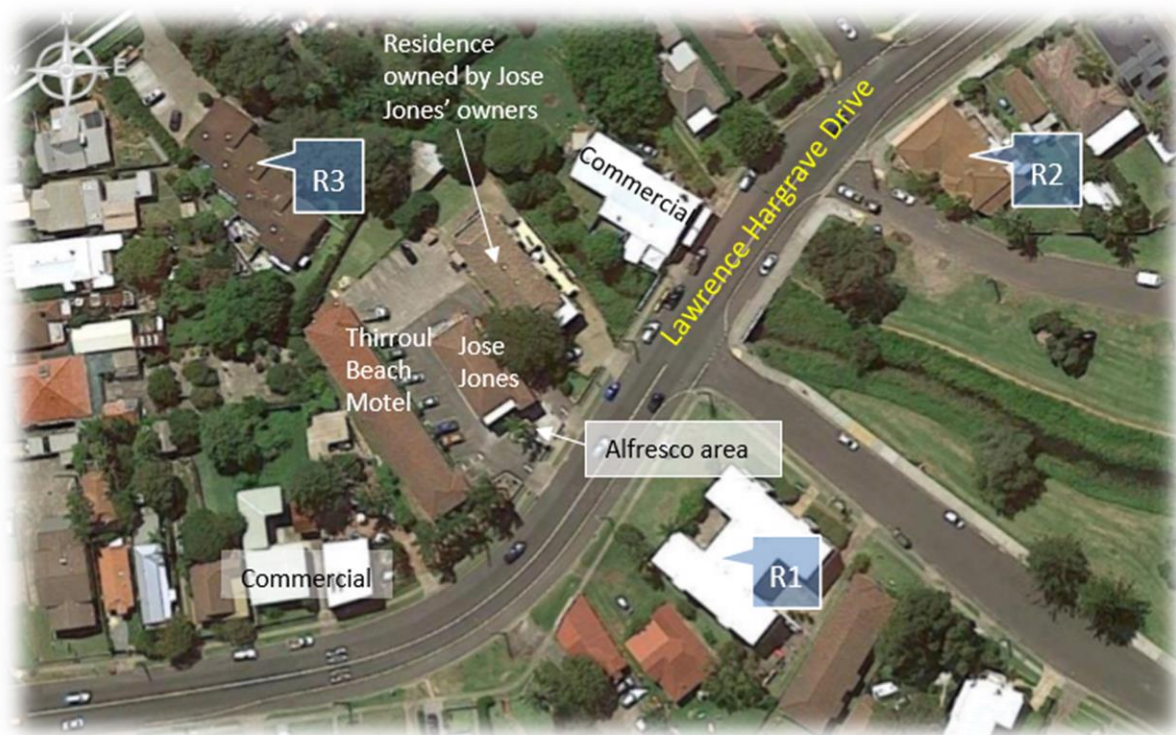


Plate – Reference Harwood Acoustics, Noise Impact Assessment dated 21st October 2019

The residence adjoining the Site to the east is owned by the owners of Jose Jones Restaurant and Bar. The nearest residences considered in this assessment for determining the potential for noise impact are therefore located opposite the Site to the south and south east and directly behind the Site to the north. The closest residential receptors to the Restaurant are shown in Figure 1 below and are as follows:-

- R1 – 235 Lawrence Hargrave Drive (circa 35 metres)
- R2 – 233 Lawrence Hargrave Drive (Circa 90 metres)
- R3 – 25 Redman Avenue (circa 55 metres)

Reviewing the Noise assessment report, Noise impacts to these receivers are considered minor and within acceptable Australian Standards.

Scoping

Scoping establishes the range of issues to be considered and the geographical reach of possible impacts. Those possible impacts for development are identified within this report.

- **Geographical Boundaries** – as this proposal relates to retail premises, this assessment has been prepared mindful of the Albion Park City Centre as a whole.
- **Likely Areas of Impact** – relates to surrounding land uses and Albion Park City Centre in general. The City Centre is characterised by a range of retail and commercial uses.
- **Key Issues** - the key areas for consideration are:
Retail needs; amenity; accessibility of services and facilities; impact on City Centre services and businesses; transport; access and safety; employment and economic benefits; and land use compatibility.
- **Stakeholders** – given the retail nature of this proposal, the relevant stakeholders in this instance are considered to be the greater community, Council, law enforcement agencies and the City Centre owners/occupants.
- **Impact Timing** – the future occupation and hours of operation proposed for the retail tenancy will be subject to independent land use DAs at a later date. Refer to SOEE.

