



# INNER WEST COUNCIL

## DEVELOPMENT ASSESSMENT REPORT

|   |   |
|---|---|
| <b>Application No.</b>                            | D/2018/251  |
| <b>Address</b>                                    | Empire Hotel, 103A Parramatta Road, ANNANDALE NSW 2038  |
| <b>Proposal</b>                                   | Description: Basement and ground floor alterations and additions to existing Hotel building, including alterations to ground floor gaming area, works to basement to permit use as lounge/bistro, bar and pizza bar plus new below awning signage.<br>Consent for hours of operation from 10 am to 3 am Wednesday to Saturday and 10 am to midnight Sunday to Tuesday over the licensed portion of the hotel (basement and ground floor levels) is also sought. |
| <b>Date of Lodgement</b>                          | 15 May 2018   |
| <b>Applicant</b>                                  | Empire Hotel Annandale  |
| <b>Owner</b>                                      | D'Agostino Management Pty Ltd [allows panel members to identify Council applications &/or conflicts]  |
| <b>Number of Submissions</b>                      | Three   |
| <b>Value of works</b>                             | \$715,839   |
| <b>Reason for determination at Planning Panel</b> | Clause 4.6 variation Exceeds officer delegation   |
| <b>Main Issues</b>                                | Hours of operation  |
| <b>Recommendation</b>                             | Approval, trial period for hours  |
| <b>Attachment A</b>                               | Recommended conditions of consent   |
| <b>Attachment B</b>                               | Plans of proposed development   |
| <b>Attachment C</b>                               | Clause 4.6 Exception to Development Standard  |
| <b>Attachment D</b>                               | Statement of Significance of Heritage Conservation Area   |
| <b>Attachment E</b>                               | Plan of Management  |
| <b>Attachment F</b>                               | Flood Risk Management Report  |
| <b>Attachment G</b>                               | DA Acoustic Assessment  |



### LOCALITY MAP

|               |  |            |  |     |
|---------------|--|------------|--|-----|
| Subject Site  |  | Objectors  |  | ↑ N |
| Notified Area |  | Supporters |  |     |

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations to existing hotel including new basement level accessible to public include new bar and pizza restaurant and extended trading hours at the Empire Hotel, 103A Parramatta Road, Annandale. The application was notified to surrounding properties and three submissions received.

The main issues that have arisen from the application include:

- Hours of operation.
- Proposed under awning signs blocking traffic signage.
- Parking.

The works will enable the site to access the night time economy while not detracting from the heritage significance of the area. To ensure the use can occur without adversely impacting on surrounding residential amenity, the application is recommended for approval on a 12 month trial period with an option for an extension up to 5 years.

## 2. Proposal

The proposal includes works to the Empire Hotel Annandale as well as an extension to the currently approved hours of opening as follows:

- Alterations and excavation of up to 1.3 m to basement level facilitate conversion of existing basement storage area to use as lounge/bistro, bar and dining area including pizza oven.
- Alterations and additions at ground floor level including lowering the floor level of the existing gaming lounge by approximately 700 mm and new stairs to basement level at Parramatta Road frontage.
- Addition of three under awning signs on the Johnston Street frontage and one on the Parramatta Road frontage.
- Consent for hours of operation from 10 am to 3 am Wednesday to Saturday and 10 am to midnight Sunday to Tuesday over the licensed portion of the hotel (basement and ground floor levels).

## 3. Site Description

The subject site is located on the north-eastern corner of Parramatta Road and Johnston Street, Annandale. The site consists of one allotment and is generally trapezoid with a total area of 756.1 sqm and is legally described as Lot 1 DP 658943.

The site has a frontage to Parramatta Road of 19.4 metres and a secondary frontage of approximately 52.3 metres to Johnston Street.

The site supports a mixed use building which presents as a three storey Art Deco building with awning over the footpath on the corner of Parramatta Road and Johnston Street, with an attached two storey portion at the northern boundary, single storey section on the eastern boundary at the Parramatta Road frontage and a basement level across the whole site. Vehicular access is provided via the Johnston Street frontage to part of the basement level.



Figure 1: Site from opposite corner of Parramatta Road and Northumberland Avenue.  
 Source: Statement of Environmental Effects submitted with application.

The uses in the building include the Empire Hotel at ground and basement levels (the subject of this application). Other uses include boarding house/student accommodation on the first and second floors above the Empire Hotel and an office use in the first floor of the modern extension fronting Johnston Street.

The adjoining properties support dwellings and other residential uses to the north of the site, with commercial uses on the opposite side of Johnston Street and Parramatta Road. The house to the north of the Empire hotel at 1 Johnston Street, Annandale is listed as a local heritage item (I28). To the west of the site are the Goodman’s Buildings at 2-12 Johnston Street and 105-119 Parramatta Road, Annandale, which are listed on the State Heritage Register (SHR 00672). A two storey building comprising shop at ground floor level and dwelling to the rear of the ground floor and at first floor level is located to the east of the site at 103 Parramatta Road, Annandale.

The Empire Hotel is not listed as an individual heritage item, but is located within the Annandale Heritage Conservation Area. Details of the *statement of heritage significance* for the Annandale Heritage Conservation Area (listed under Part 2 of Schedule 5 of Leichhardt Local Environmental Plan 2013) can be found at the following address on *Leichhardt Council’s website*: <http://www.leichhardt.nsw.gov.au/Planning---Development/Planning-Controls--DCPs--LEPs--VPAs-/Heritage/Conservation-Area-18-Annandale> The hotel is considered to be a contributory item. The subject site is identified as a flood prone lot. It is zoned B2 – Local Centre.

#### 4. Background

##### 4(a) Site history

The following application outlines the relevant development history of the subject site and any relevant applications on surrounding properties.

##### Subject Site

| Application | Proposal  | Decision & Date       |
|-------------|---|-----------------------|
| N/A         | Building constructed  | 1890                  |
| N/A         | Building remodelled to art deco design.   | 1936                  |
| DA/400/1993 | Extension of Trading Hours to 3 am Monday to Saturday.                                | Withdrawn – 12/11/93  |
| DA/487/1993 | Erection of high projecting illuminated wall sign and three under awning signs. Note: | Approved – 21/12/1993 |

|  |  |                                  |
|--|--|----------------------------------|
|  | this consent has lapsed.   |                                  |
| DA/498/1997                              | Use of the basement as a card machine room and bar. Note: this consent has lapsed.   | Approved – 8/1/1998              |
| D/2000/432                               | Partial demolition of an external wall and erection of a new window and door opening.  | Approved – 18/10/2000            |
| D/2001/915<br>CC/2002/331<br>OC/2005/139 | <p>Internal alterations to an existing hotel and extension of trading hours, including extension of hours for live entertainment.</p> <p><i>Condition 15 states:</i></p> <p><i>15. Hours of operation</i></p> <p><i>The premises is to be open for business only between the hours of:</i></p> <ul style="list-style-type: none"> <li>• 10am and 12 midnight Monday, Tuesday and Sunday</li> <li>• 10 am and 3 am (the following morning) on Wednesday, Thursday, Friday and Saturday</li> </ul> <p><i>with no patrons being admitted to the premises after 2 am on any night (subject to the above hours of operation), for a trial period of 6 months operating or commencing after the submission of the certificate required by Condition 19 – acoustic Engineer certification. The applicant is to reapply for an extension after the 6 month period has expired.</i></p> <p>The conditions of consent were complied with and a licence granted for the extended hours. The applicant advises that the trial period occurred. No previous application has been made to enable these hours to continue beyond the trial period. It is considered necessary that another trial period occur in association with the current application as any previous trial would have occurred over a decade ago under different owners.</p> | Approved - 14/5/2002             |
| D/2005/261                               | Construction of a smokers deck at rear of existing public hotel.   | Approved – 24/8/2005             |
| Preda/2006/39                            | Alterations to existing hotel.   | Advice letter issued – 19/4/2006 |
| CDC/2006/53                              | Internal alterations to licensed premises excluding smokers terrace and the addition of a new stair on Parramatta road.  | Approved – 10/11/2006            |
| CDC/2007/9                               | Internal alterations to licenced premises.   | Approved – 22/3/2007             |
| CDC/2007/27                              | Internal alterations to a licenced premises excluding smoker's terrace.  | Approved 13/7/2007               |
| CDC/2007/103                             | Construction of a smokers deck at rear of existing public hotel.   | Approved – 26/3/2007             |
| D/2009/472                               | Replacement of the existing external awning over footpath to Johnston Street and Parramatta Road.  | Approved – 15/2/2010             |

|                |   |                                  |
|----------------|---|----------------------------------|
| CDCP/2012/77   | Conversion of outdoor area to an outdoor gaming facility, removal of toilets at ground floor level. | Approved – 18/7/2012             |
| PREDA/2014/164 | Upgrade of existing telecommunication facility on roof of the Empire Hotel.                         | Advice letter issued – 11/9/2014 |

#### 4(b) Application history

The following table outlines the relevant history of the subject application.

| Date       | Discussion / Letter/ Additional Information  |
|------------|--|
| 7/8/2018   | Applicant queried content of heritage advice.  |
| 7/9/2018   | Request for additional information sent raising the following issues: <ul style="list-style-type: none"> <li>• Clarification of details on plans / accurate plans;</li> <li>• Details of loading dock / car parking area;</li> <li>• Building matters</li> <li>• Clarification as to whether an extension of hours forms part of the proposal;</li> <li>• Social Impact Assessment / Plan of Management;</li> <li>• Heritage.</li> </ul> |
| 21/9/2018  | Meeting with applicant to discuss Council's letter.  |
| 24/9/2018  | Additional information submitted, clarifying plans and proposal.   |
| 10/10/2018 | Application renotified to include extension to trading hours.  |
| 26/11/2018 | Amended Clause 4.6 provided reflecting accurate GFA increase.  |

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979.

### 5(a) Environmental Planning Instruments

The application has been assessed against the relevant Environmental Planning Instruments listed below:

- State Environmental Planning Policy No. 55—Remediation of Land
- State Environmental Planning Policy No. 64 – Advertising and Signage
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
- Leichhardt Local Environmental Plan 2013

The following provides further discussion of the relevant issues:

- **State Environmental Planning Policy No. 55—Remediation of Land**

The site has not been used in the past for activities which could have potentially contaminated the site, having been used as a hotel since the 1890's. It is considered that the site will not require remediation in accordance with SEPP 55.

- **State Environmental Planning Policy No. 64 - Advertising and Signage–**

SEPP 64 specifies aims and objectives and assessment criteria for signage as addressed below. Schedule 1 of SEPP 64 specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety.

#### *Signs and Advertising Structures*

The application seeks consent for the erection of the following signage:

- Three under awning signs measuring 2.1 m by 1 m are proposed on the Johnston Street elevation and one under awning sign is proposed on the Parramatta Road elevation.

It is considered that the proposed signage would reduce the safety of Johnston Street by restricting sight lines to the traffic lights on the corner and traffic signage on the Parramatta Road frontage. Accordingly, the proposal does not satisfy the assessment criteria contained in Schedule 1 of SEPP 64 and it is recommended that signage be deleted via condition.

- **Leichhardt Local Environment Plan 2013 (LLEP 2013)**

The application was assessed against the following relevant clauses of the Leichhardt Local Environmental Plan 2013:

- Clause 1.2 – Aims of the Plan
- Clause 2.3 – Zone objectives and Land Use Table
- Clause 2.7 – Demolition Requires Development Consent
- Clause 4.4A – Exception to maximum floor space ratio for active street frontages
- Clause 4.5 – Calculation of floor space ratio and site area
- Clause 4.6 – Exceptions to development standards
- Clause 5.10 – Heritage Conservation
- Clause 6.1 – Acid Sulphate Soils
- Clause 6.2 – Earthworks
- Clause 6.3 – Flood Planning
- Clause 6.4 – Stormwater management
- Clause 6.8 – Development in areas subject to aircraft noise

The following table provides an assessment of the application against the development standards:

| Standard (maximum)  | Proposal           | non compliance     | Compliance |
|---|--------------------|--------------------|------------|
| <b>Floor Space Ratio</b><br>Maximum permissible:<br>1:5 or 1222.5 sqm | 2.28:1 or 1862 sqm | 51.6% or 633.8 sqm | No         |

The following provides further discussion of the relevant issues:

Clause 4.6 Exceptions to Development Standards

Clause 4.6(2) specifies that Development consent may be granted for development even though the development would contravene a development standard.

1. *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
2. *Development consent may be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument.*

Comment: As discussed below in subclauses (3) and (4), it is considered that the contravention to the development standard is acceptable in this instance.

3. *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

Comment: The proposal adds gross floor area primarily through the conversion of existing storage areas at basement level to commercial use as indicated in the diagram below.

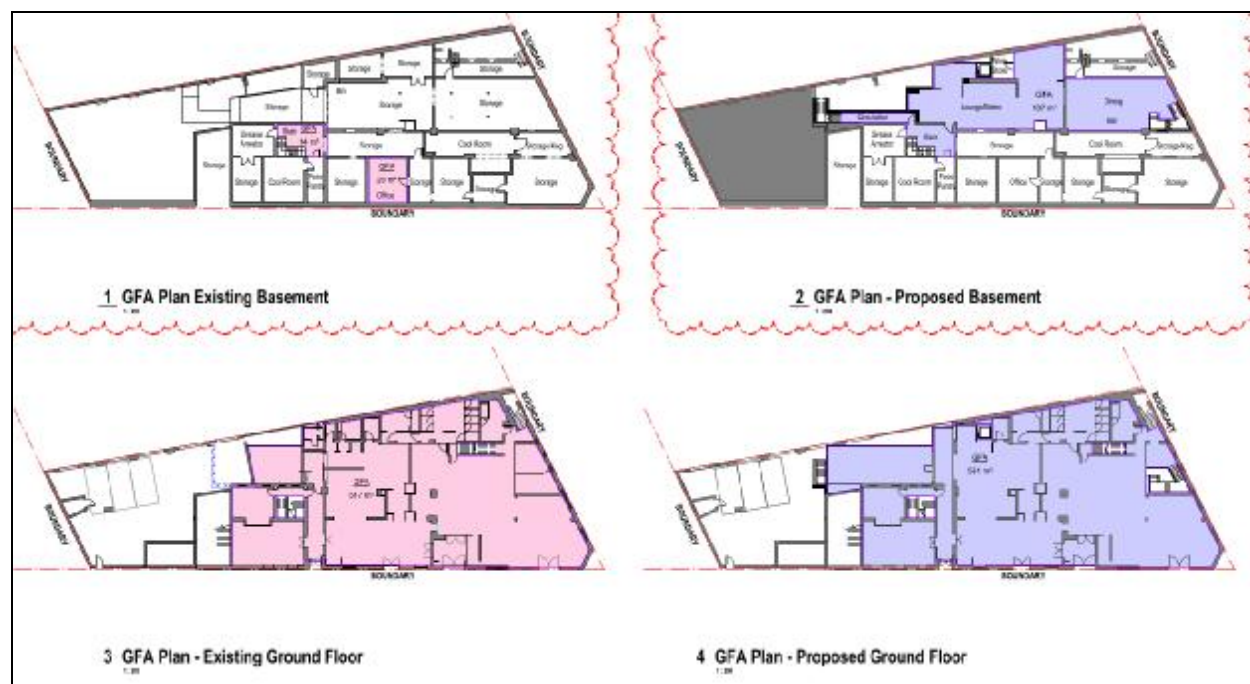


Figure 2: Gross floor area – existing vs proposed.

The 'key' reasons submitted by the applicant as justification to the contravention of the standard are:

- The proposal does not alter the building envelope and is "internal" i.e. in the basement;
  - The objectives, zone objectives, objectives of development standard and objectives of Clause 4.6 of Leichhardt Local Environmental Plan 2013 of are met.
  - *The proposed works will cause negligible impacts on the natural and built environment;*
  - *The proposal will help activate and revitalise the site and area.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
    - (a) *the consent authority is satisfied that:*
      - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
      - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
    - (b) *the concurrence of the Secretary has been obtained.*

Comment: The applicant has addressed the matters required under Clause 4.6 Exceptions to development standards, and it is considered to be well founded in this instance. The

proposal will not result in a detrimental impact on the public interest and can satisfy the objectives of the development standard and Local Centre zoning as demonstrated below:

- The building bulk, form and scale of the existing building is not altered, thus the proposal is compatible with the desired future character of the area; and
- The additional gross floor area does not result in any adverse amenity impacts to the surrounding properties.

The Secretary has provided concurrence.

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*

The granting of concurrence to the proposed variation of the development standard will not raise any issues of state or regional planning significance.

(b) *the public benefit of maintaining the development standard, and*

The proposed variation to the development standard will not compromise the long term strategic outcomes of the planning controls to the extent that a negative public benefit will result. In this regard, there is no material public benefit to the enforcing of the development standards.

(c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

No other matters are required to be considered before granting concurrence.

5(b) Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments.

5(c) Development Control Plans

The application has been assessed and the following provides a summary of the relevant provisions of Leichhardt Development Control Plan 2013.

| Part   | Compliance     |
|--|----------------|
| <b>Part A: Introductions</b>                                     |                |
| Section 3 – Notification of Applications                         | Yes            |
|  |                |
| <b>Part B: Connections</b>                                       |                |
| B1.1 Connections – Objectives                                    | Yes            |
| B2.1 Planning for Active Living                                  | Not applicable |
| B3.1 Social Impact Assessment                                    | No             |
| B3.2 Events and Activities in the Public Domain (Special Events) | Not applicable |
|  |                |
| <b>Part C</b>  |                |
| C1.0 General Provisions  | Yes            |
| C1.1 Site and Context Analysis                                   | Yes            |
| C1.2 Demolition  | Yes            |
| C1.3 Alterations and additions                                   | Yes            |
| C1.4 Heritage Conservation Areas and Heritage Items              | Yes            |
| C1.5 Corner Sites  | Yes            |
| C1.6 Subdivision   | Not applicable |
| C1.7 Site Facilities   | Yes            |



|   |  |
|---|--|
| C1.8 Contamination  | Not applicable                         |
| C1.9 Safety by Design   | Yes                                    |
| C1.10 Equity of Access and Mobility   | Yes                                    |
| C1.11 Parking   | No                                     |
| C1.12 Landscaping   | Not applicable                         |
| C1.13 Open Space Design Within the Public Domain                                | Not applicable                         |
| C1.14 Tree Management   | Not applicable                         |
| C1.15 Signs and Outdoor Advertising   | No                                     |
| C1.16 Structures in or over the Public Domain: Balconies, Verandahs and Awnings | Yes                                    |
| C1.17 Minor Architectural Details   | Not applicable                         |
| C1.18 Laneways  | Not applicable                         |
| C1.19 Rock Faces, Rocky Outcrops, Cliff Faces, Steep Slopes and Rock Walls      | Not applicable                         |
| C1.20 Foreshore Land  | Not applicable                         |
| C1.21 Green Roofs and Green Living Walls  | Not applicable                         |
| <b>Part C: Place – Section 2 Urban Character</b>                                |  |
| Suburb Profile  |  |
| C2.2.1.7 Parramatta Road commercial distinctive neighbourhood, Annandale        | Yes                                    |
| <b>Part C: Place – Section 3 – Residential Provisions</b>                       |  |
| <b>Part C: Place – Section 4 – Non-Residential Provisions</b>                   |  |
| C4.1 Objectives for Non-Residential Zones                                       | Yes                                    |
| C4.2 Site Layout and Building Design  | Yes, bulk of development not increased |
| C4.3 Ecologically Sustainable Development                                       | No                                     |
| C4.4 Elevation and Materials  | Yes                                    |
| C4.5 Interface Amenity  | No                                     |
| C4.6 Shopfronts   | Not applicable                         |
| C4.7 Bulky Goods Premises   | Not applicable                         |
| C4.8 Child Care Centres   | Not applicable                         |
| C4.9 Home Based Business  | Not applicable                         |
| C4.10 Industrial Development  | Not applicable                         |
| C4.11 Licensed Premises and Small Bars  | No                                     |
| C4.12 B7 Business Park Zone   | Not applicable                         |
| C4.13 Markets   | Not applicable                         |
| C4.14 Medical Centres   | Not applicable                         |
| C4.15 Mixed Use   | Yes, mixed use existing                |
| C4.16 Recreational Facility   | Not applicable                         |
| C4.17 Sex Services Premises   | Not applicable                         |
| C4.18 Vehicle Sales or Hire Premises And Service Stations                       | Not applicable                         |
| C4.19 Vehicle Repair Station  | Not applicable                         |
| C4.20 Outdoor Dining Areas  | Not applicable                         |
| C4.21 Creative Industries   | Not applicable                         |
| <b>Part D: Energy</b>   |  |
| Section 1 – Energy Management   |  |
| Section 2 – Resource Recovery and Waste Management                              |  |
| D2.1 General Requirements   | Yes                                    |
| D2.2 Demolition and Construction of All Development                             | Yes                                    |

|   |  |
|---|--|
| D2.3 Residential Development  | Not applicable   |
| D2.4 Non-Residential Development  | Yes  |
| D2.5 Mixed Use Development  | Not applicable, no works to residential portion proposed |
| <b>Part E: Water</b>  |  |
| Section 1 – Sustainable Water and Risk Management                         |  |
| E1.1 Approvals Process and Reports Required With Development Applications | Yes  |
| E1.1.1 Water Management Statement   | No   |
| E1.1.2 Integrated Water Cycle Plan  | Not applicable   |
| E1.1.3 Stormwater Drainage Concept Plan                                   | No   |
| E1.1.4 Flood Risk Management Report                                       | Yes  |
| E1.1.5 Foreshore Risk Management Report                                   | Not applicable   |
| E1.2 Water Management   |  |
| E1.2.1 Water Conservation   | No   |
| E1.2.2 Managing Stormwater within the Site                                | Yes  |
| E1.2.3 On-Site Detention of Stormwater                                    | Not applicable   |
| E1.2.4 Stormwater Treatment   | Not applicable   |
| E1.2.5 Water Disposal   | Yes  |
| E1.2.6 Building in the vicinity of a Public Drainage System               | Not applicable   |
| E1.2.7 Wastewater Management  | Yes  |
| E1.3 Hazard Management  |  |
| E1.3.1 Flood Risk Management  | Yes  |
| E1.3.2 Foreshore Risk Management  | Not applicable   |
| <b>Part F: Food</b>   |  |
| <b>Not applicable</b>   |  |
| <b>Part G: Site Specific Controls</b>                                     |  |
| <b>Not applicable</b>   |  |

The following provides discussion of the relevant issues:

### B3.1 Social Impact Assessment

This part requires the submission of a Social impact statement for any licensed premise; it is argued by the applicant that the submitted Statement of Environmental Effects, Plan of Management and Acoustic report provide sufficient information to assess the proposal.

