

**From:** [Lindsay McGavin](#)  
**To:** [Records Mail](#)  
**Subject:** FW: Halcyon House - Compliance Matters  
**Date:** Thursday, 11 May 2017 8:20:38 AM  
**Attachments:** [image001.png](#)  
[Storey & Gough Cor re meal service 0912.pdf](#),  
[image002.png](#)  
[image003.png](#)

---

Please register, no need to return

---

**Lindsay McGavin** | Manager Development Assessment and Compliance  
Development Assessment 

p (02) 6670 2450 | f (02) 6672 6250 | e [lmcgavin@tweed.nsw.gov.au](mailto:lmcgavin@tweed.nsw.gov.au) | w [www.tweed.nsw.gov.au](http://www.tweed.nsw.gov.au)  
Civic and Cultural Centre Tumbulgum Road Murwillumbah NSW 2484 | PO Box 816 Murwillumbah NSW 2484 | ABN: 90 178 732 496  
Customer Service: (02) 6670 2400 | 1300 292 872  
Our values: transparency | customer focus | fairness | reliability | progressiveness | value for money | collaboration  
Please consider the environment before printing this email. One tonne of paper is equivalent to 13 trees or 30 kL of water

---

**From:** Adam Smith [mailto:AdamS@planitconsulting.com.au]  
**Sent:** Wednesday, 10 May 2017 4:43 PM  
**To:** Lindsay McGavin  
**Cc:** 'Elisha Bickle'  
**Subject:** Halcyon House - Compliance Matters

Hello Lindsay

Further to our earlier correspondence, I have since had an opportunity to liaise with Andrew Gough from Storey & Gough who are familiar with the site and the current and previous consents.

Conditions 11 & 12 are set out below:-

11. *This development consent approves the construction of alterations and additions to the existing motel only to be used by guests and staff of the motel only and other ancillary activities.*

12. *The use of the motel for members of the general public or for functions, parties or the like is permitted on an ancillary basis to the primary function of the premises as a motel.*

As per Storey & Gough's earlier advices (copies attached) in 2012, the use of land for the purpose of a "motel" includes the operation of a restaurant serving the general public. We are therefore not relying on the legal doctrine of ancillary development (or dual use) to make the restaurant component permissible, and therefore there is no restriction that the restaurant component be ancillary (or subservient) to the provision of accommodation component. Indeed, in the opinion of Storey & Gough, a "guest" of the motel, would by definition include a guest of the restaurant. Accordingly, should Council be in agreement with the advices provided, condition 11 need not be amended or deleted.

With respect to Condition 12, it would be preferable to seek to amend this condition by way of modification to ensure that the carrying out of functions or indeed parties should be done so only on an ancillary basis. The current wording is problematic as it restricts the use of the motel by the "general public" to an ancillary basis. I have assumed that the "general public" in this context refers to persons not using the accommodation, however in reality even that is arguable. It is the opinion of Storey and Gough that the current wording of condition 12 constrains our existing use rights and for clarity should be amended as outlined above.

We would of course prefer to seek the amendment of the consent with the in principle support of Council. Can you advise, on face value, whether these amendments would likely to be supported at an officer level? We will of course commit to seeking the amendment as soon as practical thereafter. Please do not hesitate to contact me at any time should you wish to discuss further.

kind regards

**Adam Smith**

Director

Telephone: 02 6674 5001 | Facsimile: 02 6674 5003

Level 2, 11-13 Pearl Street, Kingscliff NSW 2487  
PO Box 1623, Kingscliff NSW 2487

**Development & Engineering Consultants for Queensland - New South Wales - Victoria - Northern Territory**

For contact details for our Queensland, New South Wales, Victoria & Northern Territory offices, visit [www.planitconsulting.com.au](http://www.planitconsulting.com.au)

The information contained in this email and any attached file is strictly private and confidential. The intended recipient of this email may only use, reproduce, disclose or distribute the information contained in this email and any attached files with Planit Consulting's permission. Virus scanning software is used by this organisation to prevent file and system attacks; however the recipient is responsible for their own virus protection. Planit Consulting accepts no liability whatsoever for any possible subsequent loss or damage arising from the use of this data or any part thereof.