Mitigation Strategies

The mitigation strategies that can be implemented for social impact of the proposed development are generally associated with the operation and management of the premises. This will be generally controlled by the relevant Conditions of Consent including endorsing the Plan of Management (POM) and Noise Assessment Report.

6.0 SOCIAL IMPACT REPORT CONCLUSION

In light of the above, it is considered that the proposed development submission to the local Consent authority of Wollongong City Council for a development proposing a Café/Restaurant Change of Use to an existing Motel Restaurant at Lot: 2 DP: 578279 No. 222-226 Lawrence Hargrave Drive, Thirroul will have a positive social impact for the community of the Village of Thirroul and greater Wollongong City as a whole. Therefore, it is concluded that the proposed development can be justified relative to public benefit and, thus, Wollongong City Council is respectfully requested to favourably consider this application at the earliest convenience.

This Social Impact Assessment had focused on the human dimension of environments. It sought to address the question “*what will be the impact of a project/development on people?*” and to anticipate outcomes that may flow from a proposed development which are likely to affect people’s way of life, their culture and/or their community. Social Impact Assessment is not a tool to stop development, but is to assist in the assessment of development proposals so that the best development results.

Overall the social benefits of the proposed redevelopment have been found to significantly outweigh any potential negative impacts. Especially given that all anticipated negative impacts as a result of the proposed development can be mitigated to a satisfactory degree through imposition of development consent conditions and/or implementation of a quality onsite management practices through the Plan Of Management (PoM).

The proposed development will significantly contribute towards addressing the ongoing shortfall of retail premises lacking in the Thirroul Village and greater Wollongong Region by increasing the retail premises that are essential to the local residents.

Recommendations:

- Monitor the outdoor dining/street trading area.
- Observe patrons at all times and respond to behaviour that may interfere with the use, enjoyment or personal comfort of others in the outdoor dining area or neighbouring public and private places.
- Manage the outdoor dining/street trading area in a professional manner by ensuring adequate staff numbers, supervision and training so that patron and pedestrian access and safety needs are met.
- maintaining the appropriate number of tables and chairs, correct clearances and circulation requirements in the dining area.
- Ensure responsible serving of alcohol by staff.

- Take all necessary steps to ensure that no noise or other disturbance emanates from the outdoor dining area causing detriment to the amenity of others.

Therefore, In summary:

The development is Socially sustainable:

- that is, the proposal is high qualitative and quantitative in its ongoing operation, including noise mitigation measures.
- That is, the proposal satisfies the Thirroul Village remaining as a social / cultural hub by continuing to feature a combination of unique specialty retail shops, cafes, restaurants and other businesses.
- That is, a Noise Assessment report has been provided in relation to the Use – *Refer to Harwood Acoustics, Noise Impact Assessment dated 21st October 2019*
- That is, the premises has prepared a Noise Policy
- That is, a Plan of Management (POM) has been prepared in relation to the ongoing Use and operation of the business.

The development will have no measurable detrimental social impact on the locality.

- that is, the proposal will provide for a rather diverse set of social business profiles, which reflects more varied restaurant opportunities, and
- that is, the social investment will be positive.

The development meets social restaurant trends.

- that is, the restaurant premise is in a locality where operation of the business and associated Hotel has been undertaken for many years and fits social trends in the locality for both accommodation and dining of this nature.

Provide a reasonable level of Restaurant premises that is of a type that is in need in Thirroul.

- that is, providing affordable restaurant / dining choices in the locality to ensure local residents are not required to travel long distances for restaurants of similar quality.

Align with Wollongong City Council's Strategy

- that is, a greater increase in restaurant premises and opportunity choice for increasing local neighbourhood business premises.
- That is, Improve economic development within Thirroul by creating greater certainty for project investment and increase the chance of project success

It adds vibrancy and activity to the street frontages and public places

- that is, there is a social benefit to traders and the community and aims to facilitate these activities in a safe and responsible manner and activate the Street frontage.