Council's Manager of Social and Cultural Planning has advised that *Council has a policy priority to enliven and develop the night time economy, particularly where this involves live performance, and clearly this hotel is delivering at least some of these results. While the combination of extended trading, extending opportunity for gambling and extended performance times warrant some engagement with neighbours, I note your advice that only one objection was received when the DA was exhibited and this relates to noise from the loading area. [Only one objection was received to the first notification which did not refer to the proposed extension of operating hours; two objections to the proposed hours of operation were received to the second notification.]*

*I note that the DCP requires a Social Impact Assessment will be required, identifying social impacts (positive and negative) and strategies and mitigation measures for this location.*

*It would be positive step if the plan of management for late night opening could be strengthened. This includes external signage providing a 24 hour manager contact for noise complaints.*

A condition of development consent will require the Plan of Management to be updated as suggested.

#### C1.4 Heritage Conservation Areas and Heritage Items

The Empire Hotel on the corner of Parramatta Road and Johnston Street has the external appearance of an Art Deco building, complete with cast decorative panels. The hotel building however dates from the 1890s and was substantially remodelled in 1936.

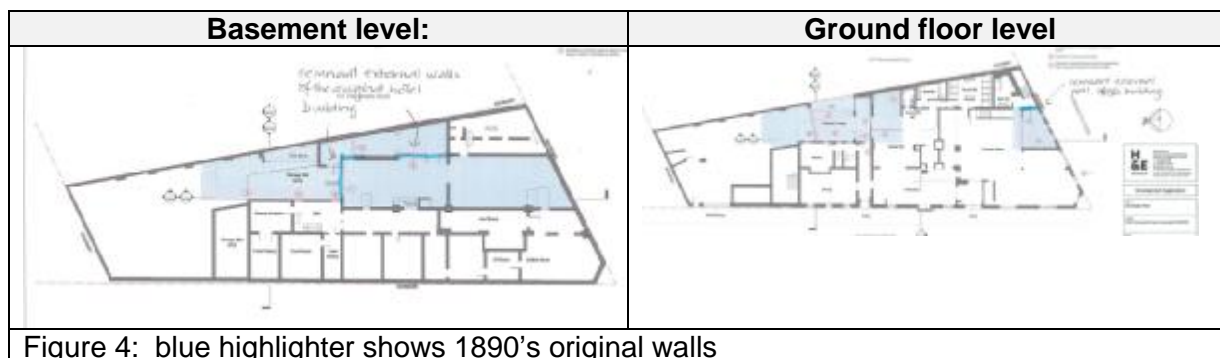
Drawings of alterations to the bar areas in 1912 and 1914 are held at State Records. In the 1930s the character of the façade of the hotel was completely altered and the balconies removed. The 1936 remodelling was undertaken by the architectural firm of Rudder and Grout. Photographs in the Tooth & Company records (held in the Noel Butlin Archive) show the hotel before and after.



Figure 3: Tooth & Company Yellow Cards, Empire Hotel, Parramatta Road and Johnston Street, Annandale .  
<http://archives-dev.anu.edu.au/index.php/empire-hotel-parramatta-road-and-johnston-street-annandale-2>

Internally the layout of the hotel has been altered substantially and there is almost no trace of the original hotel layout, which included a billiard room, dining room, three parlours, a kitchen, a store and two staircases to the accommodation on the upper levels. To the rear of the kitchen wing there was a verandah, which returned along the northern wall of the dining room.

None of the proposed changes to the ground floor in the Gaming Lounge area impact on what survives of the 1890s building. The proposed demolition the original external wall of the hotel is not supported on heritage grounds.



While best heritage practice would retain the 1890's walls, these walls have long been internalised within the building, are not visible from any public place and would be able to be modified as complying development. For these reasons, the proposed partial demolition is considered acceptable in this instance.

### C1.11 Parking

While the Statement of Environmental Effects submitted with the application advises that currently there are four parking and loading spaces within the internal garage to the rear of the premises, the additional information advises that there is no loading dock as the ramp from the parking area is too steep to use for loading and shows three existing car parking spaces. Search of earlier Council's files regarding previous applications for the site reveals that the plans and documentation generally refer to three car parking spaces being provided on the site; this is consistent with the amended plans submitted with the current application.

While the additional floor space generates a need for additional parking, the site is constrained and does not currently provide any visitor parking. Given the constraints of the site, existing use and nature of the proposed development it is considered acceptable for the proposed additional floor area to be supported without on-site visitor parking being provided in this case.

Three parking spaces are currently on site, providing sufficient staff parking for up to 15 staff. The Plan of Management indicates that a maximum of 13 staff are proposed to work at any time. It is noted that the current car parking spaces are proposed to be altered under this proposal. A reduction in off-street parking is not supported and therefore it must be demonstrated that three parking spaces are maintained as part of the development. Swept paths are therefore required to be submitted demonstrating that vehicle manoeuvrability for entry and exit to the three parking spaces is not impacted or reduced by the proposed development.

### C1.15 – Signs and Outdoor Advertising

Three under awning signs are proposed on the Johnston Street frontage and one on the Parramatta Road frontage. The proposed signs do not comply with the control which provides that the signs are not to obscure pedestrian, cycling or vehicle sight lines, especially near intersections, traffic controls devices or driveways. The sign on the Parramatta Road frontage is likely to restrict sight lines to the "Bus Lane Camera Ahead signage" and while those on the Johnston Street frontage would restrict access to the traffic lights located on the corner. Accordingly, it is recommended that consent does not extend to the proposed signage.

C1.0 General Provisions / C4.1 Objectives for Non-Residential Zones / C4.5 Interface Amenity

The above ground built form as seen from adjacent land is a residential zone or any public place is not altered under the proposal.

The conversion of the basement level from storage to active uses will not unduly impact on noise levels given its subterranean location. The increase in size of the gaming lounge combined with its proximity to the adjoining property has the potential to create additional noise for that property. While it is noted that the adjoining property is commercially zoned, the rear yard is used as a private open space for the dwelling on the site which is traditional shop top housing with residential at rear ground floor level. In order to ensure compliance, a condition of consent will require the gaming lounge to be screened from the adjoining property through the provision of *acoustic barriers such as solid walls or acoustic fencing*.

C4.11 Licensed Premises and Small Bars

The proposal has a capacity of more than 120 persons and is thus not a low impact premise as defined in this part. The proposal is capable of complying with the objectives of this control (with the exception of trading until 3 am on Thursday morning (Wednesday night); midnight closing on Wednesday night is recommended). The objectives state:

*01 To ensure that development, including the cumulative impact of development:*

- a. is compatible with the distinct village character of Leichhardt's centres;*
- b. is of a scale, form and design that is compatible with the character of the neighbourhood;*
- c. ensures a high level of safety and security;*
- d. does not have significant adverse amenity impacts on the neighbourhood, considering:
  - i. location and context of the premises, including proximity to sensitive and residential land uses;*
  - ii. primary and secondary uses of the premises and the proposed hours of operation;*
  - iii. surrounding business uses and the predominant business hours of the area;*
  - iv. size and capacity of the premises;*
  - v. operation of the premises during day time hours;*
  - vi. strength of the plan of management and its ability to manage potential impacts on surrounding areas;*
  - vii. safety, security and crime prevention measures; and*
  - viii. public transport arrangements.**
- e. ensures large venues are not concentrated; and*
- f. provides for the development of innovative small bars in appropriate locations that enhance Leichhardt's vibrancy and night-time economy and promote Leichhardt's centres as unique, innovative, culturally diverse and low impact entertainment destinations of choice.*

The submitted Plan of Management should be amended to comply with Council's requirements for Plans of Management for Non-low Impact Premises. To ensure compliance with the specific controls conditions will be imposed as follows:

1. Require the doors that do not contain air locks to be closed after 10 pm, other than to allow exit.
2. An external sign shall be erected on the Johnston Street frontage with a 24 hour contact number for management for the use of members of the public concerned about operation of the premises.
3. Update existing trading hours to be consistent with approved hours / website.
4. Ensure a copy of any noise complaints registered in log book are forwarded to Council.

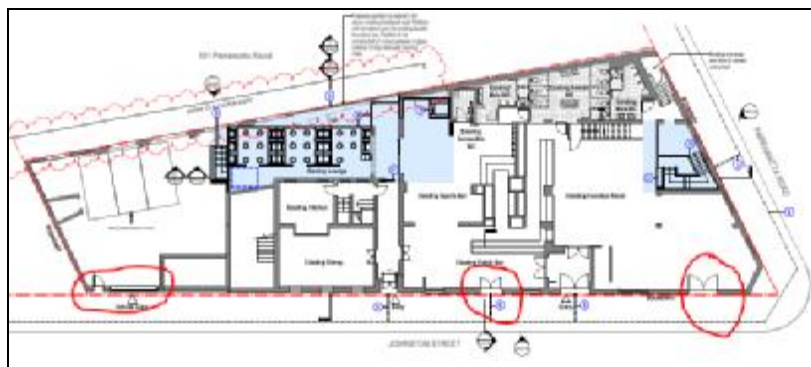


Figure 5: Doors to be egress only after 10pm circled in red.

The site is located outside of the 'late night trading areas' as identified in Appendix F - Late night trading maps of Development Control Plan 2013, thus operating hours later than 10 pm are considered on their merits. The relevant controls state:

*C8 Council may consider extended trading hours beyond the times specified in C5 and C6 above on Thursday, Friday and Saturday nights where it is demonstrated the proposed hours will not have an adverse impact on the amenity of the surrounding area.*

Comment: Opening until 3 am on Wednesday night is contrary to this policy and community norms and is not supported. No evidence has been provided that establishes that later closing on Thursday, Friday and Saturday nights will have a significant adverse impact on the amenity of the surrounding area, thus a trial period is considered warranted. Despite the applicant's submission that a trial period has already occurred, any previous trial would have occurred over a decade ago under different owners, and thus, it is considered necessary that another trial period occur in association with the current application and controls.

*C9 Licensed premises seeking extended trading hours will be subject to a trial period of 12 months, after which a further application is required to be submitted to Council to assess whether extended trading hours can be approved for a five year period, for a further trial or are not supported.*

Comment: Noted, a 12 month trial period is a condition of development consent.

*C10 If Council determines a trial period to be satisfactory, the licensed premises must lodge a DA every 5 years to renew the extended trading hours.*

Comment: Noted, the development consent includes conditions to this effect.

*C11 If Council determines a trial period to be unsatisfactory, trading hours for the licensed premises will revert back to the trading hours specified in C5 and C6 of this part (depending on the sites location), or the trading hours approved for the premises prior to the commencement of this Development Control Plan.*

Comment: Noted, the development consent includes conditions to this effect. The previously approved hours of operation are 10 am to 10 pm Sunday to Tuesday and 10 am to midnight Wednesday to Saturday.

*C12 A renewal or extension of extended trading hours will only be permitted if Council is satisfied that the Licensed premises has complied with a Plan of Management and has demonstrated satisfactory management and safety practices following the completion of a trial period.*

Comment: Noted, the development consent includes conditions to this effect.

*Note: Liquor licensing requirements may specify more stringent or lenient trading hours. Restrictions on liquor licenses do not override trading hours outlined on Development Consents issued by Council.*

It is noted that the site already has development consent to open until midnight seven days. Subject to the submission of an amended Plan of Management, the proposal is considered to warrant approval on a trial basis of 12 months for extended hours Thursday to Saturday (i.e. to 3 am the following morning), with a five year maximum in accordance with this part as no objection has been received from the Police and there is limited community opposition with only two letters of objection received regarding this aspect of the proposal.

#### C4.3 Ecologically Sustainable Development / Part D Section 1 – Energy Management / E1.2.1 Water Conservation

The additional floor area is below the ground and thus will rely on mechanical ventilation. While this is contrary to the specific controls contained within this part, the reuse of an existing basement level to develop the site is considered acceptable as it would require fewer resources than an equivalent above ground addition and has significantly fewer impacts on heritage / streetscape / neighbour amenity. Conditions of consent will ensure the use of wall and roof insulation where appropriate, low energy artificial lighting devices and low flow taps to maximise the sustainability measures included in the proposal.

#### 5(d) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposal will have minimal impact in the locality.

#### 5(e) The suitability of the site for the development

The site is zoned B2 – Local Centre. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

#### 5(f) Any submissions

The application was notified in accordance with Leichhardt Development Control Plan for two periods of 14 days to surrounding properties. Submissions were received from three properties.

The following issues raised in submissions have been discussed in this report:

- The increase in hours is contrary to the zoning objectives and will have adverse impacts. Inadequacy of Plan of Management – see Section 5(c) – C3.11
- Acoustic privacy cigarette smoke implications from gaming lounge / open area on boundary, particularly in light of 3am closing – see Section 5(c).

In addition to the above issues, the submissions raised the following concerns which are discussed under the respective headings below:

Issue: Adequacy of information.

Comment: The information submitted is considered adequate to enable Council to fully assess the proposal.

Issue: Acoustic report not appropriately assessed. *The Council's Environment Health Officer's Internal Referral states that "In reliance of the conclusions presented by the acoustic consultant and subject to the implementations of all recommendations within the report it is considered noise from the development will be within the relevant noise criteria".*

*Clearly this is a fundamental failure by the Council officer to make a proper assessment of noise impacts for the proposed development. The assessment officer has not made any assessment of this issue at all given his reliance on the information provided by the applicant nor has he considered the wider environmental effects not addressed by the applicant's report, that is the noise generated by patrons after leaving the Hotel.*

Comment: The submitted acoustic report has been assessed by a qualified internal officer in accordance with Council's standard practice. Conditions of consent have been imposed to ensure that the development complies with relevant legislation regarding noise levels.

Issue: Noise, dust, vibration during construction of footings

Comment: These matters are addressed by standard conditions of development consent.

Issue: Fume – pizza oven exhaust

Comment: The location of the exhaust is shown on the approved plans. It is noted that this is adjacent to the rear courtyard of the mixed use development next door at 103 Parramatta Road, Annandale. Odours, exhaust etc. produced will be required to comply with the relevant legislation.

Issue: *Trading beyond those currently indicated hours is clearly designed to seek to draw in patrons from beyond the local area, to capitalise on the State Government's lock out laws in the COB. This would simply shift those adverse impacts, which the lock out laws were trying to address, onto the residents of Annandale.*

Comment: The "lock out laws" involve no entrance of new patrons after 1:30 am and 3 am cessation of alcohol service to hotels, registered clubs, nightclubs and karaoke bars in the Sydney CBD Entertainment Precinct and Kings Cross Precinct. The Plan of Management states that serving of alcohol ceases within 15 minutes of close time, thus complying with the 3 am cessation of alcohol service. A condition of consent will be imposed to prevent entry to the premises after 1:30 am to prevent adverse impacts between 1:30 am and 3 am as a result of the lock out laws.

## 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal is not contrary to the public interest.

## 6 Referrals

### 6(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed in section 5 above.

- Development Engineer (Waste / Traffic Engineer) – No objection provided three on site car parking spaces retained. The requirement to rebuild the existing driveway has not been imposed as no changes to the elevations are approved thus there is no nexus between the proposed works and the condition.
- Heritage Officer – Concerns raised regarding changes to original external walls, discussed in reference to Part C1.4 of Leichhardt Development Control Plan previously in this report.
- Health – No objection subject to conditions.
- Community Development – No objection subject to conditions addressing waste management and the Plan of Management for late night opening.
- Building Surveyor – No objection subject to conditions.



- Property Services – No objection subject to conditions.

6(b) External

The application was referred to Police however no response was received.

7. Section 7.11 Contributions

Section 7.11 contributions are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution as detailed in the table below would be required for the development under the applicable Leichhardt Section 94 Contributions Plans.

| Column A                          | Column B          |
|-----------------------------------|-------------------|
| Open space and recreation         | \$1,459.64        |
| Community facilities and services | \$748.88          |
| Local area traffic management     | \$156.75          |
| Light rail access works           | \$6.92            |
| <b>Total Contribution</b>         | <b>\$2,372.19</b> |

A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Leichhardt Local Environmental Plan 2013 and Leichhardt Development Control Plan 2013. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is considered suitable for approval subject to the imposition of appropriate conditions, including a trial period of the extended operating hours.

9. Recommendation

- A. The applicant has made a written request pursuant to Clause 4.6(3) of the Leichhardt LEP 2013 in support of the contravention of the development standard for Clause 4.4A – Floor space ratio. After considering the request, and assuming the concurrence of the Secretary has been given, the Panel is satisfied that compliance with the standard is unnecessary in the circumstance of the case and that there are sufficient environmental grounds, the proposed development will be in the public interest because the exceedance is not inconsistent with the objectives of the standard and of the zone in which the development is to be carried out.
- B. That the Inner West Local Planning Panel exercising the functions of the Council, as the consent authority pursuant to s4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No. D/2018/251 for basement and ground floor alterations to existing Hotel building, including alterations to ground floor gaming area, works to basement to permit use as lounge/bistro, bar and pizza bar plus new below awning signage and consent for hours of operation from 10 am to 3 am Thursday to Saturday and 10 am to midnight Sunday to Tuesday over the licensed portion of the hotel (basement and ground floor levels) for a limited period at the Empire Hotel, 103A Parramatta Road, Annandale subject to the conditions listed in Attachment A below.

## Attachment A – Recommended conditions of consent

## DEFERRED COMMENCEMENT

1. The following deferred commencement conditions shall be complied with to the satisfaction of Council, prior to the issue of an operational Development Consent. Amended plans and supporting documentation are to be submitted incorporating the following:
  - a) Three (3) off street car parking spaces shall be provided within the basement and shall be shown on the plans. The plans shall include the dimensions of the parking spaces.
  - b) A plan of the access and basement, drawn at a 1:100 scale, demonstrating that vehicle manoeuvrability for entry and exit to the parking spaces complies with the AS/NZS 2890.1:2004 or where not possible due to existing constraints is consistent with the existing vehicle manoeuvrability within the basement. The swept path plans shall show vehicle manoeuvrability when vehicles are parked within the adjacent parking spaces.

The operational Development Consent will be issued by Council (in writing) after the applicant provides sufficient information to satisfy Council in relation to the conditions of the deferred commencement consent.

If the applicant fails to satisfy Council as to the above matters within 5 years from the date of determination this consent will lapse.

## CONDITIONS OF CONSENT

2. Development must be carried out in accordance with Development Application No. D/2018/251 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

| Plan Reference                       | Drawn By       | Dated   |
|--------------------------------------|----------------|---------|
| Demolition plans – Basement A1000-08 | H&E Architects | 4/10/18 |
| Demolition plans – Ground DA1001-08  | H&E Architects | 4/10/18 |
| Proposed plans – Basement DA1100-06  | H&E Architects | 4/10/18 |
| Proposed plans – Ground DA1101-06    | H&E Architects | 4/10/18 |
| Elevation – Gaming Area DA2101-04    | H&E Architects | 4/10/18 |
| Demolition - Section –DA3000-05      | H&E Architects | 4/10/18 |
| Demolition - Section –DA3001-05      | H&E Architects | 4/10/18 |
| Proposed - Section –DA3100-05        | H&E Architects | 4/10/18 |
| Proposed - Section –DA3101-05        | H&E Architects | 4/10/18 |

| Document Title                              | Prepared By                                | Dated        |
|---|--|--------------|
| Statement of Environmental Effects          | Perica & Associates Urban Planning Pty Ltd | 2 March 2018 |
| Site Waste Minimisation and Management Plan | Christopher Grinham                        | 27.02.2018   |
| Plan of Management                          | Unknown                                    | March 2018   |
| Acoustic Assessment AC01-Issue 3            | ARUP                                       | 1 March 2018 |
| Flood Risk Management Report                | Advisian                                   | 14/5/2018    |

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

Where there is an inconsistency between approved elevations and floor plan, the elevation shall prevail.

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

The existing elements (walls, floors etc) shown to be retained on the approved plans shall not be removed, altered or rebuilt without prior consent of the consent authority.

Note: Carrying out of works contrary to the above plans and/ or conditions may invalidate this consent; result in orders, on the spot fines or legal proceedings.

### **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

3. In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* construction works approved by this consent must not commence until:
  - a) A Construction Certificate has been issued by Council or an Accredited Certifier. Either Council or an Accredited Certifier can act as the "Principal Certifying Authority."
  - b) A Principal Certifying Authority has been appointed and Council has been notified in writing of the appointment.
  - c) At least two days notice, in writing has been given to Council of the intention to commence work.

The documentation required under this condition must show that the proposal complies with all Development Consent conditions and is not inconsistent with the approved plans, the Building Code of Australia and the relevant Australian Standards.

4. Amended plans are to be submitted incorporating the following amendments:
  - a) Deleting proposed under-awning signage.

Details demonstrating compliance with the requirements of this condition are to be marked on the plans and be submitted to the Principal Certifying Authority's satisfaction prior to the issue of any Construction Certificate.

5. The person acting on this consent shall submit to the Principal Certifying Authority a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site before the issue of a Construction Certificate.
6. A contribution pursuant to the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* for the services detailed in column A and for the amount detailed in column B must be made to Council prior to the issue of a Construction Certificate:

| Column A                          | Column B          |
|-----------------------------------|-------------------|
| Open space and recreation         | \$1,459.64        |
| Community facilities and services | \$748.88          |
| Local area traffic management     | \$156.75          |
| Light rail access works           | \$6.92            |
| <b>Total Contribution</b>         | <b>\$2,372.19</b> |

Payment will only be accepted in the form of cash, bank cheque or EFTPOS / Credit Card (to a maximum of \$10,000). It should be noted that personal cheques or bank guarantees cannot be accepted for Section 7.11 Contributions. Contribution Plans may be inspected on Council's website [www.leichhardt.nsw.gov.au](http://www.leichhardt.nsw.gov.au) or a copy purchased at the Customer Service counter in Council's Administration Centre, 7-15 Wetherill Street, Leichhardt, during business hours.

