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

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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

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