Provides for adequate location of restaurants close to City Centre and Public transport nodes

- that is, the site is located within close proximity to public transport and located within appropriate Commercial zones, and
- that is, the proposal will satisfy the strategic / social outcomes and objectives of Thirroul Masterplan

- **END** -

Disclaimer: E-planning Pty Ltd has not undertaken a site visit for the purposes of this report. This report is provided exclusively for the purposes described in this report. No liability is extended for any other use or to any other party. The report is based on conditions prevailing at the time of the report and information provided by the client. The report is only for which the land to which the report relates and only for the day it is issued. This report should be read in conjunction with submitted documents and plans relevant to the Development Application



Updated Venue Management Plan for Licensed Premises

For Thirroul Beach Motel/Jose Jones Restaurant and Bar

The licensee must conduct the licence in accordance with its management plan dated this day 19th September 2019

A. Site and Locality Details

Formal Property Description: Motel and accompanying Restaurant:

Floor Plan: Provided at Appendix A

Maximum Capacity: 100

ABOUT THIS PLAN

This document addresses responsibilities associated with the Liquor Licence for THIRROUL BEACH MOTEL, JOSE JONES RESTAURANT AND BAR, and the actions of the Owners, Manager, employees/staff will take to ensure compliance with the Liquor Act 2007 and specific conditions of the Licence.

All persons who seek to become involved in the sale or supply of alcoholic beverages or in some way become associated with operation of the Liquor Licence are required to acknowledge their understanding of these responsibilities.

This document is issued under the authority of the Director, Joseph McGuinness, who is the Owner, Manager. The Licensee is Jamien Bannister. Only the Director or the Licensee may approve alterations, additions or deletions to the Plan. Prior to making any changes to the Plan, the licensee must first:

- (i) consult with and obtain the endorsement of the Manager, and
- (ii) notify the NSW Police (Wollongong LAC) and Wollongong City Council of the proposed changes and obtain their endorsement.

Distribution

A copy of this Plan will at all times be kept on hand at the Premises together with the Liquor Licence and (other relevant Policies and Procedures) relevant to the operation of liquor services at 222-226 Lawrence Hargrave Drive, Thirroul, NSW .

Copies of this Plan and any amendments thereto will be distributed to the following:

- (i) NSW Police, Wollongong LAC,
- (ii) Wollongong City Council,
- (iii) the Manager of the Premises, and
- (iv) all (*associated persons/ staff and other persons*) prior to becoming involved in the dispensing of liquor or providing security services at Jose Jones. .

The Plan may be distributed to any of the above-mentioned parties in electronic format.

This Plan will also be made available for perusal by any person or organisation who requests liquor be available during any hire arrangement for Jose Jones. .

RESPONSIBILITIES

Management of the Liquor Licence

(a) Day to Day Management

The Licensee is responsible for operation of liquor sales, maintaining a safe venue, and ensuring that all activities are undertaken in accordance with the Licence.

Management is responsible for development and approval of policies and procedures that support, and not in opposition to, the conditions of the Liquor Licence and which support the Manager in ensuring that liquor sales are appropriate and can be undertaken in a safe manner.

Management is also responsible for determining in accordance with the Licence conditions, the regular days and times of opening, the range and pricing of products for sale, and approving any application for private hire of the Premises.

(b) Accredited and trained bar staff

The Manager is responsible for:

- ensuring that only Responsible Service of Alcohol [RSA] accredited personnel are rostered or permitted to work in the bar or undertake any function associated with the Liquor Licence,
- maintaining records about the accreditation, training and experience of RSA accredited personnel, and
- educating personnel about dispensing practices, special Licence conditions, internal Club policies, cash handling, and other matters prior to them undertaking bar service work or in the role of a Duty Manager.

The Manager or Duty Manager are responsible on a day to day basis for ensuring all personnel working in the bar area are RSA accredited and have been appropriately trained.

(c) Manager in attendance

The Manager is responsible for operation of the Licence, and will be in attendance on all occasions when the premises are open for the sale and consumption of liquor on the premises.

In the temporary absence of the Manager, an Assistant Manager nominated by the Manager will be in attendance as Duty Manager.

If for some reason, neither the Manager nor the Assistant Manager is able to be in attendance on a particular occasion the Manager will at all times be contactable by telephone if s/he is not in attendance when the bar is open for trading.

If the Licensee intends to be absent for more than six weeks, an application will be made to OLGR by completing and lodging the form – *Exception from requirement that a Licensee not be absent for more than six weeks*.

Smoking areas

The Restaurant is smoke-free as required by the Smoke Free Environment Act 2000 and will be sign-posted accordingly clearly at the entrance to the premises. Smoking will be permitted in designated area only, pursuant to the Smoke Free Environment Act 2000.

- Designated Smoking area is in the north west corner adjacent to the outdoor terrace on the northern perimeter of the building.