A receipt demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

7. The following requirements are to be detailed on the Construction Certificate plans and provided prior to the issue of a Construction Certificate:

- a) Timber used for building materials shall be sourced from Forest Stewardship Council (FSC) certified plantation or regrowth areas; grown in Australia, or recycled and not sourced from rainforest or old growth forests.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

8. In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more. The Long Service Levy is payable prior to the issue of a Construction Certificate.

Details demonstrating compliance are to be shown on the plans submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate

9. The approved Plan of Management is to be amended as follows:

- a) An external sign must be erected on the Johnston Street frontage of the hotel providing a 24 hour contact number for management for the use of members of the public concerned about operation of the premises.
- b) All exterior doors that do not contain air locks must be closed after 10 pm, other than to allow exit.
- c) The trading hours must reflect the approved operating hours in Condition x of this consent.
- d) To require a copy of any noise complaint registered in the log book to be forwarded to Inner West Council.

The approved Plan of Management is to be provided to Council prior to the issue of a Construction Certificate.

10. The construction and fit out of the premises shall comply with the Smoke-free Environment Act 2000 and Smoke-free Environment Regulation 2000.
11. Waste water arising from the use must be directed to the sewers of the Sydney Water under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of Sydney Water prior to discharge to the sewer. Details of the requirements of the Trade Waste Agreement must be obtained prior to the issue of a Construction Certificate. Plans detailing how compliance will be achieved must be prepared and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
12. To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided.

The ventilation systems are to be designed, constructed and operated in accordance with the:

- The Building Code of Australia,
- Australian Standard AS 1668 Part 1 – 1998,
- Australian Standard AS 1668 Part 2 – 2012,
- Australian Standard 3666.1 – 2011,
- Australian Standard 3666.2 – 2011; and
- Australian Standard 3666.3 - 2011.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate. The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council (the consent authority).

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

13. A Flood Risk Management Plan, prepared by a qualified practicing Civil Engineer shall be provided prepared / prior to the issue of a Construction Certificate. The Plan shall be prepared / amended to make provision for the following:
  - a) The plan shall be generally in accordance with the recommendations of the Flood Risk Management Report prepared by Advisian and dated 14 May 2018.
  - b) Recommendations on all precautions to minimise risk to personal safety of occupants and the risk of property damage for the total development. Such recommendations shall be consistent with the approved development. The flood impacts on the site shall be assessed for the 100 year ARI and Probable Maximum Flood (PMF) storm events. The precautions shall include but not be limited to the following:
    - i) Types of materials to be used to ensure the structural integrity of the building to immersion and impact of velocity and debris.
    - ii) Waterproofing methods, including electrical equipment, wiring, fuel lines or any other service pipes or connections.
    - iii) Flood warning signs/depth indicators for areas that may be inundated
    - iv) A flood evacuation strategy.

- v) On site response plan to minimise flood damage, demonstrating that adequate storage areas are available for hazardous materials and valuable goods above the flood level.

All works shall be designed to comply with the Standard for Construction of Buildings in Flood Hazard Areas in accordance with Section 3.10.3 of the Building Code of Australia. Note that some terms defined in this standard have equivalent meaning to terms used in Council’s Development Control Plan as listed below.

| <b>Building Code of Australia</b> | <b>Development Control Plan 2013</b>                    |
|-----------------------------------|---|
| <i>Defined flood level (DFL)</i>  | <i>100 year Average Recurrence Interval flood level</i> |
| <i>Defined flood event (DFE)</i>  | <i>100 year Average Recurrence Interval flood</i>       |
| <i>Flood hazard level (FHL)</i>   | <i>Flood Planning Level (FPL)</i>                       |

- c) Specify the architectural and structural plans upon which the above recommendations have been incorporated.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

- 14. The approved Architectural plans shall be amended to incorporate the recommendations of the Flood Risk Management Report prepared by Advisian and dated 14 May 2018. The plans addressing the requirements of this condition shall be provided prior to the issue of a Construction Certificate. The design shall be prepared to make provision for the following:

- a) Specification of materials
- b) Waterproofing works, where applicable.

No changes to the external form or appearance of the development contrary to the approved plans shall occur except as identified by this condition. Any changes to such shall be subject to separate approval in accordance with Section 96 of the Environmental Planning and Assessment Act.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

- 15. Engineering design plans prepared by a qualified practicing Structural Engineer shall be prepared and incorporate the following recommendations of the Flood Risk Management Report prepared by Advisian and dated 14 May 2018

The design shall be prepared to make provision for the following:

- a) Structural integrity of all structures from immersion and/or impact of velocity and debris.
- b) Waterproofing works, where applicable.

Details demonstrating compliance are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

16. The LA10\* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10\* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

\*For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises or restaurant.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate. Such measures must be in accordance with the approved acoustic report and plans.

17. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
- i) 10:00pm to 7:00am on Monday to Saturday: and
  - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15min}$  noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an  $L_{Aeq, 15min}$  and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

18. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction.
19. To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided.

The ventilation systems are to be designed, constructed and operated in accordance with the:

- The Building Code of Australia,
- Australian Standard AS 1668 Part 1 – 1998,
- Australian Standard AS 1668 Part 2 – 2012,
- Australian Standard 3666.1 – 2011,
- Australian Standard 3666.2 – 2011; and
- Australian Standard 3666.3 - 2011.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate. The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council (the consent authority).

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

20. There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

Emission control equipment shall be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for the subject works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

21. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

#### **PRIOR TO WORKS COMMENCING OR ISSUE OF A CONSTRUCTION CERTIFICATE (WHICHEVER OCCURS FIRST)**

22. Prior to the commencement of demolition works or a Construction Certificate being issued for works approved by this development consent (whichever occurs first), a security deposit and inspection fee shall be paid to Council to cover the cost of making good any damage caused to any Council property or the physical environment as a consequence of carrying out the works and as surety for the proper completion of any road, footpath and drainage works required by this consent.



|                         |          |
|-------------------------|----------|
| Security Deposit (FOOT) | \$70,000 |
| Inspection fee (FOOTI)  | \$230.65 |

Payment will be accepted in the form of cash, bank cheque, EFTPOS/credit card (to a maximum of \$10,000) or bank guarantee. Bank Guarantees shall not have an expiry date.

The inspection fee is required for Council to determine the condition of the adjacent road reserve and footpath prior to and on completion of the works being carried out.

Should any of Council's property and/or the physical environment sustain damage during the course of the demolition or construction works, or if the works put Council's assets or the environment at risk, or if any road, footpath or drainage works required by this consent are not completed satisfactorily, Council may carry out any works necessary to repair the damage, remove the risk or complete the works. Council may utilise part or all of the security deposit to restore any damages, and Council may recover, in any court of competent jurisdiction, any costs to Council for such restorations.

A request for release of the security may be made to the Council after all construction work has been completed and a final Occupation Certificate issued.

The amount nominated is only current for the financial year in which the consent was issued and is revised each financial year. The amount payable shall be consistent with Council's Fees and Charges in force at the date of payment.

Requirements of this condition are to be met prior to works commencing or prior to release of a Construction Certificate (whichever occurs first). Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

The design of the vehicular access and off street parking facilities shall comply with the plans approved in **Condition No. 1**. Details demonstrating compliance are to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

23. A public domain works design, prepared by a qualified practising Civil Engineer shall be provided prior to the issue of a Construction Certificate. The design shall be prepared/amended to make provision for the following:
- a) Reconstruction of the footpath at the Parramatta Road frontage and Johnston Street frontage of the site in accordance with the Parramatta Road Master Plan;
  - b) The construction of heavy duty vehicular crossings to all vehicular access locations and removal of all redundant vehicular crossings to the site;
  - c) The concrete step/structure within the footpath on the property boundary at the intersection of Parramatta Road and Johnston Street shall be removed, subject to any heritage requirements.
  - d) Repair of any damaged kerb and gutter along the frontage of the site. The kerb type (concrete or stone) shall be consistent with the majority of kerb type at this location. Council may be able to assist with the supply of stone if required. Please contact Council's Infrastructure Services Division on 9335 2000; and

- e) Levels shall be consistent with the existing back of footpath levels at the boundary.
- f) Note: The cost of adjustment or relocation of any public utility service shall be borne by the owner/applicant. Where the finished levels of the new works will result in changes to the existing surface levels, the cost of all necessary adjustments or transitions beyond the above scope of works shall be borne by the owner/applicant.

#### **PRIOR TO THE COMMENCEMENT OF WORKS**

##### **24. Dial Before You Dig**

Underground assets may exist in the area that is subject to the approved development. In the interests of health and safety and in order to protect damage to third party assets contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 prior to works commencing. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction. Care must be taken to ensure any identified assets are protected accordingly.

If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.

- 25. At least forty-eight (48) hours prior to the commencement of works, a notice of commencement form (available on Council's web page) and details of the appointed Principal Certifying Authority shall be submitted to Council.
- 26. The location and facilities for the collection, storage and disposal of waste generated within the premises shall be submitted to and approved by Council prior to the commencement of works.
- 27. Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands shall take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy shall be submitted to Council prior to commencement of the works. The Policy shall be valid for the entire period that the works are being undertaken on public property.

#### **DURING WORKS**

- 28. In addition to meeting the specific performance criteria established under this consent, the Applicant shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the demolition, construction or operation/use of the development.
- 29. Unless otherwise approved by Council, excavation, demolition, construction or subdivision work shall only be permitted during the following hours:
  - a) 7:00 am to 6.00 pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
  - b) 8:00 am to 1:00 pm on Saturdays with no demolition works occurring during this time; and

- c) at no time on Sundays or public holidays.

Works may be undertaken outside these hours where they do not create any nuisance to neighbouring properties in terms of dust, noise, vibration etc and do not entail the use of power tools, hammers etc. This may include but is not limited to painting.

In the case that a standing plant or special permit is obtained from Council for works in association with this development, the works which are the subject of the permit may be carried out outside these hours.

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons, to prevent risk to life or environmental harm.

Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving shall be limited to:

8:00 am to 12:00 pm, Monday to Saturday; and  
2:00 pm to 5:00 pm Monday to Friday.

The Proponent shall not undertake such activities for more than three continuous hours and shall provide a minimum of one 2 hour respite period between any two periods of such works.

“Continuous” means any period during which there is less than an uninterrupted 60 minute respite period between temporarily halting and recommencing any of that intrusively noisy work.

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.

30. The development site must be inspected at the following stages during construction:
- a) after the commencement of the excavation for, and before the placement of, the first footing.
  - b) prior to covering any stormwater drainage connections, and
  - c) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.
31. Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environment Protection Authority Environmental Noise Control Manual.
32. A copy of the approved plans and this consent must be kept on site for the duration of site works and in the case of any commercial or industrial premise for the duration of the use/trading. Copies shall be made available to Council Officer's upon request.
33. Construction material and vehicles shall not block or impede public use of footpaths or roadways.
34. Stormwater runoff from all roof and paved areas within the property shall be collected in a system of gutters, pits and pipelines discharged by gravity to the existing site drainage system.

Any existing component of the stormwater system that is to be retained shall be checked and certified by a Licensed Plumber or qualified practising Civil Engineer to be in good condition and operating satisfactorily.

If any component of the existing system is not in good condition and /or not operating satisfactorily, it shall be upgraded.

35. The LA10\* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10\* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz – 8k Hz inclusive) between 12:00 midnight and 7:00am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

\*For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises or restaurant.

Details of the acoustic measures to be employed to achieve compliance with this condition must be provided prior to the issue of a Construction Certificate. Such measures must be in accordance with the approved acoustic report and plans.

36. Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the Protection of the Environment (Operations) Act 1997.

The system/s shall be operated as follows:

- a) Domestic air conditioners must not be audible in nearby dwellings between:
- i) 10:00pm to 7:00am on Monday to Saturday: and
  - ii) 10:00pm to 8:00am on Sundays and Public Holidays.
- b) At any other time the systems and associated equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15min}$  noise level, measured in the absence of the noise source/s under consideration by 5dB(A).

The source noise level shall be assessed as an  $L_{Aeq, 15min}$  and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

Air conditioning units must be installed in accordance with plans referenced in condition 1 or to satisfy provisions of the State Environmental Planning Policy (Exempt & Complying Codes) 2008.

Details demonstrating compliance with the requirements of this condition and the acoustic measures to be employed to achieve compliance with this condition are to be submitted for approval to the Principal Certifying Authority prior to the issue of any Construction Certificate.

37. As the site where the property is identified as located within ANEF 20-25 or greater, the development approved under this consent must meet the relevant provisions of Australian Standard AS 2021:2000 Acoustics – Aircraft noise intrusion – Building siting and construction.
38. To ensure that adequate provision is made for ventilation of the building, mechanical and/or natural ventilation shall be provided.

The ventilation systems are to be designed, constructed and operated in accordance with the:

- The Building Code of Australia,
- Australian Standard AS 1668 Part 1 – 1998,
- Australian Standard AS 1668 Part 2 – 2012,
- Australian Standard 3666.1 – 2011,
- Australian Standard 3666.2 – 2011; and
- Australian Standard 3666.3 - 2011.

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the release of a Construction Certificate. The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the approved plans required to house the system must be the subject of further approval from Council (the consent authority).

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

39. There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and *Regulations*.

Emission control equipment shall be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the Construction Certificate for the subject works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Construction Certificate.

40. All plant and associated equipment must be located within the approved building envelope and is not be located on the roof. Details on the location of all plant and equipment must be consistent with the approved plans and provided prior to the issue of a Construction Certificate.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Certifying Authority prior to the issue of any Construction Certificate.

#### **PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

41. An Occupation Certificate must be obtained prior to any use or occupation of the development or part thereof. The Principal Certifying Authority must ensure that all works are completed in accordance with this consent including all conditions.
42. Provision must be maintained for access to and within the building on the site for persons with a disability in accordance with the provisions of Australian Standard AS 1428.1:2001 *Design for access and mobility – General requirements for access – new building work* prior to the issue of an Occupation Certificate.
43. Prior to the release of an Occupation Certificate, the Principal Certifying Authority must be satisfied that the development complies with:
  - the approved plans;
  - BASIX certificate (where relevant),
  - approved documentation (as referenced in this consent); and
  - conditions of this consent.
44. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must be satisfied that a Fire Safety Certificate for all essential fire or other safety measures has been completed.
45. Prior to the issue of an Occupation Certificate, Council and the New South Wales Food Authority must be notified that the premises is being used for the preparation, manufacture or storage of food for sale.
46. Prior to issue of the Occupation Certificate the person acting on this consent shall obtain from Council a compliance Certificate(s) stating that all Road, Footpath and Public Domain Works on Council property required to be undertaken as a result of this development have been completed satisfactorily and in accordance with Council approved plans and specifications.
47. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that the vehicle access and off street parking facilities have been constructed in accordance with the approved design and relevant Australian Standards.

Certification by a qualified practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance the development consent and with relevant Australian Standards shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
48. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all aspects of the flood risk management plan have been implemented in accordance with the approved design, conditions of this consent and relevant Australian Standards.

Certification by a qualified practicing Civil Engineer this condition has been complied with shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
49. The existing stone kerb adjacent to the site is of local heritage value and is to be preserved at no cost to Council. Any damage to the stone kerb will require the replacement of the damaged individual stone units before the issue of the Occupation Certificate. Non-compliance with this condition will result in loss of your security deposit.
50. You are advised that Council has not undertaken a search of existing or proposed utility services adjacent to the site in determining this application. Any adjustment or

augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development shall be at no cost to Council and undertaken before the issue of an Occupation Certificate.

51. The Flood Risk Management Plan approved with the Occupation Certificate, shall be implemented and kept in a suitable location on site at all times.
52. Encroachments onto Council's road or footpath of any service pipes, sewer vents, boundary traps, downpipes, gutters, stairs, doors, gates, garage tilt up panel doors or any structure whatsoever shall not be permitted. Any encroachments on to Council road or footpath resulting from the building works will be required to be removed before the issue of the Occupation Certificate.
53. A report prepared by a suitably qualified and experienced acoustic consultant shall be submitted to Council prior to an Occupation Certificate being issued for the development which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Industrial Noise Policy and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

54. A report prepared by a suitably qualified Acoustic Consultant shall be submitted to Council certifying that the development complies with the requirements of (as relevant):
  - State Environmental Planning Policy (Infrastructure) 2007
  - ANEF - the indoor design sound levels shown in Table 3.3 (Indoor Design Sound Levels for Determination of Aircraft Noise Reduction) in AS 2021—2000

The report shall include post construction validation test results.

Details demonstrating compliance with the requirements of this condition is to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of any Occupation Certificate.

55. At the completion of the installation of the mechanical exhaust system, a certificate from the installer shall be submitted to Council or the Principal Certifying Authority indicating the following:
  - a) inspection, testing and commissioning details,
  - b) date of inspection testing and commissioning,
  - c) the name and address of the individual who carried out the test, and
  - d) a statement that the service has been designed, installed and is capable of operating to their accordance with AS 1668.2-1991/2012 – Mechanical ventilation for acceptable indoor-air quality above standard.

Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property. The system must be in accordance with the approved plans. Any requirement for the

system to be visible from the public domain or adjoining properties and is not consistent with the approved plans will require further consent from Council.

Noise and vibration from the use of the mechanical exhaust and/or ventilation system shall not exceed the background noise level by more than 5dB(A) and shall not be audible in any premises of a neighbouring occupancy.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issuing of any Occupation Certificate.

56. To ensure that adequate provision is made for the treatment of waste water from the premises, floor plans accompanying the Occupation Certificate application shall include provision for a Sydney Water approved grease trap.

The grease trap installation shall service all commercial sections of the development and be designed, constructed and operated in accordance with:

- Australian Standard AS 3500; and
- National Plumbing & Drainage Code

Details demonstrating compliance with the requirements of this condition are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

## **ONGOING CONDITIONS OF CONSENT**

### **57. Owner's obligations**

The owner / registered proprietor from time to time (as required) of the subject site ("Owner") must:

- a) maintain the awnings over the footpath and all supporting and related structures in a good and safe condition and repair which must include all structural and other repairs and maintenance reasonably required by Council; and
- b) give to Council every 12 months (commencing from the date of issue of the Occupation Certificate) a certificate from a structural engineer that the awnings over the footpath and all supporting structures are in a good and safe condition and state of repair; and
- c) not alter the awnings or any supporting or related structure without Council's prior approval; and
- d) not do anything on or around the awnings over the footpath which in Council's reasonable opinion may be annoying, dangerous or offensive; and
- e) not put up signs, notices, advertisements (other than as required by law), exterior blinds, antennae or receiving dishes without Council's prior approval.

### **Risk and insurance**

- f) Own Risk and Releases  
The Owner constructs and maintains the awnings over the footpath at its own risk and releases Council from, and agrees that Council is not liable for liability or loss arising from, and costs incurred in connection with damage, loss, injury or



death except to the extent that it is contributed to by Council’s wrongful act or omission, negligence or default.

**Indemnities**

- g) The Owner is liable for and indemnifies Council against liability or loss arising from, and costs incurred in connection with damage, loss, injury or death occurring on, in, by or in connection with the awnings over the footpath or any supporting or related structure or the Owner’s land or improvements thereon or business conducted by the Owner or arising from or in connection with the awnings, any supporting or related structure or the Owner’s property or business or caused or contributed to by the Owner’s act, omission, negligence or default or the act, omission, negligence or default of any of the Owner’s lessees, employees, agents or invitees, except to the extent that it is contributed to by Council’s wrongful act or omission, negligence or default. Each indemnity is independent from the Owner’s other obligations. Council may enforce an indemnity before incurring expense.

**Insurance**

- h) The Owner must:
  - i) maintain with insurers and on terms approved by Council, noting the respective interests of the owner and Council, public liability insurance for at least \$20 million (as varied by notice from Council to the Owner from time to time); and
  - ii) give to Council, Every 12 months (commencing from the date of commencement of construction), evidence that the Owner has the required public liability insurance; and
  - iii) notify Council immediately if the insurance policy is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the awnings or any supporting or related structures.

58. The premises are only to be open for business and used for the purpose approved within the following hours.

| <b>Trial Period</b>  | <b>Indoor Area</b>                    |
|----------------------|---------------------------------------|
| Sunday to Wednesday  | 10 am to midnight                     |
| Thursday to Saturday | 10 am to 3 am (the following morning) |

The above operating hours are for a trial period of 12 months from the date of Occupation Certificate/date of this consent (whichever occurs later). At the cessation of the trial period the hours of operation are to be as follows.

|                     | <b>Indoor Area</b> |
|---------------------|--------------------|
| Sunday to Wednesday | 10 am to midnight  |

Set-up and clean-up operations must commence no earlier or later than 1 hour before opening and 1 hour after closing hours (as stipulated by this condition). All doors and windows must remain closed during set up and cleaning where possible.

Service is to cease 30 minutes before closing time /ceasing of operating hours.

In the event that the operator wishes to seek consent for permanent late trading hours or a further trial period a Section 4.55 application is to be lodged and approved by the consent authority. The application should seek to modify this condition accordingly and be accompanied by supporting documentation.

59. Entry to the premises is prohibited after 1:30 am.
60. The Plan of Management required and approved under this consent must be complied with at all times. Any amendments to the Plan of Management other than that required by Condition 9 must be subject to modifications to the plan must be subject to Council approval in accordance with Section 4.55 of the Environmental Planning and Assessment Act 1979. A copy of the Plan of Management must be displayed on site at all times and made available to all staff and or occupants.
61. In accordance with Section 4.17 (10B) of the Environmental Planning and Assessment Act 1979 the condition setting out trial period hours of operation or maximum number of persons within the building can be reviewed by Inner West Council at any time during the trial period. In the case of a condition relating to maximum number of persons in the building, a review can be carried out anytime within 12 months of the determination. The outcome of such review may result in amendments to the reviewable condition.
62. To ensure minimal impacts on surrounding properties, commercial waste and recyclable material generated by the premises must be collected between the hours of 7.00am and 10.00pm, Monday to Saturday and between 8.00am and 9.00pm on Sundays and public holidays.

The disposal of used bottle ware is to be carried out to avoid noise disturbance at night and early morning.

