

11 May 2023
The General Manager
Maitland Shire Council
285 – 287 High Street
MAITLAND NSW 2320

**RE: SECTION 4.55 (2) MODIFICATION OF DEVELOPMENT CONSENT FOR DA
DEVELOPMENT APPLICATION NO. 2017/2556:1
PROPERTY – Lot 40 DP 1079499 (No. 362) LUSKINTYRE ROAD,
LUSKINTYRE
CHANGE OF USE WITHIN APPROVED BUILDINGS**

We write on behalf of our client, Rajiv Shah requesting Council's consideration to modify consent conditions for DA 2017/2556:1 using the provisions of Section 4.55 (2) of the *Environmental Planning and Assessment Act, 1979*. Consent of this Section 4.55 (2) will allow this development to proceed.

INTRODUCTION

On 12 June 2018 Council granted consent of DA 2017/2556 for Construction of an Accommodation Building (10 Rooms) Ancillary to Approved Function Centre and Partial Change of Use - Winery to Microbrewery (Rural Industry).

On 30 September 2020 Council granted consent of DA 2017/2556:1 for a Section 4.55 (2) Modification – Change of Use within Approved Buildings. The Development Consent outlined a number of conditions to be satisfied prior to the issue of an Occupation Certificate (OC).

We note that the Application has been substantially commenced, as work has been performed in relation to CC/2021/215 with respect to Tourist Accommodation Rooms constructed within an existing function Centre.

Following a review, the clients have determined they wish to amend the previously modified DA, re-establishing a 10 room Accommodation Building ancillary, similar to the Accommodation Building (10 Rooms) approved in the original DA.

CURRENTLY DEVELOPMENT APPLICATION (MODIFIED)

On 30 September 2020 Council granted consent of DA 2017/2556:1 for a Section 4.55 (2) Modification – Change of Use within Approved Buildings. The Development Consent outlined a number of conditions to be satisfied prior to the issue of an Occupation Certificate (OC). These conditions include -

1. Approved Plans and Documentation

The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule, and any amendments arising through conditions of this consent or as shown **as hashed** on the plans:

Plan Ref No.	Sheet No.	Revn No.	Revision Date	Prepared by: (consultant)
21684 - ACCOM	1	-	29/07/2020	Marshall Scott
21864 - ELEV	2,3	-	24/03/2020	Marshall Scott
As previously outlined				

These plans indicate –

- i) Proposed staff entry, offices, micro brewery and tasing room in or adjacent to a building 25m x 18m located in the north western corner of the property.
- ii) A western (front) boundary with a setback of 20m, including a staff entry access way to Luskintyre Road.
- iii) A setback of 44m to the water course to the north

POST DETERMINATION REVIEW

Following a review, the clients have determined they wish to amend the previously modified DA, re-establishing a 10 room Accommodation Building ancillary, similar to the Accommodation Building (10 Rooms) approved in the original DA. Plans have been prepared by Xarbe design and are attached to this Modification Application.

An application for modification of the of the Development Consent is outlined below.

MODIFICATION TO APPLICATION

The effect of the modification are as follows –

Plan Ref No.	Sheet No.	Revn No.	Revision Date	Prepared by: (consultant)
PLAN SITE S4.55 Modif.	S4.55-01	A	10/05/2023	Xarbe Design
01 PLAN Proposed Works	S4.55-02 to -06	A	10/05/2023	Xarbe Design
No changes as previously outlined				

These plans indicate –

- i) Proposed 10 bedroom tourist accommodation building, including kitchen, common room and fireplace, in a building 32.39m x 20.39m located in the north western corner of the property (refer to plan, proposed changes **in bold**)
- i) A western (front) boundary with a setback of 20m
- ii) A setback of 40m to the water course to the north

Refer to attached plans.

JUSTIFICATION FOR AMENDMENT OF CONDITIONS

Council is requested to consider the following justification for amending Condition 1 to the modification presented in the attached plans as:

- The proposed development is substantially the same development as to what was approved in the original DA determination, being Construction of an Accommodation Building (10 Rooms);

- The modification will have minimal environmental impact as structures, building envelopes, requirements for clearing or landscaping, driveway and pedestrian access etc remain unchanged between the original approved and the proposed modified plans as attached;
- All conditions and requirements have previously been in place following the approval of the original consent;
- As development has been substantially commenced, the modification request has occurred within the prescribed period.

CONCLUSION

Based on the information provided it is considered that the Section 4.55 (2) application is legitimate and can be determined by Council as the development is consider substantially the same and presents minimal environmental impact.

We trust that the information contained herewith supports the request to amend the selected conditions. If you require any further information, please do not hesitate to contact our office on 4936 4025.

Yours sincerely

COMPLETE PLANNING SOLUTIONS PTY LTD



Graham Bates
Mast Sust Env and Plan
Planning Consultant