Access to Venue

Patron access will be through the Northern entrance only, located on Lawrence Hargrave Drive.

Deliveries and Garbage Collection to be manage on-site via dedicated loading and collection locations.

Amenity of Neighbourhood

At all times, the licensee of the premises is to have consideration for the amenity of neighbours and shall take reasonable measures to ensure no adverse impacts to residents within the surrounding area.

Upon entering or leaving the premises and the building the licensee shall take reasonable measures to ensure that the behaviour of both patrons and staff have no adverse impact upon the amenity of the surrounding area.

The premises shall be managed in such a manner so as to not interfere with the quiet and good order of the neighbourhood by noise, vibration, smell, fumes, vapour, soot ash, dust, waste water, wast products, grit, oil or otherwise.

Incident Management

The Manager or Duty Manager will have full responsibility for dealing with any incidents as they occur in accordance with the Liquor Act 2007, the Licence conditions and as documented in this Plan.

The Manager or Duty Manager will record details in the Incident Register and in addition to notifying Police and other authorities in accordance with Licence conditions.

The licensee/manager shall record in the Incidents Book, in addition to any complaints (including noise) made directly to the management or staff of the premises by local residents or business people, about the operation of the premises or the behaviors of its patrons. This shall include:

- a. Complaint date and time
- b. Name, contact and address details of persons making the complaint
- c. Nature of complaint
- d. Name of staff on duty
- e. Action to be taken by premises to resolve the complaint.

The licensee shall make copies of the Incidents Book available to Council or the Police at all reasonable times and within 7 days of receipt of a written request from the Council or the Police to do so.

Management Plan

The following key points and actions address the licensed premises objective of allowing members and guests to be able to enjoy quite conversation and a drink, in a relaxing atmosphere and in a safe venue at the Premises.

Duty Managers and bar staff

The Manager, Duty Managers and bar staff are accredited in Responsible Service of Alcohol.

Duty Managers and bar staff are briefed by the Manager prior to their first turn of duty, including discussion on this Plan of Management, the Licence conditions, House Policies, customer relations, and emergency arrangements.

Inexperienced / new bar staff are rostered to work with an experienced person for their first few shifts.

Where can alcohol be consumed

Alcoholic beverages purchased are intended for consumption only within the Premises.

Alcoholic beverages cannot be taken away from the Premises, ie take-away sales are not permitted.

Consumption of alcohol is permitted only in the floor area within the Premises and the outdoor dining area as indicated in the plan at Appendix 1.

Consumption of alcohol is not permitted anywhere outside the premises.

Patrons cannot bring alcoholic beverages onto the Premises.

Managing alcohol sales

All bar staff are accredited in Responsible Service of Alcohol [RSA], and are trained in bar operation, customer relationships and cash handling.

All bottles and cans of alcohol are opened by bar staff at the time of sale.

Chilled water is available free of charge at all times.

Chilled bottled water is also available for purchase at non-inflated prices.

Non-alcoholic drinks are available and priced less than alcoholic beverages.

Low and medium-strength alcoholic drinks are available at all times and are priced less than full-strength drinks.

House policy does not permit promotions to encourage binge drinking.

Alcohol sales cease at 12 pm Monday to Saturday and 10 pm on Sunday, with patrons given a maximum of 30 minutes to vacate the premises. See summary of hours of operation, entertainment and liquor service at table 4.1.

Consideration is given to use of plastic glasses for functions where a high number of patrons are likely to be in attendance.

The Licence does not permit take-away sales and requests are declined.

Presentation

As opportunity offers, bar staff collect empty glasses, bottles, cans and rubbish to minimise opportunities for breakages and potential injury, and improve presentation of the premises.

Patrons are encouraged to return empty glasses to the bar server area, and to place rubbish in bins provided.

Provision of food

The premises is a bona fide restaurant with meals available at all times when liquor is being sold.

Managing patrons

Duty Managers and bar staff are to engage with patrons so as to monitor them and also act as a deterrent to unruly behaviour.

Bar staff who consider a patron to be intoxicated will advise the patron that further alcoholic beverages will not be supplied to them and that the patron is required to leave the Premises immediately.

Patrons who obtain, or attempt to obtain alcoholic beverages for, or supply alcoholic beverages to, a Minor (a person under 18 years of age) or a patron who has been declined further supply of alcoholic beverages because of intoxication, are asked to leave the Premises immediately.