63. The  $L_{A10}$  noise level emitted from the premises, measured between the hours of **7am and 12 midnight**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.

The  $L_{A10}$  noise level emitted from the premises, measured between the hours of **midnight and 7am**, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.

64. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997 and Regulations.

In this regard, the operation of the premises and plant and equipment shall not give rise to a sound pressure level at any affected premises that exceeds the background  $L_{A90, 15min}$  noise level, measured in the absence of the noise source/s under consideration by 5dB(A). The source noise level shall be assess as an  $L_{Aeq, 15min}$  and adjusted in accordance with the NSW Environment Protection Authority's Industrial Noise Policy and Environmental Noise Control Manual (sleep disturbance).

65. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
66. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's Technical Guidelines for Assessing Vibration.

**PRESCRIBED CONDITIONS****A. BASIX Commitments**

Under clause 97A of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in each relevant BASIX Certificate for the development are fulfilled. The Certifying Authority must ensure that the building plans and specifications submitted by the Applicant, referenced on and accompanying the issued Construction Certificate, fully satisfy the requirements of this condition.

In this condition:

- a) Relevant BASIX Certificate means:
  - i) a BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 4.55 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
  - ii) if a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate; and
- b) BASIX Certificate has the meaning given to that term in the Environmental Planning & Assessment Regulation 2000.

**B. Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia.

**C. Home Building Act**

- 1) Building work that involves residential building work (within the meaning and exemptions provided in the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates has given Leichhardt Council written notice of the following:
  - a) in the case of work for which a principal contractor is required to be appointed:
    - i) the name and licence number of the principal contractor, and
    - ii) the name of the insurer by which the work is insured under Part 6 of that Act, or
  - b) in the case of work to be done by an owner-builder:
    - i) the name of the owner-builder, and
    - ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- 2) If arrangements for doing residential building work are changed while the work is in progress so that the information submitted to Council is out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council), has given the Council written notice of the updated information.

Note: A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.

**D. Site Sign**

- 1) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
  - a) stating that unauthorised entry to the work site is prohibited;
  - b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
  - c) showing the name, address and telephone number of the Principal Certifying Authority for the work.
- 2) Any such sign must be maintained while to building work or demolition work is being carried out, but must be removed when the work has been completed.

**E. Condition relating to shoring and adequacy of adjoining property**

- 1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) protect and support the adjoining premises from possible damage from the excavation, and
  - b) where necessary, underpin the adjoining premises to prevent any such damage.
- 2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

**NOTES**

1. This Determination Notice operates or becomes effective from the endorsed date of consent.
2. Section 8.2 of the *Environmental Planning and Assessment Act 1979* provides for an applicant to request Council to review its determination. This does not apply to applications made on behalf of the Crown, designated development or a complying development certificate. The request for review must be made within six (6) months of the date of determination or prior to an appeal being heard by the Land and Environment Court. Furthermore, Council has no power to determine a review after the expiration of these periods. A decision on a review may not be further reviewed under Section 8.2.
3. If you are unsatisfied with this determination, Section 8.7 of the *Environmental Planning and Assessment Act 1979* gives you the right of appeal to the Land and Environment Court within six (6) months of the determination date.

4. Failure to comply with the relevant provisions of *the Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.
5. Works or activities other than those approved by this Development Consent will require the submission of a new development application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.
6. This decision does not ensure compliance with the *Disability Discrimination Act 1992*. Applicants should investigate their potential for liability under that Act.
7. This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):
  - a) Application for any activity under that Act, including any erection of a hoarding.
  - b) Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*.
  - c) Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*.
  - d) Development Application for demolition if demolition is not approved by this consent.
  - e) An application under the Roads Act 1993 for any footpath / public road occupation. A lease fee is payable for all occupations.
8. Prior to the issue of the Construction Certificate, the applicant must make contact with all relevant utility providers (such as Sydney Water, Energy Australia etc) whose services will be impacted upon by the development. A written copy of the requirements of each provider, as determined necessary by the Certifying Authority, must be obtained.
9. Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent shall obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the Local Government Act 1993 and/or Section 138 of the Roads Act 1993. Permits are required for the following activities:
  - a) Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application.
  - b) A concrete pump across the roadway/footpath
  - c) Mobile crane or any standing plant
  - d) Skip bins
  - e) Scaffolding/Hoardings (fencing on public land)
  - f) Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.
  - g) Awning or street verandah over footpath

- h) Partial or full road closure
- i) Installation or replacement of private stormwater drain, utility service or water supply

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities.

Applications for such Permits shall be submitted and approved by Council prior to the commencement of the works associated with such activity.

Attachment B – Plans of proposed development

**101 Parramatta Road**

**Demolition Plan Notes**

**Construction Plan Notes**

**Demolition Legend**

**Construction Legend**

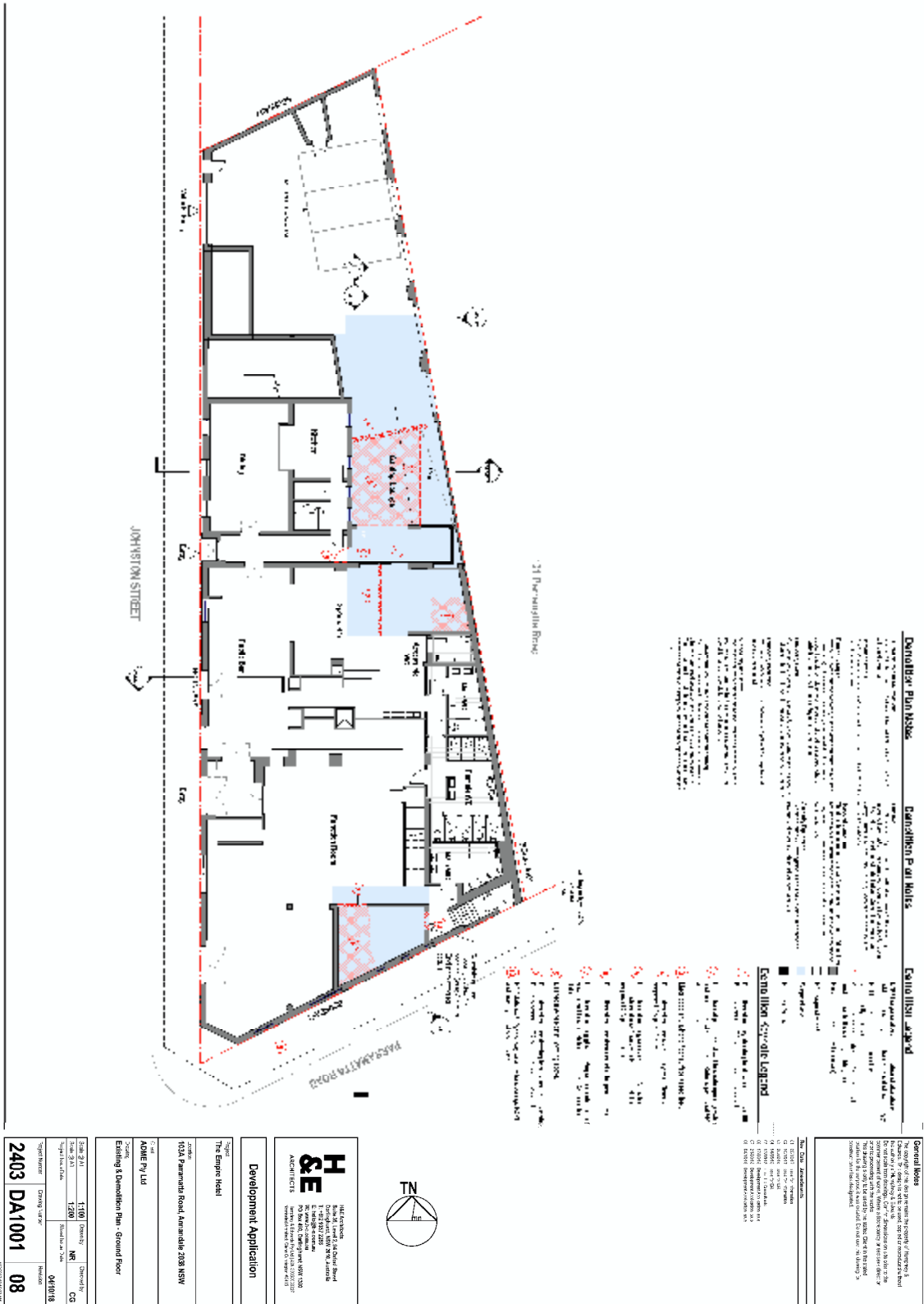
**Other Notes**

**H&E ARCHITECTS**

**Development Application**

**Thompson Hotel**

**2403 DA1000 08**



**Demolition Plan Notes**

1. All existing structure to be demolished in accordance with the demolition plan.

2. All existing structure to be demolished in accordance with the demolition plan.

3. All existing structure to be demolished in accordance with the demolition plan.

4. All existing structure to be demolished in accordance with the demolition plan.

5. All existing structure to be demolished in accordance with the demolition plan.

6. All existing structure to be demolished in accordance with the demolition plan.

7. All existing structure to be demolished in accordance with the demolition plan.

8. All existing structure to be demolished in accordance with the demolition plan.

9. All existing structure to be demolished in accordance with the demolition plan.

10. All existing structure to be demolished in accordance with the demolition plan.

**Demolition Plan Notes**

11. All existing structure to be demolished in accordance with the demolition plan.

12. All existing structure to be demolished in accordance with the demolition plan.

13. All existing structure to be demolished in accordance with the demolition plan.

14. All existing structure to be demolished in accordance with the demolition plan.

15. All existing structure to be demolished in accordance with the demolition plan.

16. All existing structure to be demolished in accordance with the demolition plan.

17. All existing structure to be demolished in accordance with the demolition plan.

18. All existing structure to be demolished in accordance with the demolition plan.

19. All existing structure to be demolished in accordance with the demolition plan.

20. All existing structure to be demolished in accordance with the demolition plan.

**Existing Structure Legend**

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- 14. Existing Structure
- 15. Existing Structure
- 16. Existing Structure
- 17. Existing Structure
- 18. Existing Structure
- 19. Existing Structure
- 20. Existing Structure

**General Notes**

1. The demolition plan is to be carried out in accordance with the demolition plan.

2. The demolition plan is to be carried out in accordance with the demolition plan.

3. The demolition plan is to be carried out in accordance with the demolition plan.

4. The demolition plan is to be carried out in accordance with the demolition plan.

5. The demolition plan is to be carried out in accordance with the demolition plan.

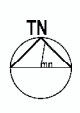
6. The demolition plan is to be carried out in accordance with the demolition plan.

7. The demolition plan is to be carried out in accordance with the demolition plan.

8. The demolition plan is to be carried out in accordance with the demolition plan.

9. The demolition plan is to be carried out in accordance with the demolition plan.

10. The demolition plan is to be carried out in accordance with the demolition plan.



**H & E**  
 H & E  
 ARCHITECTS  
 1/100 GERRARD STREET WEST  
 MELBOURNE VIC 3043  
 PH: 03 9412 1234  
 WWW.HANDSANDHEARTS.COM.AU

**Development Application**

**Project:**  
 The Empire Hotel

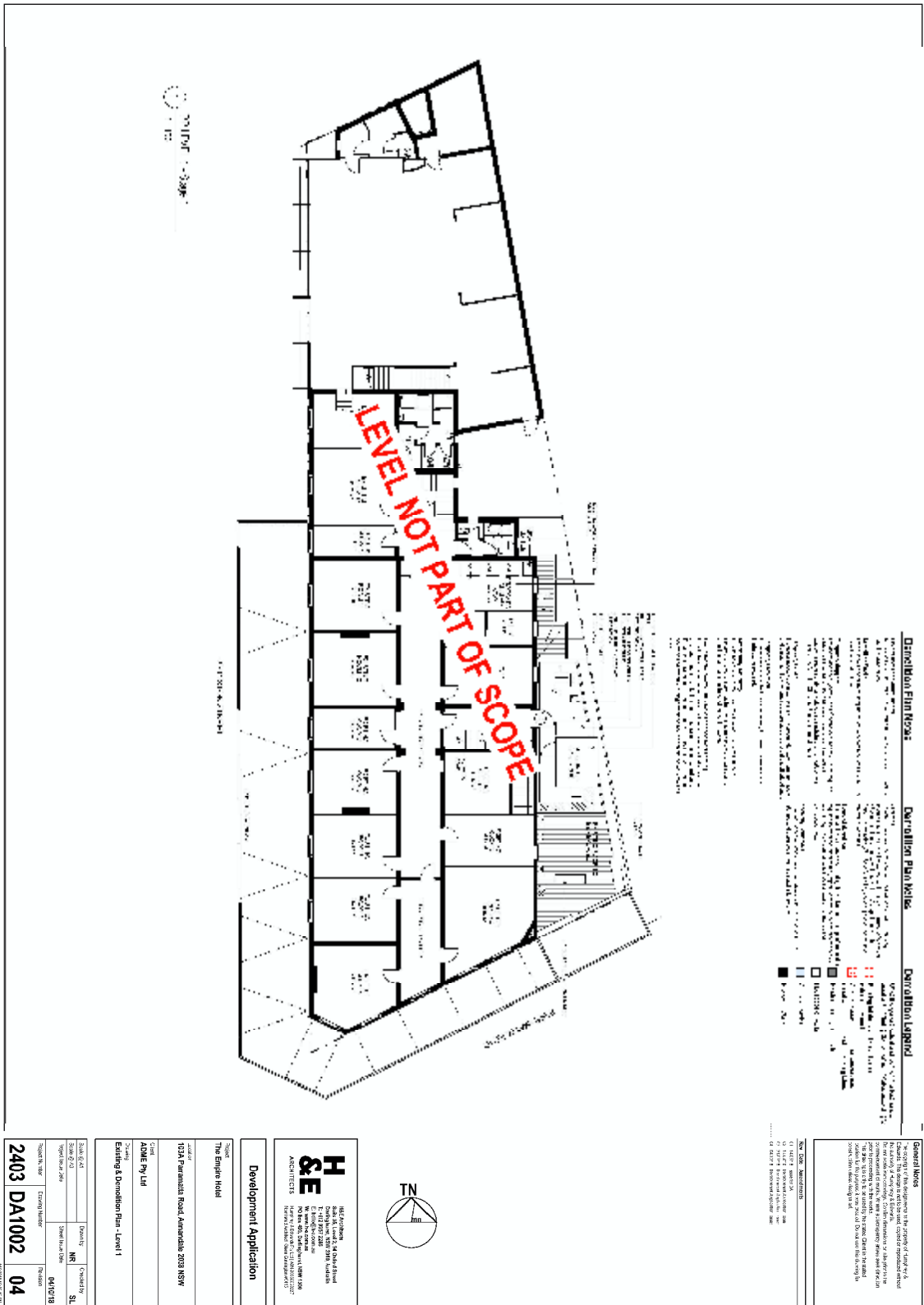
**Address:**  
 103A Parramatta Road, Parramatta, 2158 NSW

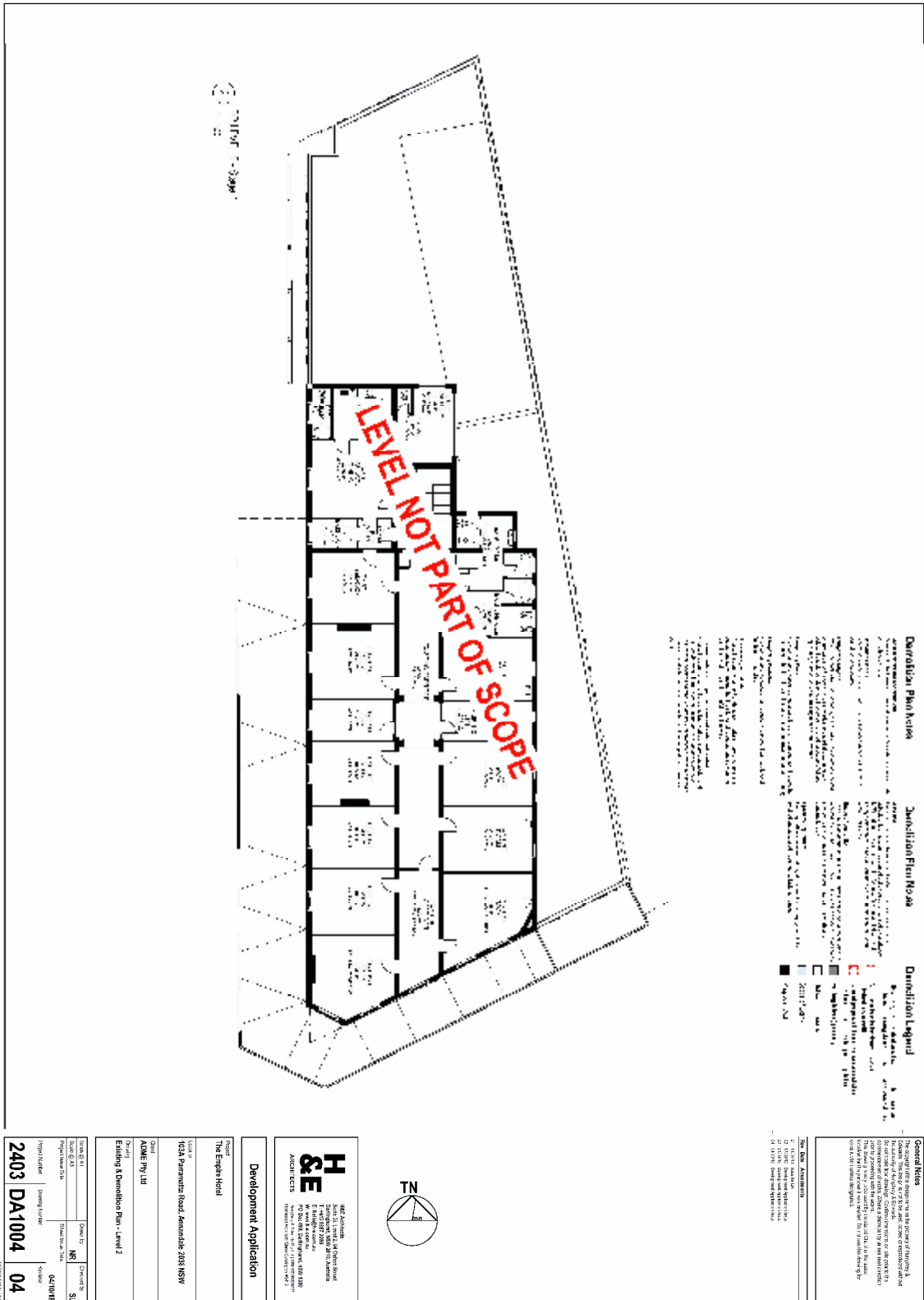
**Client:**  
 AD&E Pty Ltd

**Scale:**  
 Existing & Demolition Plan - Ground Floor

|                 |               |              |          |
|-----------------|---------------|--------------|----------|
| Site No         | 2403          | DA1001       | 08       |
| Scale           | 1:100         | Quantity     | NS       |
| Project No      | 17281         | Submitted On | 04/01/18 |
| Author          | CHERRY, JACOB | Checked By   | CS       |
| Project Manager | CHERRY, JACOB | Submitted    | 08       |







### Definition Legend

**Site Boundary**

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- Site Boundary

**CA Number - 10/2011**

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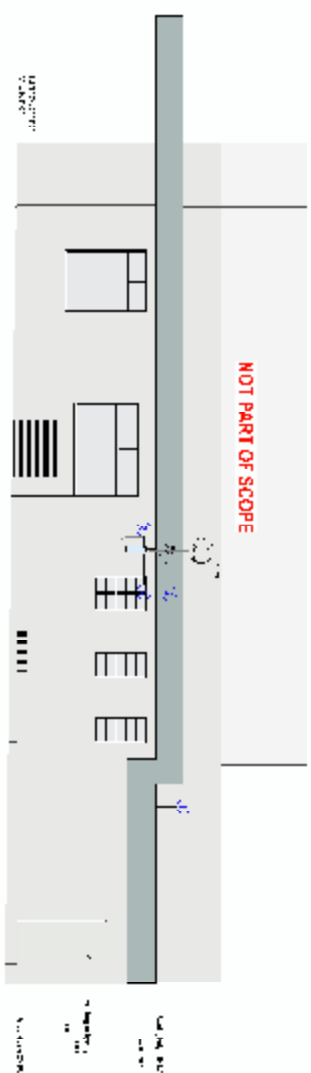
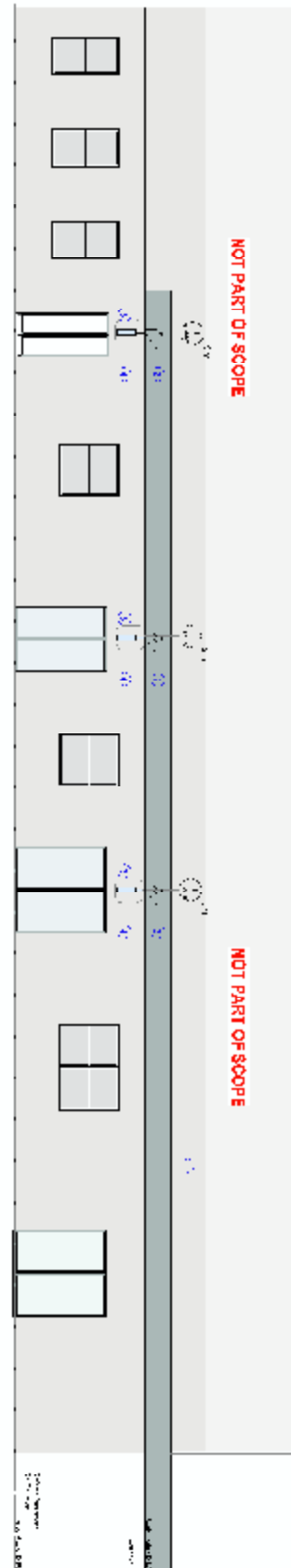
**General Notes**

This plan is intended to be used in conjunction with the relevant Council's Local Environmental Plan (LEP) and Planning Scheme. It is not to be used as a standalone document. All dimensions are in millimeters unless otherwise stated. All materials and finishes are as indicated on the plan. All work to be carried out in accordance with the relevant Council's LEP and Planning Scheme. All work to be carried out in accordance with the relevant Council's LEP and Planning Scheme.

|                         |                   |
|-------------------------|-------------------|
| <b>THE EMPIRE HOTEL</b> |                   |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |
| 10/2011 - 10/2011       | 10/2011 - 10/2011 |

|   |   |
|---|---|
| <b>NAME</b>                             | The Empire Hotel                          |
| <b>ADDRESS</b>                          | 103A Parramatta Road, Annandale, 2038 NSW |
| <b>OWNER</b>                            | ADRIE Pty Ltd                             |
| <b>GENERAL ARRANGEMENT - ASSESSMENT</b> |   |
| <b>DATE</b>                             | 10/2011                                   |
| <b>SCALE</b>                            | AS SHOWN                                  |
| <b>PROJECT NUMBER</b>                   | 2403 DA1100                               |
| <b>DATE</b>                             | 06/10/18                                  |





**Detailing Legend**

- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect
- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect
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- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect

**Elevation Keynote Legend**

- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect
- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect
- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect
- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect
- - Detailing to be provided by the contractor
- - Detailing to be provided by the architect

Architectural details and specifications for the building facade, including window and door details.