Patrons acting unruly, swearing or talking loudly or are aggressive in their nature are asked to behave or quieten down and advised that failure to do so will result in them being asked to leave the Premises.

When a patron is asked to leave the Premises, the Duty Manager and bar staff use a conciliatory approach by –

- clearly advising the patron of the reason they are required to leave,

- reminding the patron of 'fail to leave' legislation and \$550 on the spot fines if they fail to leave,
- advising the patron that s/he must leave the Premises immediately,
- advising the patron that s/he must not remain in the vicinity of the Premises or in the surrounding area,
- offering a bottle of water, and
- by not using force to remove the patron.

If after being advised of the above facts, the patron still declines to leave immediately, Police will be contacted for assistance.

We note that no person wearing any form of clothing, jewellery or other accessory, displaying or indicating by form or wording, colours, logo, symbol or otherwise that they are members of or are in any way associated with: (Bandidos, Black Uhlands, Coffin Cheaters, Comanchero, Finks, Fourth Reich, Gladiators, Gypsy Jokers, Highway 61, Life & Death, Lone Wolf, Mobshitters, Nomads, Odins Warriors, Outcasts, Outlaws, Phoenix, Rebels, Hells Angels, Scorpions, Notorious) shall be allowed entry into, or be permitted to remain on the licensed premises.

Dealing with Minors

Any person who obtains or supplies alcoholic beverages to a Minor is directed to leave the Premises.

Signage is in place and visible to patrons purchasing drinks at the bar, reminding them that purchasing alcoholic beverages for persons under 18 years is not permitted by law.

Bar staff ask for identification if there is doubt that a patron is under 18 years of age.

Minors authorisation must be displayed on relevant entrances

Managing the Licensed Area

The Licensed Area meets BCA standards for up to 100 patrons.

Fire extinguishers are provided and emergency escape routes identified by standard signage.

External public access to and egress from the Licensed Area is from one point at of the building. Disabled access is available.

Soloists, duos and small ensembles may be in use for a small number of functions with any live amplified music ceasing by 9pm Monday to Saturday or 8pm on Sunday. See summary of hours of operation, entertainment and liquor service at table 3.7.

An experienced and a certified acoustic consultant has confirmed noise from singers and musicians does not impact on the community, given certain guidelines are met. These guidelines are in the attached Noise Policy.

Risk assessment

Risk is assessed for all occasions when liquor sales are planned including regular trading days, special functions and special events.

Primary risks are –

- safety of patrons,
- safety of Duty Managers and bar staff, and
- breach of Licence

These risks can be addressed by managing and controlling patrons and promoting Responsible Service of Alcohol.

Managing risk

- (i) Low risk: for functions and activities assessed as low risk, the arrangements as set out in this Plan are followed.
- (ii) Low to medium risk: when a function or activity is assessed as medium risk, additional RSA accredited staff are rostered on duty to monitor patron behaviour.
- (iii) Medium to high risk: when a function or activity is assessed at this level, strategies are first applied in an endeavour to mitigate the risk; if the risk cannot be mitigated and re-assessed as low to medium risk, the function or activity will not proceed.

Strategies to minimise risk

- (i) Additional RSA accredited staff rostered on duty to monitor patron behaviour
- (ii) Serving all beverages in plastic containers.
- (iii) Limiting the number of patrons admitted.
- (iv) Hiring accredited security personnel to admit patrons and monitor patron behaviour.

3.5 Noise. Additionally, please refer to our Noise Policy.

- (ii) Type of entertainment proposed within premises: amplified or acoustic (live music limited to 2-3 performers). Noise levels will be maintained to enable comfortable conversation between patrons of the premises.
- (iii) Live and/or amplified music from the premises will not exceed 5dB(A) above the ambient background noise level measured at the boundary of the premises.
- (iv) In the event that noise levels exceed the prescribed limits, the licensee shall as soon as practical implement any reasonable recommendations made by the acoustic consultant to reduce noise levels to the prescribed limits.

1.1 Truck Deliveries

- (i) Truck deliveries and services are restricted to day time only i.e. 7:00am to 6:00pm Monday to Friday and 8:00am to 6:00pm, Saturday to Sunday.

3.6.2 Operational waste management and servicing

1. To minimise noise, emptying of glass bins shall only occur prior to 8pm in the evening and after 9am in the morning.
2. The removal of wastes and recyclable materials shall be made by a recognised contractor as per arrangements in accordance with any Council requirements for the building.
3. All deliveries and waste collection services will be made at the designated service standing area for the building.

Appendix 1

Plan of licensed area (**attached**)

1.2 Summary of Hours of Operation, Entertainment and Liquor Trading

<i>Day of Week</i>	Liquor Trading Hours as per Liquor Licence Application (internal areas)	Liquor Trading Hours as per Liquor Licence Application (external areas)
<i>Sunday</i>	10 am to 10 pm	10 am to 10 pm
<i>Monday</i>	10 am to 10 pm	10 am to 10 pm
<i>Tuesday</i>	10 am to 10 pm	10 am to 10 pm
<i>Wednesday</i>	10 am to 10 pm	10 am to 10 pm
<i>Thursday</i>	10 am to 12 pm	10 am to 10 pm
<i>Friday</i>	10 am to 12 pm	10 am to 10 pm
<i>Saturday</i>	10 am to 12 pm	10 am to 10 pm





NOISE POLICY 2019

Noise/ Safety / Amenity of the Neighbourhood

JOSE JONES is to achieve the following objectives and performance targets:

1.1 Minimise Noise

The Management Plan is a comprehensive document which includes all aspects of operating a licensed premise. Managing the noise issues is just one of those requirements. The Office of Liquor, Gaming and Racing (OLGR) has relevant data sheets covering these issues including “Sound Advice – Reducing the risk of noise disturbance” which forms the basis of this Plan of Management - Noise.

Meeting the noise objective

Thirroul is a residential area. The plan takes into account the amenity and character of the village and includes measures to ensure minimal noise impact on residents. It recognizes that:

- Licensed premises are venues where there is a range of activities that may have noise impacts. Due care needs to be taken, particularly in residential areas,
- Sound or noise disturbance is one factor that impacts on the social amenity of the neighbourhood.
- There are other factors that confront local residents...including intoxication, inappropriate liquor promotions or activities, and anti-social behaviour by patrons, within and when leaving the venue.

The objectives are to:

- Ensure that the noise criteria of the council are met, assist patrons to minimise disturbance whilst entering, departing or using the site

1.2 Noise Mitigation – A Restaurant Responsibility

Live entertainment and recorded music are part of the activities of a licensed restaurant.

- The manager on duty is responsible for ensuring that noise levels are managed appropriately for local residents – whether the music is live or recorded.
- The management is responsible for reducing the risk of noise disturbance from other activities including patrons arriving at, or leaving, the restaurant.
- The management is responsible for managing noise from both the restaurant’s own activities and when the restaurant is hired as a function centre.
- The management will manage the risk of noise disturbance by self-assessment.

If noise levels, as monitored by a nominated staff member or another responsible person, are assessed to be too high, the live performers and/or DJ will be warned once to reduce levels before power to the amplifier is to be switched off. A record will be issued in the incident report book on site.

At times where noise levels have the potential to be a source of complaints from local residents, responsibility for noise disturbance and or other complaints must be delegated to a nominated staff member or another responsible person. This person will complete the checklist “managing the sound on the night” (attachment “A”) prior to times with amplified music. This person should be familiar with the use of the sound level meter and interpreting noise levels. This person should be able to handle complainants and resolve conflict successfully.

Jose Jones is obliged to be aware of the NSW WorkCover maximum noise exposure levels for staff in a workplace of 85 dB(A) over an equivalent eight-hour period.

1.3 Noise Assessment

- For noise levels not to cause disturbance to the local residents, music levels inside & outside the restaurant, when measured anywhere inside or outside the bar area but with the microphone not shielded by a solid surface, must not exceed 85dB(A).

- To comply with NSW State Government laws limiting noise impacts on the local neighbourhood from licensed premises, the following conditions will also apply:
- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) by more than 5dB between 07.00 am and 12.00 midnight at the boundary of any affected residence.
- The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz to 8 kHz inclusive) between 12.00 midnight and 07.00 am at the boundary of any affected residence.

Regular decibel readings will be reported each night on separate times and locations, these will be logged by an approved person in our "DECIBEL READING FORM" (see attachment "B") and will be completed by the staff member.

1.4 Noise Management

At times where noise levels have the potential to be a source of complaints from local residents, the following methods are to be used to manage noise disturbance:

Maintain noise levels below set limits for the restaurant. A nominated staff member will use a sound level meter to monitor sound levels during the function. A "DECIBEL READING FORM & SOUND CHECKLIST" (see attachment "A & B") will be completed by the staff member.