Architectural details and specifications for the building facade, including window and door details.

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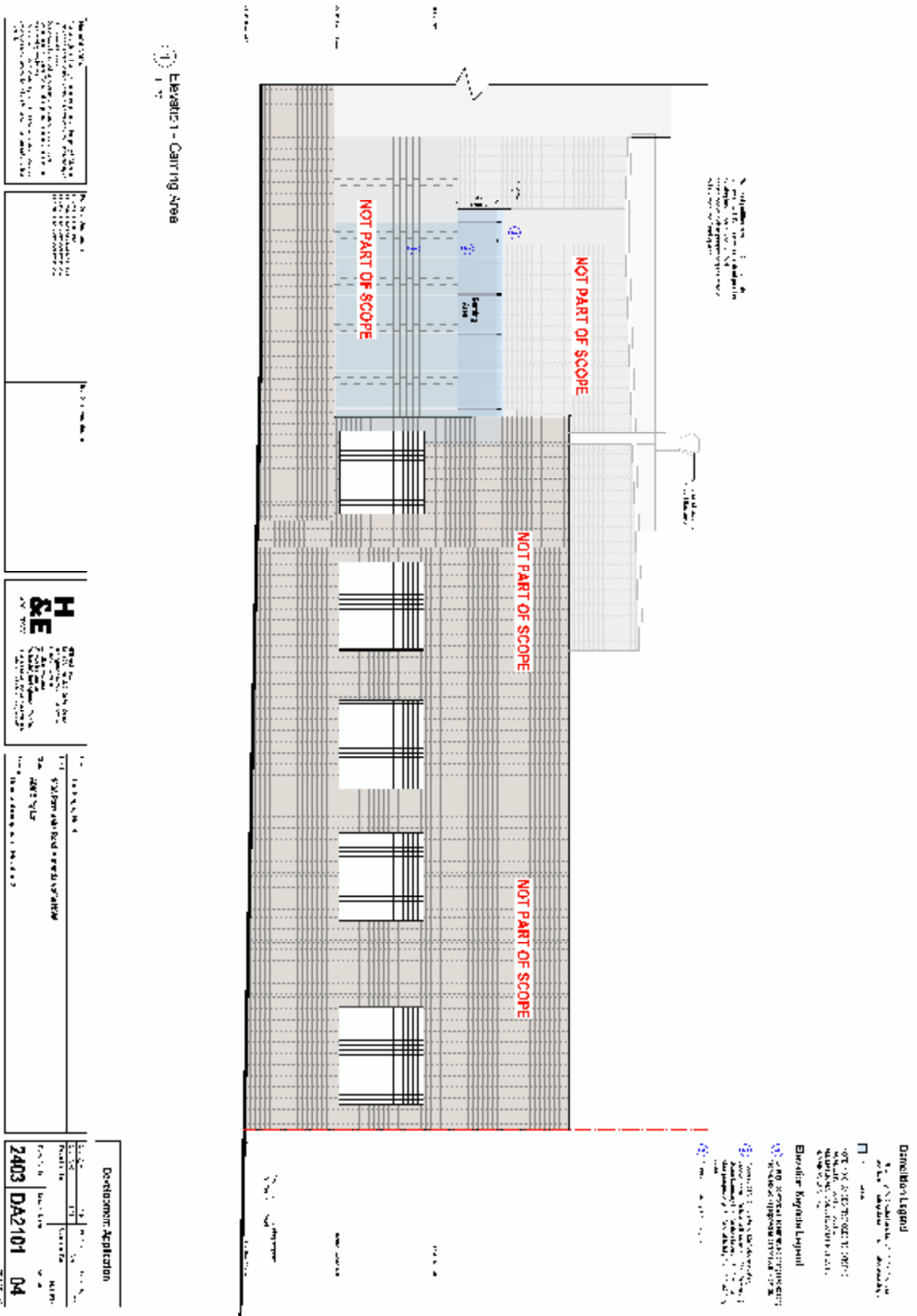
Architectural details and specifications for the building facade, including window and door details.

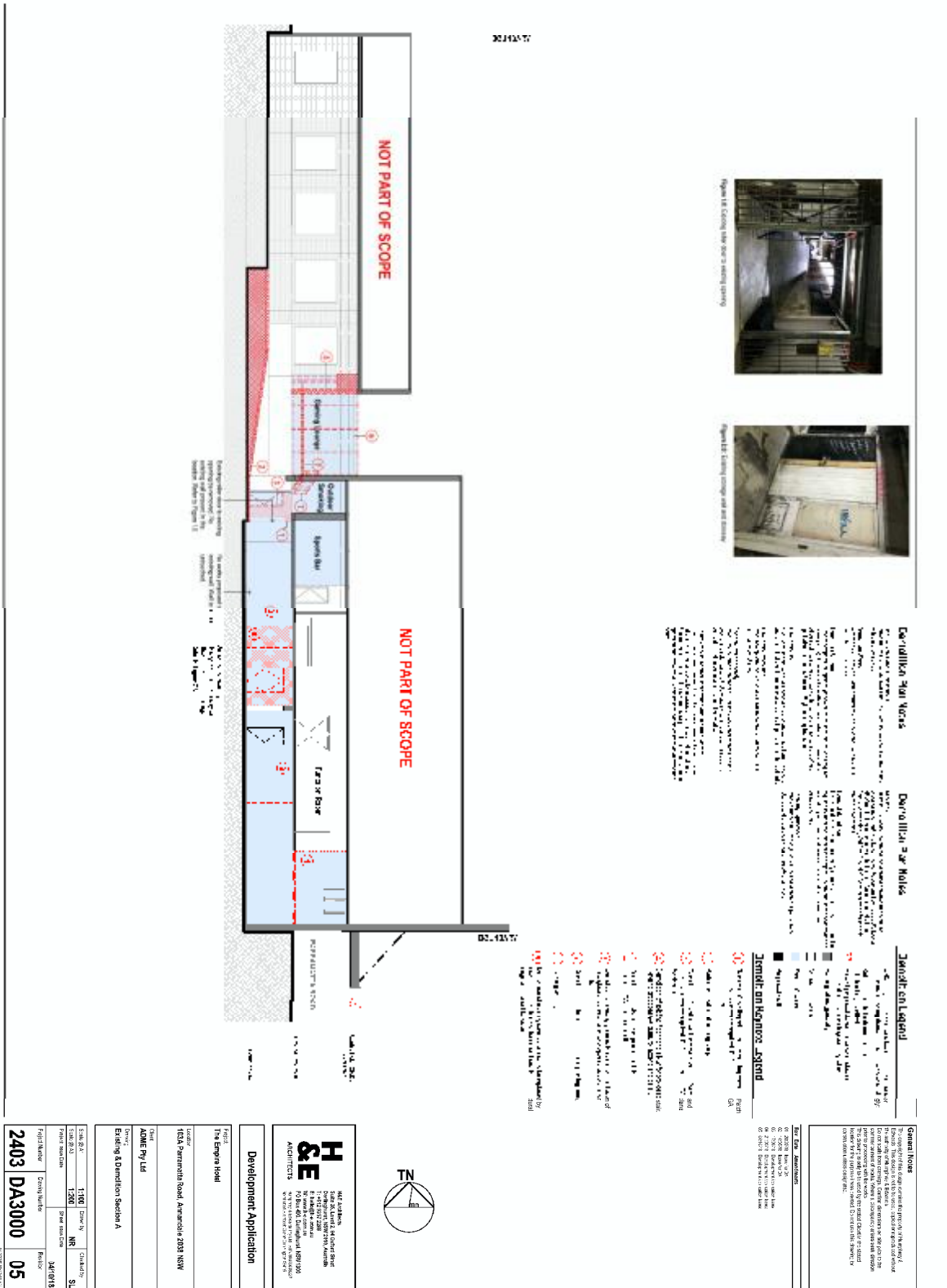
Architectural details and specifications for the building facade, including window and door details.

Architectural details and specifications for the building facade, including window and door details.

Development Application

2403 DA2100 04









**Explanatory Legend**

(Symbol) Description

- Red dashed line: Proposed boundary
- Blue dashed line: Proposed easement
- Blue dashed line: Proposed right of way
- Blue dashed line: Proposed road
- Blue dashed line: Proposed sewer
- Blue dashed line: Proposed water
- Blue dashed line: Proposed gas
- Blue dashed line: Proposed power
- Blue dashed line: Proposed drainage
- Blue dashed line: Proposed stormwater
- Blue dashed line: Proposed telecommunications
- Blue dashed line: Proposed utility
- Blue dashed line: Proposed other

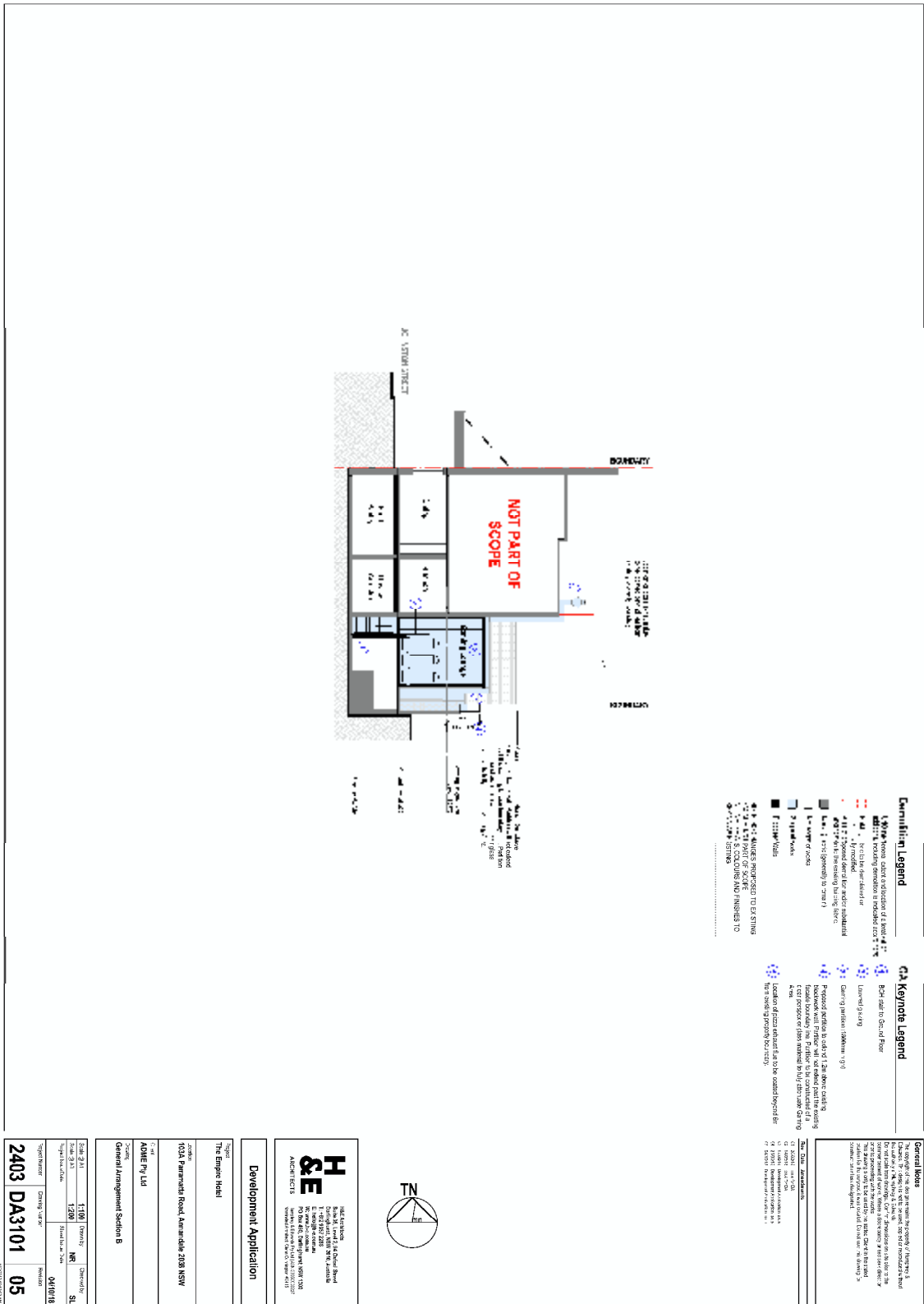
**CA Property Legend**

- Blue dashed line: Council owned
- Blue dashed line: Council controlled
- Blue dashed line: Council managed
- Blue dashed line: Council leased
- Blue dashed line: Council purchased
- Blue dashed line: Council gifted
- Blue dashed line: Council donated
- Blue dashed line: Council transferred
- Blue dashed line: Council assigned
- Blue dashed line: Council mortgaged
- Blue dashed line: Council encumbered
- Blue dashed line: Council restricted
- Blue dashed line: Council burdened
- Blue dashed line: Council benefited
- Blue dashed line: Council entitled
- Blue dashed line: Council liable
- Blue dashed line: Council responsible
- Blue dashed line: Council accountable
- Blue dashed line: Council answerable
- Blue dashed line: Council answerable to
- Blue dashed line: Council answerable for
- Blue dashed line: Council answerable in
- Blue dashed line: Council answerable by
- Blue dashed line: Council answerable to/for/in/by

**Notes**

1. This plan is to be read in conjunction with the relevant zoning and development control instruments.
2. The applicant is responsible for obtaining all necessary consents and approvals.
3. The applicant is responsible for ensuring that all works are carried out in accordance with the relevant standards and specifications.
4. The applicant is responsible for ensuring that all works are completed within the specified time frame.
5. The applicant is responsible for ensuring that all works are carried out in a safe and sound manner.
6. The applicant is responsible for ensuring that all works are carried out in a professional and competent manner.
7. The applicant is responsible for ensuring that all works are carried out in a timely and efficient manner.
8. The applicant is responsible for ensuring that all works are carried out in a cost-effective manner.
9. The applicant is responsible for ensuring that all works are carried out in a sustainable manner.
10. The applicant is responsible for ensuring that all works are carried out in a socially responsible manner.
11. The applicant is responsible for ensuring that all works are carried out in an environmentally friendly manner.
12. The applicant is responsible for ensuring that all works are carried out in a community-minded manner.
13. The applicant is responsible for ensuring that all works are carried out in a transparent manner.
14. The applicant is responsible for ensuring that all works are carried out in an accountable manner.
15. The applicant is responsible for ensuring that all works are carried out in a responsible manner.

|  |  |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
|--|--|-----------|------|-----------|------|----------|------|-----------|------|----------|------|-----------|------|----------|------|-----------|------|----------|------|-----------|-----|----------|------|-----------|-----|----------|------|-----------|-----|----------|------|-----------|-----|----------|------|-----------|-----|
| <b>HSE</b>   | H & S CONSULTANTS<br>15/151-151/151 Street<br>Sydney NSW 1515<br>Tel: 02 9550 1515<br>Fax: 02 9550 1516<br>Email: info@hse.com.au<br>Website: www.hse.com.au |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| <b>Development Application</b>   |  |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site: 72 Sydney Hotel<br>Location: 72-74 Macquarie Road, Macquarie NSW 2108 NSW  |  |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Applicant: H & S<br>Site Management Section A  |  |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <td style="width: 25%;">Site No:</td> <td style="width: 25%;">1100</td> <td style="width: 25%;">Quantity:</td> <td style="width: 25%;">One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> <tr> <td>Site No:</td> <td>1100</td> <td>Quantity:</td> <td>One</td> </tr> </table> |  | Site No:  | 1100 | Quantity: | One  | Site No: | 1100 | Quantity: | One  | Site No: | 1100 | Quantity: | One  | Site No: | 1100 | Quantity: | One  | Site No: | 1100 | Quantity: | One | Site No: | 1100 | Quantity: | One | Site No: | 1100 | Quantity: | One | Site No: | 1100 | Quantity: | One | Site No: | 1100 | Quantity: | One |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 1100   | Quantity: | One  |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <td style="width: 50%;">Site No:</td> <td style="width: 50%;">2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> <tr> <td>Site No:</td> <td>2403</td> </tr> </table>   |  | Site No:  | 2403 | Site No:  | 2403 | Site No: | 2403 | Site No:  | 2403 | Site No: | 2403 | Site No:  | 2403 | Site No: | 2403 | Site No:  | 2403 | Site No: | 2403 |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |
| Site No:   | 2403   |           |      |           |      |          |      |           |      |          |      |           |      |          |      |           |      |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |          |      |           |     |



- Emulation Legend**
- 1. 10m Home Owner's Association of Lot 101
  - 2. 10m Home Owner's Association of Lot 102
  - 3. 10m Home Owner's Association of Lot 103
  - 4. 10m Home Owner's Association of Lot 104
  - 5. 10m Home Owner's Association of Lot 105
  - 6. 10m Home Owner's Association of Lot 106
  - 7. 10m Home Owner's Association of Lot 107
  - 8. 10m Home Owner's Association of Lot 108
  - 9. 10m Home Owner's Association of Lot 109
  - 10. 10m Home Owner's Association of Lot 110
  - 11. 10m Home Owner's Association of Lot 111
  - 12. 10m Home Owner's Association of Lot 112
  - 13. 10m Home Owner's Association of Lot 113
  - 14. 10m Home Owner's Association of Lot 114
  - 15. 10m Home Owner's Association of Lot 115
  - 16. 10m Home Owner's Association of Lot 116
  - 17. 10m Home Owner's Association of Lot 117
  - 18. 10m Home Owner's Association of Lot 118
  - 19. 10m Home Owner's Association of Lot 119
  - 20. 10m Home Owner's Association of Lot 120

- CA Keynote Legend**
- 1. 10m Home Owner's Association of Lot 101
  - 2. 10m Home Owner's Association of Lot 102
  - 3. 10m Home Owner's Association of Lot 103
  - 4. 10m Home Owner's Association of Lot 104
  - 5. 10m Home Owner's Association of Lot 105
  - 6. 10m Home Owner's Association of Lot 106
  - 7. 10m Home Owner's Association of Lot 107
  - 8. 10m Home Owner's Association of Lot 108
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  - 14. 10m Home Owner's Association of Lot 114
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  - 16. 10m Home Owner's Association of Lot 116
  - 17. 10m Home Owner's Association of Lot 117
  - 18. 10m Home Owner's Association of Lot 118
  - 19. 10m Home Owner's Association of Lot 119
  - 20. 10m Home Owner's Association of Lot 120

**General Notes**

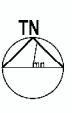
1. The site is shown as a single lot with a total area of 10,000 square metres. The site is bounded by De Venture Street to the east and the existing building footprint to the north and south.

2. The site is shown as a single lot with a total area of 10,000 square metres. The site is bounded by De Venture Street to the east and the existing building footprint to the north and south.

3. The site is shown as a single lot with a total area of 10,000 square metres. The site is bounded by De Venture Street to the east and the existing building footprint to the north and south.

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5. The site is shown as a single lot with a total area of 10,000 square metres. The site is bounded by De Venture Street to the east and the existing building footprint to the north and south.



**H & E**  
 H & E CONSULTANTS  
 10/100 WILSON ROAD  
 SYDNEY NSW 2000  
 TEL: 02 9550 1234  
 FAX: 02 9550 1235  
 WWW.HANDCONSULTANTS.COM.AU

**Development Application**

**The Empire Hotel**

**100A Parramatta Road, Parramatta, 2008 NSW**

**ADRIE Pty Ltd**

**General Arrangement Section B**

|               |             |             |    |
|---------------|-------------|-------------|----|
| Scale:        | 1:100       | Quantity:   | 01 |
| Drawn by:     | ML          | Checked by: | SL |
| Issue Number: | 2403 DA3101 | Revision:   | 05 |

**NOT PART OF SCOPE**

**BOUNDARY**

1. LIPPER Awaiting Section

**Legend**

- 1 Existing residential zoning
- 2 Adjoining property to be removed from existing zoning
- 3 Adjoining property to be added to the zoning
- 4 Total area of proposed change and its adjacent 'buffer' zone for population

**Section Keynotes Legend**

**NOTE: NO CHANGES REQUIRED TO EXISTING ALL VEHICLE COUNTRIES WITHIN THE SECTION KEYNOTE**

**General Notes**

1. This plan is prepared by the Applicant and is subject to the approval of the Council. The Applicant is responsible for ensuring that the plan complies with all applicable laws and regulations. The Council is not responsible for any errors or omissions in this plan.

**NOTES:**

- 1. The plan is prepared by the Applicant and is subject to the approval of the Council.
- 2. The Applicant is responsible for ensuring that the plan complies with all applicable laws and regulations.
- 3. The Council is not responsible for any errors or omissions in this plan.

|                                |  |
|--------------------------------|--|
| <b>Development Application</b> |  |
| Project Name                   | The Empire Hotel                         |
| Location                       | 103A Symonston Road, Amersfort, 2638 NSW |
| Site                           | ADME Pty Ltd                             |
| Zoning                         | Awaiting Sign-off Proposal               |
| Site Size                      | 1.500 Gm <sup>2</sup> (3.62 Acres)       |
| Proposed Use                   | Hotel                                    |
| Project Number                 | 2403 DA3200                              |
| Date                           | 05                                       |

Attachment C- Clause 4.6 Exception to Development Standards

26 November 2018



Request to Vary the FSR Standard  
under Clause 4.6 of L.L.E.P. 2013:

103A Parramatta Road, Annandale  
(Empire Hotel)



Clause 4.6 Request – FSR – 103A Parramatta Road Annandale

### Introduction

This Statement supports a development application (DA) for alterations and additions (internal) for the Empire Hotel at 103A Parramatta Road, Annandale (with associated ancillary aspects of demolition, hours and signage). It should be read in conjunction with the Statement of Environmental Effects by Perica and Associates Urban Planning Pty Ltd to which it is attached, plans by H+E Architects and the information submitted with the DA.