- No speakers are to be placed outside the restaurant's windows and doors.
- Set maximum music levels for live performers
- Limit queues and guests assembling in outdoor areas fronting Lawrence Hargrave Drive.
- Ensure patrons do not take drinks outside the premises at any time.
- Place an upper limit on the number of patrons attending events.
- Exclude high risk activities such as 18th and 21st birthday parties.
- Display signs and make announcements asking patrons to be quiet when leaving. (Attachment "C")
- Notify hirers of the restaurant that: "The bond will be forfeited if any justified complaint is received by the restaurant, police, local council or the NSW Office of Liquor, Gaming and Racing. If the Hire Agreement and Plan of Management are not properly enforced the Club's Liquor License could be under threat."
- A permanent sign is erected at the exit and entry of the building advising patrons leaving to leave quietly and not disturb the public (See Attachment "C")
- Live music must cease before 6pm in the outside seating area. After 6pm live music must be set up inside the restaurant to ensure noise levels are kept at a respectful level for neighbours.
- To comply with the restaurant's license, all functions must be concluded by 12.00am (midnight) from Monday to Saturday and 10:00pm on Sundays.
- All persons are to have left the outside seating area by 10:00pm and indoor premises and the surrounding area by 12.00am (midnight) from Monday to Saturday and 10:00pm on Sundays.
- Patrons are to be notified by staff thirty minutes prior to closing times to allow them time to finish their meals and depart.
- With regard to live performers, outside live music must cease by 6pm and inside live music by 9pm

1.5 Complaint Handling

- Local residents are to be encouraged to report noise complaints to a nominated member of the restaurant.
- All complaints are to be managed in a sympathetic and respectful manner.
- Encourage staff members to immediately deal with any problems between any disputing parties.
 - If not resolved, a formal complaint may be made
 - to the police, local council or the NSW Office of Liquor, Gaming and Racing.
- Ensure that after hours contact phone numbers for several staff members are provided to the restaurant staff
- Record details of all complaints, which should include:
 - The name of the person taking the complaint.
 - The date, time and nature of the complaint.
 - The name, address and contact details of the complainant, and
 - The details about how the complaint was handled and what action was taken.
- Any complaints are to be directed to the owner (JAMIEN BANNISTER) or the manager on duty, one of whom will be within the restaurant. In the unlikely event that an issue remains, the Police should be called and asked to respond immediately.

1.6 Minimise Public Nuisance

The most important objectives are to:

- minimise any nuisance and noise impact on nearby residents
- monitor the behaviour of patrons and encourage appropriate behaviour

Some considerations:

- Staff should be instructed on and familiarise themselves with appropriate and inappropriate noise levels.
- Staff to ensure patrons are notified thirty minutes before closing time to allow time to depart in an orderly fashion.
- Notify all staff members on duty if a patron's behaviour is not appropriate
- Monitor patrons leaving and entering the restaurant for any excessive noise

Attachment "A"

CHECKLIST FOR THE NOMINATED STAFF MEMBER OR ANOTHER RESPONSIBLE PERSON

CHECKLIST TO COMPLETE FOR LIVE MUSIC AND MANAGING SOUND

- ☐ I acknowledge that I am responsible for managing music on this day/night
- ☐ I have introduced myself to the musician

- ☐ I have informed the musician of the maximum music level when measured at the bar using the restaurant's sound level meter.
- ☐ I have explained to the musician that Jose Jones takes excessive noise very seriously
- ☐ I have informed the musician that if noise levels are assessed as being too high, they will be warned once to reduce levels before power to the amplifier will be switched off.
- ☐ I have explained to the musician that live music is to cease at 6pm promptly in the outside seating area, and 9pm in the inside seating area.
- ☐ I have confirmed that the sound levels of the music equipment have been checked prior to commencement
- ☐ If there is a noise complaint, I will manage it to the best of my ability and will fill out an incident report

JOSE JONES BAR AND RESTAURANT

Date	
Staff member responsible	
Notes	
Signature of staff member	

Attachment "B"





Signage #1



Signage #2

MMJ Wollongong
C/- Ben McNamara
PO BOX 1167
WOLLONGONG NSW 2500

APPLICATION	DA-2016/510
Determination	Conditionally Approved
Approval Authority	Wollongong City Council
Endorsement Date	21 June 2016

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	Business Premises - Change of use to existing motel restaurant to allow public dining
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

- 1 The development shall be implemented substantially in accordance with the details and specifications set out on Drawing Nos. DA_01 dated 13 April 2016, DA_02 A Rev 1 and DA_03 A Rev 1 dated 13 April 2016 (Date 1) 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

- 2 **Registration of Occupation Certificate**
Use of the premise for public dining, in addition to motel guest use, is not to commence until an occupation certificate required under Condition 8 of DA-2015/672 is first issued and registered with Council.
- 3 **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.
- 4 **Restricted Consent Period**
This development is valid for a period not exceeding twelve (12) months from the date shown as "endorsement date of consent" on this notice unless otherwise approved by Council. At the end of this period the development must cease.

Note: The Council may, upon receiving an application under s96 of the Environmental Planning and Assessment Act 1979, prior to the lapse date of this consent extend the period in which this consent is valid.

Any application under s96 of the Environmental Planning and Assessment Act should be made to Council at least four (4) months prior to the lapse date of the consent in order to allow adequate processing/assessment of the application. This application must be on the prescribed form. Any application received after the lapse date cannot be considered, as the consent must be valid for any application under s95A to be approved.

CONSENT

5 **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 **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.

7 **Number of persons accommodated**

The number of persons accommodated during the use of the premises is limited to the following:

Dining room/Area	Number of People
<u>Ground Floor</u>	
Internal Seating	7
External Seating	39
Internal & External Standing	23
<u>First Floor</u>	
Internal Seating	23
External Seating	8
TOTAL CAPACITY	100

Install a sign displayed in a prominent position in the building stating the maximum number of persons, as specified above, that are permitted in the building.

Prior to the Issue of the Construction Certificate

8 **Car parking and Access**

The development shall make provision for a total of twenty nine (29) car parking spaces. This requirement shall be reflected on the Construction Certificate plans. Any change in above parking numbers shown on the approved DA plans shall be dealt with via a section 96 modification to the development. The approved car parking spaces shall be maintained to the satisfaction of Council, at all times.

- 9 The parking dimensions, internal circulation, aisle widths, kerb splay corners, head clearance heights, ramp widths and grades of the car parking areas are to be in conformity with the current relevant Australian Standard AS2890.1, except where amended by other conditions of this consent. Details of such compliance are to be reflected on the Construction Certificate plans.

Prior to the Commencement of Works

10 **Sign – Supervisor Contact Details**

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

- stating that unauthorised entry to the work site is not permitted;
- showing the name, address and telephone number of the Principal Certifying Authority for the work; and
- 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.

11 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.

Prior to the Issue of the Occupation Certificate

12 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.

Operational Phases of the Development/Use of the Site

13 Display of Fire Safety Information

At all times prominently display within the building the current fire safety schedule and fire safety certificate/statement.

14 Maximum Capacity Sign

At all times prominently display within the restaurant signage stating the maximum capacity of the premises is limited to the following:

Dining room/Area	Number of People
<u>Ground Floor</u>	
Internal Seating	7
External Seating	39
Internal & External Standing	23
<u>First Floor</u>	
Internal Seating	23
External Seating	8
TOTAL CAPACITY	100

15 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.

- 16 **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.
- 17 **Amenity**
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.
- 18 **Liquor Act**
The developer must comply with any requirements of the Liquor Act 2007.
- 19 **Restricted Hours of Operation**
The hours of operation for the development shall be restricted to:
 Internal Areas:
 7.00am to 10.00pm – Sunday to Wednesday (and Public Holidays)
 7.00am to 12.00am – Thursday to Saturday
 Alfresco Area:
 7.00am to 10.00pm at all times.

Any alteration to the approved hours of operation will require separate Council approval.
- 20 **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.
- 21 **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.
- 22 **No Display of Goods and Materials Outside Premises**
The placement of any cabinet, display stand, racks or any other means of displaying goods, whether or not for sale shall not be located on any property boundary, road reserve or outside the premises.
- 23 **Fire Safety Measures**
All existing fire safety measures shall be maintained in working condition, at all times.
- 24 **Noise Restriction on Development**
The noise ($L_{Aeq (15min)}$) emanating from the development must not exceed 5 dB(A) above the background noise level ($L_{A90 (15min)}$) of the area at any boundary of the land.
- 25 **Loading/Unloading Operations/Activities**
All loading/unloading operations are to take place at all times wholly within the confines of the site.

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 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:
 - a 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 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 **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:

Mark McCosker
Senior Development Project Officer
Wollongong City Council
Telephone (02) 4227 7111