This Statement has been updated since the original DA lodgement, following review of the existing GFA calculations for the basement area, and to address a recent court judgement ("Initial Action v Woollahra Council").

The proposal involves a non-compliance with the maximum FSR development standard in Leichhardt Local Environmental Plan 2013 (LLEP 2013).

Clause 4.6 of LLEP 2013 relevancy states:

#### **4.6 Exceptions to development standards**

- (1) *The objectives of this clause are as follows:*
  - (a) *to provide an appropriate degree of flexibility in applying certain development standards in particular circumstances,*
  - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
  - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
  - (a) *the consent authority is satisfied that*



PERICA & ASSOCIATES  
URBAN PLANNING PTY LTD

Clause 4.6 Request – FSR – 103A Parramatta Road Annandale

- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
  - (b) the public benefit of maintaining the development standard, and
  - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) –(8) ... [not relevant]

**1. Identifying and quantifying the non-compliance**

**(a) Floor Space Ratio (FSR)**

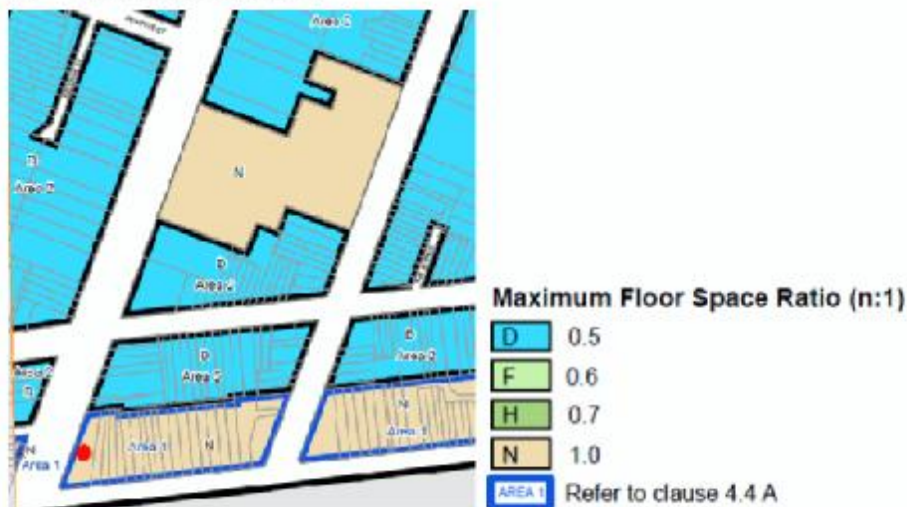


Figure 1 – FSR Map Extract – LLEP 2013

The site has a maximum FSR of 1:1 in LLEP 2013 and is located within “Area 1”. Under Clause 4.4A of the LEP, the FSR is increased to 1.5:1 if the Council is satisfied 3 criteria



Clause 4.6 Request – FSR – 103A Parramatta Road Annandale

are met (summarised): an “active street frontage” is provided; the building is mixed in use, including residential accommodation and; the building contributes positively to the area. These criteria are met.

The site has an area of approximately 815sqm. The existing building has a GFA of approximately 1975sqm (source: H+E), representing a FSR of 2.42:1. The proposal adds GFA of 167sqm (see below). This increases the FSR from 2.42:1 to 2.63:1, equating to an increase of 8.5%.

Existing GFA Basement – **34m<sup>2</sup>**

Proposed GFA Basement – **187m<sup>2</sup>**

Existing GFA Ground Floor – **517m<sup>2</sup>**

Proposed GFA Ground Floor – **531m<sup>2</sup>**

GFA plans have been submitted with the DA (and updated), as extracted below:



**Figure 2** – Existing and proposed GFA (source: H+E)



PERICA & ASSOCIATES  
URBAN PLANNING PTY LTD

Clause 4.6 Request – FSR – 103A Parramatta Road Annandale

## 2. Objectives of the Variation Request Clause

The objectives of Clause 4.6 of LLEP 2013 are:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

There is some legal debate about the requirement to specifically address these objectives. On one hand, the objectives are not explicitly required to be addressed or specifically considered (as typically occurs in zone objectives or through SEPP 1/Clause 4.6 variations), and compliance with the objectives of the clause could be read to be achieved when compliance with the operative provisions of the Clause are met, being the sub-clauses that follow the objectives. In other words, the objectives state what complying with the operative provisions would achieve. On the other hand, if this was the case then the objectives would have no work to do.

This matter was recently considered and determined in a judgement by the chief justice of the Land and Environment Court of NSW in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) NSWLEC 118. That case held that the objectives of Clause 4.6 do not need to be considered, and specifically should not be used to compel comparison with a complying development proposal.

Despite this, some commentary is given regarding the objectives of Clause 4.6, particularly as regards how best to be given effect to the degree of flexibility and outcomes.

The circumstances are such to warrant some flexibility for the site. FSR is essentially a control that regulates scale/massing and intensity of development. In terms of the scale and massing, the proposal does not alter the building or volume and is "internal". It should also be noted that the technical increase largely arises from exclusion of basement storage space, which actually supports the use of the existing plot, and a conservative approach has been adopted to exclude most of the existing basement space. In terms of additional internal floorspace (i.e. in areas currently void), the additional FSR is minor (around 26sqm) and does not even increase parking demand by one space.

A better outcome "to and from" the development is achieved from the development by the non-compliance, for four main reasons. Firstly, the additional space will help in the ongoing economic viability of the use, and this in turn means a use well suited to the site and area. Secondly, the proposal will accommodate a greater range of





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uses and vitality of the site, which is of benefit to customers and the surrounding Local Centre in which the site is located. Thirdly, the diversification of uses at the site helps provide greater long term financial sustainability. Lastly, the proposed additional floorspace is preferable to other options to add to the external building bulk, in terms of the resulting impacts from such an alternative approach.

These benefits are occurring while minimal impacts result upon neighbours and the environment.

### 3. Clause 4.6 3(a) and 3(b)

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Clause 4.6 [3] of LLEP 2013 states:

- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
  - (b) that there are sufficient environmental planning grounds to justify contravening the development standard*

The submission and consideration of Objections under State Environmental Planning Policy No. 1 ("SEPP 1 Objections") and the issue of compliance being "unreasonable or unnecessary" was well summarised in the Land and Environment Court judgement *Wahbe v Waverley Council* [2007] NSWLEC 897 ("the Wahbe case"). While this applies to SEPP 1 Objections and not Clause 4.6 Variation requests, the approach in that case has been accepted in subsequent court cases related to Clause 4.6 Variation Requests.

The onus is upon the applicant to demonstrate this is in a written objection (being this submission) and that requiring compliance with the particular standard would be unnecessary or unreasonable. In this regard, the Wahbe case outlined the possible ways to demonstrate whether compliance would be unnecessary or unreasonable, by establishing:

- i. Compliance with the underlying objectives of the standard being breached; or withstanding the numerical non-compliance; or
- ii. That the objectives of the standard are not relevant to the proposal; or
- iii. Requiring compliance with the development standard would "thwart" the achievement of the objectives of that standard; or



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- iv. The development standard in question has been “virtually abandoned” by the Council; or
- v. The zoning of the land is not appropriate for the site and therefore the associated standards are not appropriate (with some qualifications).

This Statement does not rely on a case related to pathways 2-5 above. However, it is noted that a variation to the FSR development standard with a DA within the former Leichhardt LGA (particularly an older building being modified) is not uncommon.

This Variation request does argue compliance with underlying objectives of the standard in question and the objectives of Clause 4.6 are achieved. The objectives of the standard and the zone are addressed in the following Section.

The case *Four2Five v Ashfield Council* [2015] NSWLEC 1009, NSWLEC 90, NSWCA 248 also raises the issue that reasons should also relate to a site and specific proposal, rather than generic reasons.

In this regard, the site is located on a corner, and a robust building form and use has existed at the site for some time. More importantly, the nature of the proposal on this site is that the existing building envelope is not being altered, while activation and vitality at the site is being enhanced. This is somewhat unique to both the proposal and the site. In terms of some additional floorspace and intensity, the site is also located on a busy street corner and the new basement use and address frontage will be removed from residential and to new sensitive high-density uses. These various factors could support the condition at relatively modest FSR.

At the same time, the proposal is tailored to the site by retaining key positive elements that contribute to the streetscape and providing additional floorspace in an area that maintains positive interfaces with the public domain, while remaining amenity compliant.

The following environmental planning grounds are given to support the variation to the FSR proposed (having regard to Clause 4.6(3)(j) and with a wide application of “environmental planning grounds”):

1. The additional FSR is modest (around 3.5%, yet only 1.4% when considering new floorspace where voids currently exist);
2. No other development standards are breached;
3. The proposal has been tailored for the site, by the location of additional floorspace within the basement;



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4. Positive aspects of the building and its relationship with the public domain are being retained;
5. The proposed height, scale and bulk is consistent with the existing building and compatible with the existing and desired future character of the area;
6. The siting of the proposed development is appropriate;
7. No adverse heritage impacts arise from the proposal;
8. The building mass and bulk is unaltered;
9. The proposed works will cause negligible impacts on the natural and built environment;
10. The nature of the site is such that the interfaces with surrounding land is limited, having direct access to two busy classified roads;
11. There are very limited impacts arising from the proposed FSR non-compliance;
12. No identified public views will be affected by the proposal;
13. The proposal will help activate and revitalise the site and area, consistent with objectives within Council's planning controls;
14. The building height is not being altered;
15. The proposal will not cause any substantive change to traffic or parking impacts;
16. The proposal will not lead to any adverse impacts or any "overload" on the infrastructure or capacity of the area;
17. The proposed FSR non-compliance will not cause adverse overshadowing, privacy or known view impacts on neighbours, while those impacts have been addressed through design and measures recommended by an expert acoustic assessment;
18. The proposal is consistent with the objectives of Clause 4.6 of LEP 2013;
19. The objectives of the FSR standards are met, so while a numerical non-compliance exists, the objectives of the standards are not compromised;
20. The zone objectives are met;
21. The relevant aims of the overall LEP are met (as outlined in the S.E.E.);
22. The non-compliance would not cause an adverse precedent due to the unique design of the proposal, unique nature of the site and with minimal impacts to neighbours arising from the non-compliance.



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23. The proposal represents sustainable development and is consistent with the objects of the EPA Act 1979;
24. The FSR non-compliances would not raise any matter of significance for State or regional environmental planning.

#### 4. Clause 4.6(4)

Clause 4.6(4) of LLEP 2013 states:

- (4) Development consent must not be granted for development that contravenes a development standard unless:
- (a) the consent authority is satisfied that:
    - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
    - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
  - (b) the concurrence of the Secretary has been obtained

Clause 4.6(4)(a)(ii) has been addressed in the previous section of this statement.

In terms of Clause 4.6(4)(a)(i) and the objectives of the FSR standard, the relevant objective of this FSR standard in Clause 4.4 of LLEP 2013 is (in part objective (a) related to residential development):

- (b) to ensure that non-residential development is compatible with the desired future character of the area in relation to building bulk, form and scale.

In response to this objective:

The desired future character of the area is outlined in Part C2 of LDCP 2013, wherein the site is within the Annandale Suburb. The site is then located within the "Parramatta Road Commercial Distinctive Neighbourhood", as shown below.

The works are very minor and are consistent with the existing and desired future character of the suburb and neighbourhood.



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Figure 2 and 3 – Annandale Suburb & Parramatta Road Neighbourhood (LDCP 2013)

The character of the Annandale Suburb is described as below in the DCP:

*The suburb of Annandale is located between the suburbs of Glebe and Leichhardt bounded by the City West Link to the north and Parramatta Road to the south.*



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*Annandale is a small suburb with a very distinct character. This character is shaped by its unique street pattern, dominated by a series of wide, north/south streets, and large terraces and cottages mostly oriented to the east and west.*

*Although strongly defined by its topography and street pattern, incremental development over several decades has resulted in a considerable variety of building forms, style and size. Higher and grander buildings are located on the Johnston Street ridge, reducing in scale towards the creek lines.*

*The physical and social hierarchy is clearly expressed in the contrast between substantial housing on the ridge, more modest terraces on the ridge and semi-detached cottages on the slopes. The built form reinforces the topography and allows views out to the valleys and adjoining ridges.*

There are no specifically relevant comments in this description for the site, other than acknowledging higher and grander buildings on Johnston Street.

The existing character statement for the Parramatta Road Commercial sub-area is:

*Parramatta Road is one of the main arterial roads that connect the Western Suburbs and the CBD. Parramatta Road is one of the oldest roads in Sydney being the original European land link between Sydney and Parramatta.*

*The architectural significance and use of the buildings along Parramatta Road within the Annandale area varies from late 1800s development to modern development and changes in use from industrial to commercial.*

*This neighbourhood demonstrates the gradual change in architectural influence of the Victorian Italianate style over time. This historic significance of the area is typified by the retention of original commercial terraces.*

*However, the façades of many buildings have been altered to incorporate modern windows, shop fronts and entrances. There has also been a proliferation of unsympathetic signage that has detrimental impacts on the historic significance of the neighbourhood. The shop fronts along this section of Parramatta Road include the use of glass fronts and roller doors, with signage being mainly flush wall, rafter, fascia and window signs with the occasional use of painted and projecting wall signs above the awnings.*

*From Catherine Street to Johnston Street, the building height varies between single and two storey buildings with many buildings incorporating a parapet.*

*East of Johnston Street the building height is predominantly two storeys, with buildings incorporating parapets between Johnston and Trafalgar Streets. There are also rows of original two storey Victorian Italianate Terraces along this section with second storey balconies overlooking Parramatta Road.*

*Larger buildings such as the Goodman's Buildings, the Annandale Hotel, the ANZ Bank, the newspaper Auto Service Centre dominate the corners of intersections with Parramatta Road.*

*The variety of business uses along Parramatta Road includes music shops, small grocers, new and used furniture stores, banks, antique shops, butchers, cafes and booklets.*



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*Many of the allotments fronting onto Parramatta Road back onto Albion Lane, which has a predominant service and access character. The lane is approximately 5m in width and benefits from significant back yard planting.*

*Several of the commercial buildings backing onto the lane incorporate dwellings. As the lotsizes are relatively large (approximately 40m in depth) additions and alterations to the rear of commercial buildings that incorporate residential components have occurred. These developments include units and townhouse-style dwellings, which are not visible from Parramatta Road and are accessed from Albion Lane*

The character statement highlights the nature and uses for the surrounding area, has changed over time.

The DCP also specifies the (17) desired future character controls for the area, as follows:

- C1 Promote urban design and land uses that maintain and protect the heritage significance of the Heritage Conservation Area.
- C2 Encourage contemporary development that is complementary to the architectural style of the Streetscape
- C3 Retain and enhance, through existing and new development, the traditional narrow edge and scale of dwellings along Parramatta Road, to maintain the buffer between Parramatta Road and the residential area.
- C4 Improve accessibility, pedestrian amenity and linkages.
- C5 Improve the environmental quality of Albion Lane by:
  - a. reducing on-street land uses and vehicular access ways,
  - b. encouraging landscaping of the laneway, and
  - c. maintaining appropriate levels of solar access to the laneway.
- C6 Maintain the character of the area by keeping development complementary in architectural style, form and materials.
- C7 Retain or restore original structures, regardless of current or proposed use, to provide for future flexibility.
- C8 Encourage the restoration of Victorian Italianate Terraces.
- C9 Encourage appropriate signage consistent with the predominant signage type.
- C10 Preserve existing street trees and promote further street trees, using native species where possible.
- C11 Enhance and promote the continual development and ongoing viability of businesses uses on Parramatta Road.



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- C12 A maximum building wall height of 8m, taken from the street frontage, shall apply to buildings along Parramatta Road, however a total maximum building height of 11m may be achieved where a stepped setback of at least 3m from the building frontage above 8m is achieved.*
- C13 Commercial development should continue the traditional position of construction to the street alignment with buildings to be set at right angles to the front and side boundaries.*
- C14 Signage along Parramatta Road must complement the existing signage of the streetscape and signage above awnings will not be supported.*
- C15 Where possible, original buildings along Parramatta Road should be retained and/or restored.*
- C16 Where appropriate, façades shall be restored to their original form with respect to elements such as windows, balconies, ornaments, balustrading and urns on the parapets.*
- C17 Unsympathetic development, including excessive window glazing is discouraged.*

The proposal is consistent with all these controls, noting:

- The Heritage Significance of the area is retained and respected;
- Contemporary yet sympathetic design is accommodated;
- The scale and “hard edge” of the building is retained;
- Improved accessibility and access to services is provided;
- A sign lane is not created;
- The style, form and materials of the building and its street facade presentation is not altered (apart from minor appropriate under-awning signage);
- The “terrace” form is retained;
- No shopfronts are created;
- Appropriate signage is provided, typical of the area and used, restricted to below the awning line;
- No street trees are affected;
- The use helps viability of the site and area;
- Building height is controlled;
- Street activation is maintained or improved;
- The works are sympathetic and appropriate for the building and area.

While not specifically related to the stated “desired future character” of the area, there are wider strategic directions shown as “Urban Framework Plans” within Appendix C of the DCP, shown below.







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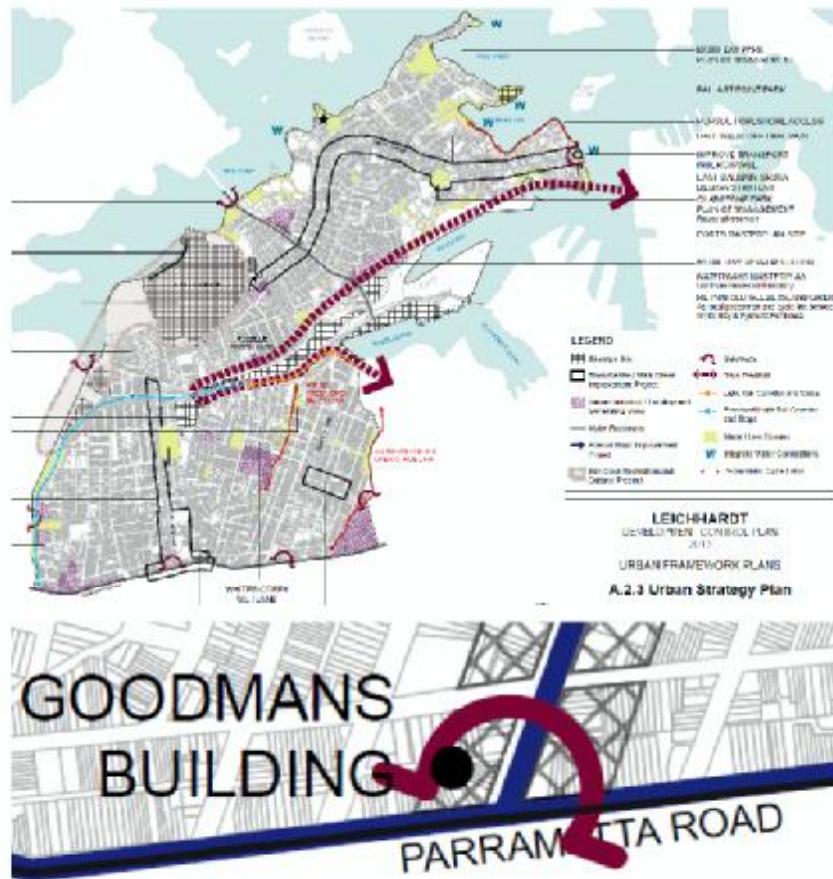


Figure 4-7 – Urban Framework Plans (LDGP 2013)

The site is located on Parramatta Road at an identified “Gateway” site and retains an important local landmark building that contributes to the character of the area, while providing for sustainable uses suited to the building.

It is reasonable to conclude the proposal is consistent with the objective of the FSR control (as applicable to non-residential development), notwithstanding the numerical non-compliance.

As shown in the LEP map extract below, the site is zoned Local Centre B2 in LLEP 2013.



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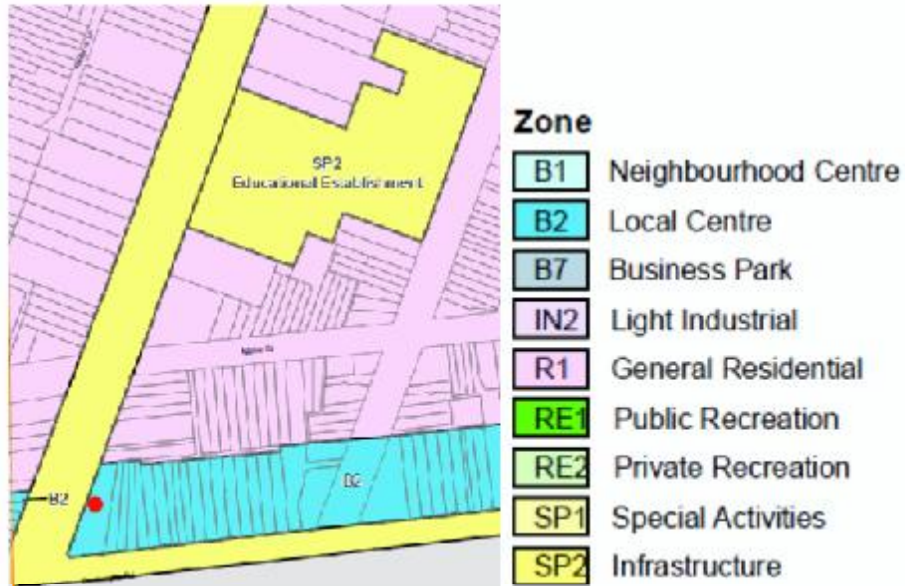


Figure 8 – Zoning Extract – LEP 2013

Clause 2.3 of the LEP requires the consent authority to consider the zone objectives when considering any development application. The zone objectives for the B2 zone are:

- To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area;
- To encourage employment opportunities in accessible locations;
- To maximise public transport patronage and encourage walking and cycling;
- To ensure that development is appropriately designed to minimise amenity impacts;
- To allow appropriate residential uses to support the vitality of local centres;
- To ensure that uses support the vitality of local centres;
- To provide a mixture of compatible land uses;
- To reinforce and enhance the role, function and identity of local centres by encouraging appropriate development to ensure that surrounding development does not detract from the function of local centres;
- To integrate suitable business, office, residential, retail and other development in accessible locations



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The proposal is consistent with all these objectives, noting:

- The use exists and is being expanded slightly within the current building envelope;
- The use will serve the needs of people who live, work and visit the area;
- Employment opportunities are provided;
- Public transport use is encouraged by no further parking provision on site and good transport accessibility, with both Parramatta Road and Johnston Street being regionally-connected classified roads;
- Amenity impacts are reduced by building within the current envelope, while noise impacts are addressed in the Acoustic Impact Assessment report by Arup;
- The use will help the viability of the local Centre as it does not compete with other proximate uses, yet provides a service that attracts people and thereby business to the area; and
- The use is suited to the building, site and locality.

#### 5. Clause 4.6(5) of LLEP 2013

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Clause 4.6(5) of LLEP 2013 states:

- (5) In deciding whether to grant concurrence, the Secretary must consider:*
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
  - (b) the public benefit of maintaining the development standard, and*
  - (c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*

In these regards:

- The Inner West Council is understood to have delegation from the Secretary for the Department of Planning and Environment to consider and decide upon Clause 4.6 Variation Requests;
- While the existing FSR is above the standard, the proposal does not add more than 10% of existing GFA or 10% further non-compliance (having regard to Circular PS 17-006);



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- No matter of State or Regional Significance arises from the localised and FSR non-compliance;
- The integrity of the development standard will not be compromised by granting approval, noting the site-specific and proposal-specific considerations in this instance, which should not give rise to universal precedence elsewhere;
- The proposal is considered to be in the public interest, given the retention of the building, appropriate use and a well-considered proposal for the site and area;
- The matters outlined in the Department of Planning and Environment Planning Circular "Variations to Development Standards" dated 15/12/2017 do not give rise to a justifiable reason to not support to proposal and FSR non-compliance.

For all the reasons given in this request for variation to the FSR standard the proposal should be approved and is justified, notwithstanding the numerical FSR non-compliance.

A handwritten signature in blue ink, appearing to read "J Perica", is positioned above the printed name.

Jason Perica  
Director

## Attachment D- Statement of Significance for Heritage Conservation Area

Godden Mackay Logan

**Area 18** Annandale Conservation Area

## Landform

A wide ridge of land between Whites Creek and Johnstons Creek running due north to Rozelle Bay, with views from cross streets, and from the northern end of the suburb to the harbour, Anzac Bridge and the city, and west towards Leichhardt.



Figure 18.1 Annandale Conservation Area Map.

## History

George Johnston, a marine officer of the First Fleet, received a grant of 290 acres on the northern side of Parramatta Road in 1799, an area now known as Annandale, named after Johnston's home town in Dumfriesshire, Scotland where he was born in 1764. Annandale House, designed in the Georgian style, was occupied by the Johnston family from 1800, and despite development closing in on all sides, their Annandale estate remained intact until 1876.

The first subdivision of 1876 reveals a grid of streets and allotments covering the land bounded by Parramatta Road, Johnston, Collins and Nelson Streets. Robert Johnston transferred this portion to his son, George Horatio, in June 1876 who sold off 75 lots to John Young, who then purchased the remainder of the estate for 121,000 pounds in October 1877. Young then sold the land to the Sydney Freehold Land and Building Investment Co Ltd, which he formed in 1878 to subdivide and sell the 280 acre estate. Building contractor and entrepreneur John Young, the company's chairman for the rest of its life, and its second largest shareholder, left an indelible impression on Annandale's development. Other directors of the company were politicians Samuel Gray and Robert Wisdom, developers John North and AW Gillies, soap and candle manufacturer WA Hutchinson and Henry Hudson.

Architect and surveyor Ferdinand Reuss junior won a prize of 150 pounds offered by the company for the best design for the subdivisional layout for Annandale

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and designed many of the houses. Reuss widened Johnston Street, a major design feature which followed the spine of the ridge from 66ft to 100ft and the topography of the estate encouraged the symmetrical street grid pattern.

Annandale Street, 80 feet wide, almost rivalled Johnston Street, but its opposite number, Trafalgar Street, retained the 66ft width determined by the 1876 plan. On the western side, Young Street matched the 66ft wide Nelson Street, which for topographical reasons terminated at Booth Street. The four cross-streets, Collins, Booth, Piper and Rose Streets were also 66ft wide. The centrepiece of the plan was an open space at the junction of Johnston and Piper Streets, which became Hinsby Reserve. The plan also featured two other large reserves and six smaller ones. The company's original policy of 'no back lanes' was an enlightened planning policy: access for night soil collection was to be by side passage from the front street. Terrace housing was therefore not part of their plans, indicating that they were aiming for a middle class market. Even the lesser streets were 50ft wide, still above the standard widths of other suburban streets.

The majority of the building lots were generous, directed again to a middle class market: 66ft frontages with depths of about 90ft, ideal for freestanding houses. Most of the allotments sold up to 1881 were in Johnston and Annandale Streets. Allotments on the slopes above the creeks were largely ignored. Though extension of the tram track along Parramatta Road reached the junction of Annandale's main artery in 1883, the track was not built along Johnston Street. Land sales were sluggish and in 1882 the company was forced to revise its original policy on lot sizes. Though Johnston and Annandale Streets remained typical of the kind of middle class suburb the company originally envisaged, elsewhere a proliferation of small lots were created by resubdivisions. The company began with land on the creek slopes near Parramatta Road, re-subdividing sections 26 and 30 (creating Mayes Street), 34 (Ferris Street) and 37 on the western side, and eastern sections 28 and 33. The smaller lots did attract working class buyers, largely missing before 1882.

Between 1884 and 1886 more sections were resubdivided, increasing the number of sales up to 1889. Section 25, creating Alfred Street, and 35 were resubdivided, and sections 9-11 and 16-19 were halved to create sections 50 and 56 (along the banks of Whites Creek). The company undertook further resubdivisions in 1887 and 1888 involving sections 13, 21, 22, 24, 29, 39 and 40. As land sales reached their peak Annandale ratepayers began petitioning to secede from Leichhardt Council and incorporate the new Borough of Annandale which occurred in 1894. Between 1894 and 1930 Annandale Council was filled with self-employed local businessmen - timber merchants, builders and contractors, printers, grocers, butchers and a long serving carrier. They provided social leadership in their community. Many of the builders of the suburb's physical fabric possessed local addresses. The number of Annandale's builders and contractors rose from one in 1884 to fourteen in 1886 to seventeen in 1889. Apart from John Young, a partnership comprising John Wise, Herbert Bartrop and John Rawson was especially active in 1881/2, making twenty-five separate purchases. Other prominent local builders of Annandale's houses were Robert Shannon, William Nicholls, William Baker, Albert Packer, Owen Ridge,

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George McDonald, George Bates, Hans Christensen, Cornelius Gorton, William Wells and Phillip Newland.

The Sydney Freehold Land and Building Investment Co Ltd, after thirty-eight years of having a controlling interest in Annandale, went into liquidation in 1916. The remaining unsold lots which were, in the main, located at the suburb's northern end, were bought by the Intercolonial Investment Land and Building Co Ltd. Annandale's last major land sales began in 1909 when Young's Kentville Estate was subdivided into ninety allotments.

By 1893, of Annandale's 1,189 residences, 906 were constructed of brick and 250 of weatherboard. The whole process of building up the streets of Annandale stretched over a long time. At the 1901 census there were 1,729 houses increasing to 2,363 by 1911 and reaching 2,825 in 1921. Annandale had 3,265 residences at the 1947 census.

The bubonic plague first appeared in The Rocks in 1901, and led to quarantine areas in Glebe and other inner areas. It affected attitudes to inner city/suburban housing, so that by 1910 those who could afford to were moving out, particularly to the railway suburbs. Inner suburban areas such as Annandale began to be seen as slums. It was at this time, and particularly after World War I, that industry began to appear in peripheral areas, along Johnstons and Whites creeks and in the swampy head of Rozelle Bay (later to be reclaimed).

John Young, with architectural and engineering experience in England including as superintendent for Crystal Palace, purchased the North Annandale land, established the Sydney Freehold Land & Building Investment Co to lay out the subdivision and finance the residential building.

The subdivision in the 1870s was premature, forcing the company to re-subdivide many of the large 'villa' allotments along Annandale Street and Trafalgar Street for smaller scale housing attracting working class residents. Johnston Street for the most part still exhibits the single villa ideals envisaged by the company for the three main streets.

#### Sources

Information provided by Max Solling.

#### Significant Characteristics

- Close relationship between landform and layout of the suburb with widest street along ridge top.
- The highest land has the widest streets and the largest buildings with the deeper setbacks
- Streets, buildings and setbacks diminish in size towards creeks.
- Important civic, ecclesiastical and educational buildings sited on top of the ridge facing Johnston Street, giving spire of Hunter Bailey Church high visibility from wide arch of Sydney suburbs.



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- A notable group of buildings, 'the witches hats' sited on northern edge of Johnston Street ridge as it falls towards Rozelle Bay.
- Tree-lined streets, particularly of brush box, planted within the carriageway.
- Industrial buildings occur randomly, but generally marginalised to creek edges, the northern end of Annandale and round Booth Street.
- Variety of domestic buildings 1880s-1930s including single and double-fronted freestanding, semidetached and terrace houses and pre-World War II flats from one to three storeys.
- Small collection of weatherboard dwellings.
- Victorian Italianate boom period villas generally along southern end of Johnston Street, nearer to Parramatta Road.
- Uninterrupted commercial buildings with attached dwelling along Parramatta Road, with parapets and balconies or suspended awnings and some original shop fronts.
- Group of shops, pub, post office, church at intersection of Booth Street.
- Occasional corner shops throughout suburb.
- Skyline of chimneys, decorative fire wall dividers on terraces, ridge capping and finials.
- Wealth of decorative elements - iron fences, coloured tiles in paths, steps and verandahs, plaster moulding finishes above door and window openings, coloured glass, chimneys, verandah awnings.
- Walls of rendered brick (1870s and 1880s), and dry pressed face brick (available from c1890s).
- Roof cladding of terracotta tiles, slate, and some iron, particularly on verandahs.
- Irregular occurrence of back lanes.
- Iron palisade fences on low sandstone plinth.
- Continuous kerbs and gutters - many of sandstone.
- Rock outcrops within footpath and road alignments.

#### Statement of Significance or Why the Area is Important

- One of a number of conservation areas that collectively illustrate the nature of Sydney's early suburbs and Leichhardt's suburban growth particularly between 1871 and 1891, with pockets of infill up to the end of the 1930s (ie prior to World War II). This area is important as a well planned nineteenth-century suburb, and for illustrating development particularly from 1880s-1890s, aimed initially at the middle class market. The surviving development from this period forms the major element of its identity along with an area of 1910s-1930s development at its northern end.

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- Demonstrates the vision of John Young, architect, engineer and property entrepreneur.
- Demonstrates, arguably, the best and most extensive example of the planning and architectural skills of Ferdinand Reuss, a designer of a number of Sydney's Victorian suburbs, including South Leichhardt (the Excelsior Estate) and Birchgrove.
- Clearly illustrates all the layers of its suburban development from 1878, through the 1880s boom and resubdivision, the 1900 slump and the appearance of industry, and the last subdivision around Kentville/Pritchard Streets to the 1930s, with the early 1880s best illustrated along Johnston and Annandale Streets.
- Demonstrates a close relationship between landform and the physical and social fabric of the suburb.
- In its now rare weatherboard buildings it can continue to demonstrate the nature of that major construction material in the fabric of early Sydney suburbs, and the proximity of the timber yards around Rozelle Bay and their effect on the building of the suburbs of Leichhardt.
- Displays a fine collection of large detached Victorian Italianate boom-period villas with most decorative details still intact, set in gardens.
- Displays fine collection of densely developed Victorian commercial buildings.
- Through the absence/presence of back lanes, changes in the subdivision pattern, and the range of existing buildings it illustrates the evolution of the grand plan for Annandale, in response to the market, from a suburb of middle class villas to one of terraces and semis for tradesmen and workers.

#### Management of Heritage Values

##### Generally

This is a conservation area. Little change can be expected other than modest additions and discrete alterations. Buildings which do not contribute to the heritage significance of the area may be replaced with sympathetically designed infill.

##### Retain

- All pre-1939 buildings and structures because they are important to understanding the history of the growth of this suburb.
- All weatherboard buildings, their rarity adds to their significance.
- Green garden space to all residential buildings – an important part of the character of Annandale.
- Original plastered walls (generally belonging to pre-1890s buildings).
- Original dry pressed face brick walls (generally belonging to post-1890s buildings).

Godden Mackay Logan

- All original architectural details.
- Original iron palisade fences.
- Back lanes in their early configuration.
- Brush box tree planting, replace where necessary in original position within the alignment of the carriageway.
- All sandstone kerbs and gutter uninterrupted by vehicular access.

Avoid

- Amalgamation to create any more wider allotments that would further disrupt the Victorian pattern of development.
- Demolition of any pre-1939 building unless it is so compromised that it can no longer contribute to an understanding of the history of the area.
- Plastering or painting of face brick walls.
- Removal of plaster from walls originally sealed with plaster.
- Removal of original architectural details.
- Changes to the form of the original house. Second or third storey additions.
- Posted verandahs over footpaths to commercial premises or former commercial premises where no evidence can be provided to support their reconstruction.
- Additional architectural detail for which there is no evidence.
- High masonry walls or new palisade fences on high brick bases.
- Alteration to back laneways.
- Road chicanes which cut diagonally across the line of the streets.

Further Work

Use Water Board Detailed Survey of 1890 to identify which buildings remain from that time.

Compile photographic record of the conservation area from photos available since the late nineteenth century to the present time, as a means of assisting in appropriate reconstruction/'restoration'.

## Attachment E- Plan of Management

PLAN OF MANAGEMENT  
Empire Hotel, 103A Parramatta Road, Annandale

March 2018



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**The following Plan of Management has been prepared in accordance with the Plan of Management checklist as contained within the Leichhardt Development Control Plan 2013 (Part C4.11).**

As an overview, the premises is proposed as a licensed pub, which has existed at the site for around 80 years. An existing liquor license exists, allowing trading from 10am until 3am. Wednesdays to Saturdays. A Development Application was approved by the Council in 2002 (DA 2001/0915), allowing trading from 10am until 3am on Wednesdays to Saturdays and midnight other nights, subject to a 6 month trial. Due to an administrative oversight, the continued 3am trading was not renewed by s96 or a new DA following that consent.

At the same time, new works are proposed to make better use of the basement and provide a greater range of services and experience for customers, as well as improvements to the gaming area. Therefore, a DA has been prepared, both seeking approval for the new works and to continue extended trading hours at the hotel.

This Plan of Management accompanies the Development Application and has been prepared in accordance with The following Plan of Management has been prepared in accordance with the Plan of Management checklist as contained within the Leichhardt Development Control Plan 2013 (Part C4.11 – Non-low impact premises).

a) **Site:**

---

i. **Location of the site;**

The site is located on the north-eastern corner of Parramatta Road and Johnston Street, Annandale.



Further information on the site is located within the Statement of Environmental Effects to which this Plan of Management (PoM) is attached.

ii. **All primary and secondary uses of the premises;**

The proposed uses are:

Basement:

Primary:

- Bar
- Dining/Bistro (x3)

Secondary:

- Kitchen
- Storage
- Stairs to level above

Ground Floor: (Note: no changes are proposed other than to the gaming area)

Primary:

- Bars

- TAB
- Gaming Room
- Dining/Function area

Secondary:

- Kitchen
- Toilets
- Storage
- Entrance/access.

**iii. Summary of surrounding premises that operate up until or beyond midnight;**

The following summarises the hotels trading until or past midnight in the wider vicinity of the site, noting there are no immediately proximate hotels within the same street block. The trading hours were ascertained by website and/or phone contact. Previous DA approval for those premises are not known, although would be known by Council.

- **Victoria Hotel, 176A Young St, Annandale**  
480m north-west of the site. Trades until midnight (website).
- **Petersham Inn, 386 Parramatta Rd, Petersham**  
610m west of the hotel. Trades until midnight (website).
- **Annandale Hotel, 17 Parramatta Rd, Annandale**  
340m east of the site. Thursday-Saturdays 1am, other nights midnight (website).
- **North Annandale Hotel**  
740m north-east of the site. 3am trade Fridays-Saturdays, 12 midnight other nights (phone).

**iv. Plans that show the location of external doors, windows and other openings.**

The plans by Humphrey and Edwards (H+E) are lodged with the DA.

Plan extracts are shown below:



**Figure 1 - Plan Extracts – Basement and Ground Floor (1+F)**

**v. Any other relevant site details as determined by Council**

This is a matter for Council.

**b) Operational**

**i. The number and type of staff that will be employed on the premises:**

1. Staffing levels will depend on patronage. At this stage it is anticipated that there will be up to 13 staff at capacity (chef, manager/ licensee, bar, kitchen staff).
2. Cleaning staff are not included as this is undertaken by contract (other than incidental cleaning by permanent staff).

**ii. Methods employed to meet responsible service of alcohol (RSA) requirements as set by the Office of Liquor, Gaming and Racing;**

All staff servicing alcohol will be required to hold current NSW approved Responsible Service of Alcohol (RSA) certificates

All license requirements are and will be met. The hotel has a house policy (see attached).

**iii. A copy of a house policy that describes the measures to minimise harm associated with alcohol consumption to ensure the responsible service of alcohol;**

See Attachment 1.

**iv. Description of appropriate signage to be erected, including an external sign with a 24 hour contact number for management for the use of members of the public concerned about operation of the premises;**

Internal signage is proposed to state "Please consider noise impacts on neighbours when leaving".

**v. Food service arrangements;**

Food is available from the ground floor and will be available within the basement (a pizza bar, as shown on the plans).

**vi. Waste management procedures, including location of all waste storage and disposal areas, hours of cleaning and similar activities.**

1. General, organics and recyclable waste bins will be provided for the removal of litter. Transfer of waste from the premises to the basement will be undertaken by staff and waste will be stored in the areas provided at the basement level of the building until removal off-site, in accordance with Council's waste collection controls by a private waste removal contractor.
2. All deliveries and waste removal shall occur in the basement loading area, with access from Johnston Street. The licensee shall use his/her best endeavours to ensure that waste collections from the premises and deliveries to the premises are made between 7am and 10pm on weekdays or Saturdays and between 8am and 9pm on Sundays and Public Holidays.
3. The removal of waste and recyclable materials shall be made by a recognised contractor.
4. Waste is to be minimised by separation of trade waste and putrescible waste, with bottles, cardboard, paper and aluminium being collected by a recognised contractor.
5. All waste is stored within the premises or in the adjoining waste area and will only be accessed by contractors for collection.
6. Collection will occur 5 days per week.
7. Sorting of waste will occur within the premises during operating hours.
8. The premises will be kept in a clean state at all times.



**vii. Description of any cleaning and other after hours activities.**

Internal cleaning not involving noise may occur outside trading hours, by a contractor.

**viii. Identification of 'active areas' adjacent to, but outside the boundaries of the premises used for associated activities such as outdoor seating, footway dining, patron queuing and parking; and**

Not applicable – not outdoor dining or outdoor queuing occurs.

**ix. Identification of the primary pedestrian routes to and from the premises.**

Pedestrian access occurs to and from Parramatta Road and Johnston Street, as shown below. Update plan.



**c) Security and safety**

**i. Details of the measures that are to be employed to ensure the safety of patrons and methods to ensure the orderly behaviour of patrons both in and outside the subject premises, including:**

- o crowd control procedures;
- o Emergency procedures;
- o Monitoring of patrons;
- o Security patrol routes;
- o Security lighting details;
- o Surveillance;
- o Queue locations and management procedures;
- o 'Wind down' and closure procedures, including procedures for closure of outdoor areas; and
- Any other relevant security or safety procedures or measures;

1. The following plans will be put in place in case of any emergency of evacuation required:

- a. Procedures of any governing authorised authority(s) will be followed in times of extreme emergency;
  - b. All staff will be aware of emergency exists and safe refuge areas for gathering near the premises (public domain area to the east, west and north, unless that is the source of an emergency);
  - c. Procedures for responding to bomb threats or other emergencies will be placed in a prominent area used by staff;
  - d. All required Fire Safety Certificates and emergency equipment, will be maintained and updated as required by the building owner;
  - e. A first aid kit and fire-fighting equipment will be provided in an accessible place(s) for staff;
  - f. The most senior manager will take responsible for communication with other staff and customers regarding safe evacuation.
2. All staff serving alcohol will be trained on the responsible service of alcohol and will all be responsible for monitoring patrons to ensure there is no unruly or drunken behaviour.
  3. The proprietors recognise that the management of people leaving the premises is an important issue in terms of minimising impacts on the surrounding community.
  4. The responsibility for controlling patrons within the premises will be the responsibility of all employees. Management will have ultimate responsibility for managing customers.
  5. Management and staff will regularly monitor inside and outside the premises (particularly the immediate surrounds) with an aim to prevent patrons loitering in the area as well as taking action to minimise noise and anti-social behaviour.
  6. It will be the responsibility of the owners/managers and staff to manage patron behaviour whilst leaving the venue.
  7. It is proposed that a minimum of one person will be standing in the external area at closing time and will be responsible for directing people to nearby public transport and taxis.
  8. Lighting is provided internally and externally to allow safe operation of the premises, clear visibility, yet to a level and direction that does not cause amenity impacts on neighbours or traffic.
  9. CCTV surveillance cameras are strategically installed, operated and maintained by the licensee (currently exist);
  10. The recording process and procedure will be put in place to ensure that footage of any incidents is available and is able to be provided to the relevant authorities if and when required. Footage may also be observed by an on-duty Security Manager.
  11. CCTV recording equipment and cameras will be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras.
  12. CCTV recording discs or hard drive recordings shall be retained for a minimum of 28 days before being re-used, destroyed or deleted. Time and date shall be

auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD or other appropriate digital copy of recorded footage on demand of Council or Police Officers either immediately or within 24 hours of the request being made. Copy discs must be handed to Council, Police Officer or Special Inspectors as required.

13. All CCTV recording devices and cameras shall be checked regularly to ensure the equipment is operating correctly.
14. All CCTV recording devices and cameras shall be operated at all times when the premises are open to the public and continuously for at least 1 hour prior to opening and closing times of the premises (activated by movement).
15. The responsibility for controlling patrons within the premises will be the responsibility of all employees. Management will have ultimate responsibility for managing customers.
16. Bookings will be taken and ensure there is a "spread" of customer attendance and demand.
17. All queuing occurs internally.
18. In the event that a queue does form within the premises it will be the responsibility of the maître-de/manager to ensure that it does not disrupt the enjoyment for other customers or disrupt the amenity of the area.
19. Serving of alcohol ceases within 15 minutes of close time, with patrons given appropriate prior warning.

***I. Number and location of security personnel to be employed;***

Security contractors have not been necessary and are not proposed. Management responsible for security, in consultation with Police if needed.

***II. The designation of a member of staff to be responsible for security at all times;***

This is the licensee or senior manager on duty.

***III. Details of where an Incident Book will be kept and how and when it will be filled out.***

An incident book will be retained and updated, held within the office, with access by the licensee and/or senior manager on duty. It will be filled out by the on-site manager whenever an incident occurs and will be made available to authorised representatives on request.

***d) Trading hours***

***i. Details of the proposed opening hours for each day of the week;***

10am - 3am Wednesdays to Saturdays (as previously approved by Council) and 12 midnight Sundays to Tuesdays Inclusive.

Live entertainment (ground floor): 10am-11.30pm Wednesday and Thursday, 10am-2am the following morning Friday and Saturday and 10am to 10pm Sundays (as previously approved).

**ii. For existing premises, details of current trading hours for each day of the week.**

The hotel currently trades from 10am until 2.30am Wednesdays to Saturdays (depending on demand) and midnight other nights. This is consistent with a previous DA approval (DA 2001/0915).

**e) Noise**

**i. Details of all measures used to attenuate noise and vibration created as a result of operation of the premises including: a noise complaints process and noise control strategies that will be implemented to minimise the potential for complaints (for example liaison arrangements with neighbours and local police, maintaining a complaint register etc)**

- o For minimising noise from outdoor areas such as rooftops, courtyards, balconies; and
- o For noise limiting devices to be installed.

1. Noise complaints will be logged within the complaints log book.
2. Regular communication will occur with neighbours and Police (continuing current arrangements).
3. Provision of at least one staff member outside of the premises during busy periods and particularly around closing time to ensure that patrons do not congregate outside of the premises and that they move in an orderly and quiet manner.
4. Adoption of this Plan of Management and House Policy (Attachment 1) to minimise noise impacts.
5. Compliance with conditions of development consent relating to noise from the use of the premises (relating to both plant/equipment and patrons)
6. Physical noise control measures will be put in place and maintained, as recommended in the Acoustic report by ARUP, titled 'Empire Hotel, Empire Hotel Annandale, DA Acoustic Assessment' dated 11 March 2018.

**f) Transport**

**i. Details of measures to be taken to ensure the availability of public transport or other alternative modes of transport to patrons leaving the premises at closing times**

1. People enquiring about the location will be advised of public transport and other options available to the premises.

2. Information regarding public transport and taxi services will be available to customers.
3. Booking of taxis will occur by staff on request and when it is necessary for management of patrons or those denied entry.
4. Staff will be trained to direct patrons towards public transport options when leaving the premises and advise of public transport options.
5. Information and timetables for trains and buses will be available at the bar area.
6. Taxi numbers will be available and displayed, and staff will assist in calling taxis when required.

**g) *Amendment to this Plan***

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If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for the better management of the premises, that modification shall be made to the plan only with the consent of Inner West Council (whose consent shall not be unreasonably withheld).

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**ATTACHMENT 1 - HOUSE POLICY**

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- Educate staff in respect of Responsible Service of Alcohol and this House Policy.
- Prevent underage drinking by requiring that proof of age be provided.
- Prevent Intoxication by recognising the signs of intoxication and refusing service to patrons displaying such signs. Any person who is deemed intoxicated is to be denied entry to the premises.
- On closing, all patrons will be asked to leave the premises quietly, having regard to neighbours.
- Low alcohol beer and non-alcoholic beverages are to be available at all times.
- Free water will be available to seated customers.
- Full strength liquor will be available.
- No promotions will be conducted which could result in binge drinking or excessive consumption.
- Staff will seek to identify and prevent disruptive and/or anti-social behaviour.
- Discourage drink driving by making known safe transport options such as trains, buses and taxis.
- It is an offence to sell or supply liquor to minors. It is the responsibility of every staff member to ensure liquor is not sold to minors. Patrons suspected of being under 18 years of age are to be asked to provide approved documentary proof of age, being:
  - Current driver's licence;
  - RTA 'Proof of Age' card;
  - Current Passport; or
  - Any other form of ID approved by the NSW Director of the OLGR.
- It is an offence to sell liquor to any person who is intoxicated. The Liquor Act 2007 (NSW) states that a person is intoxicated if the person's speech, balance, co-ordination or behaviour is noticeably affected as a result of the consumption of liquor or drugs.
- Management and staff are to ensure that intoxication is prevented by:
  - Providing low and non-alcoholic beverages at all times;
  - Refusal of service to patrons showing signs of intoxication;
  - Not allowing intoxicated persons to enter the premises or remain on the licensed premises;
  - Assisting with locating appropriate transport options where necessary.
- Management and staff are not to allow disruptive, violent or anti-social behaviour to occur on or in the vicinity of the premises by patrons having been in attendance at the premises.
- Management and staff are to ensure this is prevented by:
  - Not tolerating any conduct or behaviour which a reasonable person would consider undesirable.

- Identifying potential problems and taking steps to alert senior staff/security and preventing them from escalating.

## Attachment F- Flood Risk Management Report



**Advisian**  
WorleyParsons Group

Advisian  
Level 17, 343 Walker St  
NORTH SYDNEY NSW 2060  
AUSTRALIA

P: +61 2 9485 0500

Advisian Pty Ltd  
ABN: 50 098 008 938

[www.advisian.com](http://www.advisian.com)

Ref: 301015-03948  
File: I301015-03948\gh180511-Empire Hotel FRA.docx

Empire Hotel Annandale  
103 Parramatta Road  
ANNANDALE NSW 2085

14<sup>th</sup> May 2018

**Attention: Mr Eric Armstrong**

Dear Eric,

**EMPIRE HOTEL, ANNANDALE  
INTERNAL ALTERATIONS AND ADDITIONS – FLOOD RISK MANAGEMENT REPORT**

I refer to Advisian's fee proposal dated 26<sup>th</sup> April 2018 which outlined the scope of work for a Flood Risk Management Report for the proposed internal alterations and additions to the existing Empire Hotel at Annandale.

Inner West Council has identified the property as a flood control lot and therefore, in accordance with Council's Development Control Plan (DCP) 2013, has requested a report be prepared to document the Flood Planning Level (FPL), the Probable Maximum Flood (PMF) level, the Flood Hazard category and an emergency flood response and evacuation plan.

We are pleased to outline in the following, the findings of our investigations to assess the potential flood risks that the proposed development could be exposed to. These findings, some as detailed in the Flood Risk Management Report.

**1. DATA COLLECTION**

The following information was obtained and reviewed as part of investigations undertaken by Advisian:

- A digital copy of the architectural design plans that accompanied the Development Application (refer **Attachment A**);
- The Flood Certificates for the property issued by Inner West Council on 14<sup>th</sup> April 2018 (refer **Attachment B**);
- A digital copy of the *Unobstructed Flood Study (Unders, May 2017)* sourced from Council's website which includes flood mapping in the vicinity of the property that shows creek depths and flood hazard during the 100 year Average Recurrence Interval (ARI) flood and the PMF. A copy of this mapping is provided in **Attachment C**;
- LIDAR topographic data in the vicinity of the hotel, extracted from the on line LIDAR system (*Geoscience Australia*) – the data was captured in April 2013 and has a 1m x 1m resolution;
- Part D Water and Appendix D: Water Guidelines of Inner West Council's DCP 2013.





## 2. FLOOD RISK ASSESSMENT

### 2.1 Proposed Development

The proposed development primarily involves internal works. The only external works comprises minor under-awning signage. The internal works are summarised as follows (refer **Attachment A**):

- Conversion of basement storage areas to a bar/bistro with pizza kitchen, including staircases to the ground floor at the southern and eastern sides of the hotel. The basement floor level is at an elevation of 25.04 mAHF.
- Reconstruction of the ground floor parking area and incorporation of the staircases to the basement level. The ground floor level is 25.80 mALD.

### 2.2 Leirhardt Hood Study (2015)

A copy of the Flood Study mapping in the vicinity of the Empire Hotel is provided in **Attachment C**.

The Flood Study included a computer modelling of the flooding of Johnstons and Whites Creeks, which was undertaken using the SOBEK software. The upstream boundary of the SOBEK model is at Parramatta Road. The model incorporated inflow points at the two creeks (flows from the upstream catchment) and also a Direct Rainfall approach to simulate flood hydrology within the SOBEK model mesh.

The PMF depth mapping enclosed within **Attachment C** illustrates the following:

- Flooding in Parramatta Road is expected to be deepest at the crossing points of Johnstons Creek and Whites Creek. This inundation will occur as a result of overflows from the creeks.
- The shallower flood depths further away from the creek crossing points are the result of local catchment runoff derived from the Direct Rainfall modelling undertaken using SOBEK.
- The shallower flooding occurs in the vicinity of the Empire Hotel, where PMF depths are predicted to be less than about 300mm. Accordingly, the Empire Hotel is not expected to be affected by the flooding that escapes from Johnstons or Whites Creeks.

The mapping from the Direct Rainfall modelling is also helpful in defining the boundary of the local runoff catchment that drains along Johnston Street and Parramatta Road in the vicinity of the hotel, as drawn over the flood maps in **Attachment C**. The LiDAR data obtained from Cosmoline Australia was used to confirm the catchment extent.

As shown, the local drainage catchment is relatively small, extending north only to Reserve Street, which further explains why any overland flows adjacent to the hotel are relatively shallow.

### 2.3 Flood Planning Level

The Flood Certificate issued by Inner West Council shows flood extent mapping for the 100 year ARI flood and the PMF (refer **Attachment B**).

The certificate also indicates the 100 year ARI level and PMF level at a point near the south-east corner of the hotel. It is understood that this location has been chosen by Council as it reflects the point where the 100 year ARI inundation comes closest to the hotel, which appears to be in the Parramatta Road kerb line on the north side of the road.



However, it should be noted that the 100 year ARI flood extent shown in the 2015 Flood Study (refer **Attachment C**) indicates that the 100 year ARI flood extent only affects the southern kerb line of Parramatta Road. This flooding is expected to be Low Hazard, as shown in **Attachment C**.

It is understood that this discrepancy might be a result of the application of "filtering" in the development of the flood mapping, which for the 2015 Flood Study involved removal of depths less than 150mm, whereas Council's Flood Certificate identifies the 100 year ARI depth to be only 100mm.

According to the certificate, the 100 year ARI flood level adjacent to the Empire Hotel is expected to be 22.25 mAHD. The associated Flood Planning Level (FPL) would therefore be 22.75 mAHD, allowing for a freeboard of 500 mm. The floor level of the hotel basement is 23.04 mAHD and the ground floor is at 25.80 mAHD, which are both above this FPL.

However, the 100 year ARI flood level on the Flood Certificate appears to be in error because the flood level is about 1.9 metres below the ground level of 24.15 mAHD. The ground level is assumed to be at the base of the kerb in Parramatta Road. A review of the available LiDAR data confirms that the terrain level at this location is 24.15 mAHD.

The 100 year ARI flood depth of 100mm noted on the certificate is assumed to be correct. Hence, the corresponding 100 year ARI flood level in the kerb would be 24.25 mAHD. The associated FPL would be 24.75 mAHD. Therefore, the ground floor of the hotel is about 1 metre higher than the FPL.

The basement level is about 1.7 metres below the FPL. However, there are no entry points via which flows can enter the basement from Parramatta Road.

- A small shutter door at the footpath level leads to the basement and normally this shutter remains closed and locked other than during a beer keg delivery.
- A small air vent about 200mm above the footpath level will be removed/closed as part of the development works.
- An entry door in the south east corner of the hotel is about 1.00m above footpath level, but only leads to an upwards staircase to the ground floor level of 25.80 mAHD.

All doorways into the hotel from Johnston Street are at the ground floor level of 25.8 mAHD, which is above the FPL. Therefore, the basement is not expected to be inundated during the 100 year ARI event.

#### 2.4 Probable Maximum Flood

Council's Flood Certificate indicates that the PMF level near the southeast corner of the hotel is 24.20 mAHD (refer **Attachment B**). This level is 1.5 metres above the site ground floor level of 25.8 mAHD and any potential entry points to the basement level.

According to the ground level shown in the Flood Certificate, this flood level corresponds to a depth of 0.15m, which falls within the PMF depth range of 0.1 to 0.3 metres shown in the mapping included within the 2015 Flood Study (refer **Attachment C**). The PMF flow in Parramatta Road is classified as High Hazard according to the Flood Study, which is likely attributable to high velocities rather than significant flood depths.

It is recognised that the PMF level may be higher in Johnston Street on the west side of the hotel, because Parramatta Road grades down from west-to-east along the southern frontage of the hotel.



Hence, the ground level shown in the Flood Certificate is lower than the ground level in Johnston Street.

As discussed above and shown in **Attachment C**, the catchment draining to Johnston Street is relatively small. The Flood Study mapping shows the PMF depths in Johnston Street are no greater than 0.3 metres and the associated flood hazard is classified as Low.

Photographs of the road verge and footpath along Johnston Street indicate that the hotel doorways are at least 300 mm higher than the invert of the kerb in the street (refer **Plate 1**). The LiDAR data also shows that there is typically a 300 mm rise from the kerb invert level across the footpath to the hotel building alignment.

Accordingly, runoff during the PMF is not expected to enter the premises.



**Plate 1** – View looking south along Johnston Street (Source: *Perica & Assoc*)

### 3. ONSITE FLOOD EVACUATION

As discussed above, overflows from Johnstons Creek and Whites Creek are not expected to reach the Empire Hotel during floods up to and including the PMF.

PMF depth mapping contained in the 2015 Leichhardt Flood Study indicates that local runoff along Parramatta Road and Johnston Street is not expected to enter the hotel.

Accordingly, it is unlikely that the ground floor level or basement level of the hotel will ever be inundated.

Notwithstanding this, should the situation ever arise where water from the street starts to enter the hotel, staff and patrons would be able to evacuate upwards from the basement via the staircases that are proposed on the southern and eastern walls of the hotel (refer **Attachment A**).



It is recommended that basic Evacuation Plan signage be prepared to show the layout of the hotel and the quickest evacuation route from the basement level to the ground floor via the closest staircase. The signs should be erected at the base and top of each stairwell. It is understood that signage of this nature may already be required from a fire risk perspective. If so, these signs could serve the dual purpose of advising patrons and staff on flood evacuation and fire response procedures.

It is recommended that all hotel staff be made aware of the potential flood risk (however small), and be instructed to alert the onsite hotel manager immediately if they see stormwater flows from the street approach the entry doors to the hotel. The manager would be responsible for initiating evacuation from the basement level.

4. REFERENCES

- Cardno (2015), 'Leichhardt Flood Study, Final Report', prepared for Leichhardt Council
- Geoscience Australia (2018), 'EIMS – Elevation Foundation Spatial Data', <http://elevat.on.fsdf.org.au/>
- Leichhardt Council (2013), 'Leichhardt Development Control Plan 2013 (Amendment No. 7)'

-----

I trust that the above report meets your information requirements.

Please feel free to contact myself on (02) 8456 7232 or Chris Thomas on (02) 8456 7230 should you have any queries.

Yours faithfully

**ADVISIAN**

  
 Warwick Honour  
 Principal Engineer – Water

Reviewed by

  
 Chris Thomas  
 Manager and Principal – Water



**Attachment A      Architectural Design Plans**

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**1 GFA Plan Existing Basement**  
1.06



**2 GFA Plan - Proposed Basement**  
1.06



**3 GFA Plan - Existing Ground Floor**  
1.06

| Area Schedule (GFA Plan 0602) |              |                    |  |
|-------------------------------|--------------|--------------------|--|
| Name                          | Level        | Area               |  |
| GFA                           | Basement     | 136 m <sup>2</sup> |  |
| GFA                           | Ground level | 472 m <sup>2</sup> |  |



**4 GFA Plan - Proposed Ground Floor**  
1.06

| Area Schedule (GFA Proposed) |              |                    |   |
|------------------------------|--------------|--------------------|---|
| Name                         | Level        | Area               |   |
| GFA                          | Basement     | 513 m <sup>2</sup> | Overall Existing GFA - 1911m <sup>2</sup> |
| GFA                          | Ground level | 507 m <sup>2</sup> | Overall Proposed GFA - 1927m <sup>2</sup> |

**General Notes**  
By and for the convenience of the applicant, the following information is provided for the information of the Council. It is not intended to constitute a contract and the Council is not responsible for its accuracy or completeness. The Council is not responsible for any errors or omissions in the information provided. The Council is not responsible for any damage or loss of any kind arising from the use of the information provided.

**H & E**  
H & E CONSULTANTS  
10/11-13/15 WILSON STREET, SYDNEY NSW 1585  
TEL: (02) 9550 1234  
WWW.HANDANDENGINEERING.COM.AU

**Development Application**

Site: The Empire Hotel  
 Location: 105A Parramatta Road, Annandale NSW 1511  
 Date: 20/07/2014  
 Drawn: GFA GFA Plan

|                         |                         |                         |                         |
|-------------------------|-------------------------|-------------------------|-------------------------|
| Scale: 1:200            | Scale: 1:200            | Scale: 1:200            | Scale: 1:200            |
| Sheet: 01               | Sheet: 02               | Sheet: 03               | Sheet: 04               |
| Project No: 2403 DA0100 | Project No: 2403 DA0100 | Project No: 2403 DA0100 | Project No: 2403 DA0100 |

**Demolition Plan Notes**

1. All existing structures to be demolished in accordance with the Demolition Schedule.

2. All existing structures to be demolished in accordance with the Demolition Schedule.

3. All existing structures to be demolished in accordance with the Demolition Schedule.

4. All existing structures to be demolished in accordance with the Demolition Schedule.

5. All existing structures to be demolished in accordance with the Demolition Schedule.

6. All existing structures to be demolished in accordance with the Demolition Schedule.

7. All existing structures to be demolished in accordance with the Demolition Schedule.

8. All existing structures to be demolished in accordance with the Demolition Schedule.

9. All existing structures to be demolished in accordance with the Demolition Schedule.

10. All existing structures to be demolished in accordance with the Demolition Schedule.

**Demolition Legend**

1. Existing Structure to be Demolished

2. Existing Structure to be Demolished

3. Existing Structure to be Demolished

4. Existing Structure to be Demolished

5. Existing Structure to be Demolished

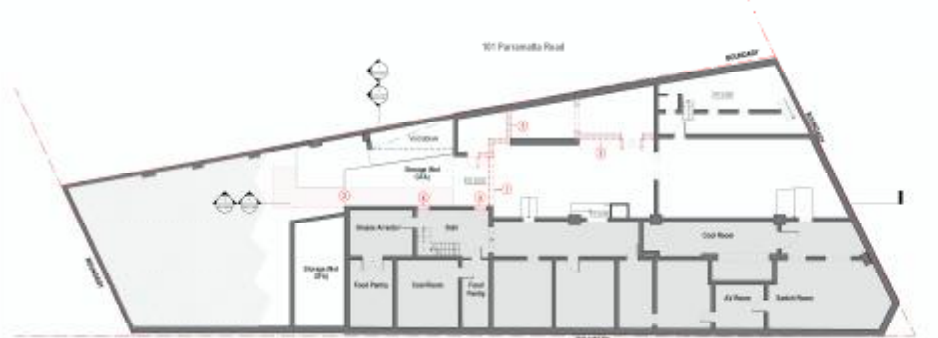
6. Existing Structure to be Demolished

7. Existing Structure to be Demolished

8. Existing Structure to be Demolished

9. Existing Structure to be Demolished

10. Existing Structure to be Demolished



**Demolition Plan - Basement**

**General Notes**  
By and for the convenience of the applicant, the following information is provided for the information of the Council. It is not intended to constitute a contract and the Council is not responsible for its accuracy or completeness. The Council is not responsible for any errors or omissions in the information provided. The Council is not responsible for any damage or loss of any kind arising from the use of the information provided.

**H & E**  
H & E CONSULTANTS  
10/11-13/15 WILSON STREET, SYDNEY NSW 1585  
TEL: (02) 9550 1234  
WWW.HANDANDENGINEERING.COM.AU

**Development Application**

Site: The Empire Hotel  
 Location: 105A Parramatta Road, Annandale NSW 1511  
 Date: 20/07/2014  
 Drawn: Existing & Demolition Plan - Basement

|                         |                         |                         |                         |
|-------------------------|-------------------------|-------------------------|-------------------------|
| Scale: 1:200            | Scale: 1:200            | Scale: 1:200            | Scale: 1:200            |
| Sheet: 01               | Sheet: 02               | Sheet: 03               | Sheet: 04               |
| Project No: 2403 DA0100 | Project No: 2403 DA0100 | Project No: 2403 DA0100 | Project No: 2403 DA0100 |









| Demolition Legend   | DA Marking Legend   | General Notes  |
|---|---|--|
| <p>1. Existing Footings</p> <p>2. Existing Structure</p> <p>3. Proposed Structure</p> <p>4. Proposed Footings</p> | <p>1. Proposed Structure</p> <p>2. Proposed Footings</p> <p>3. Proposed Structure</p> <p>4. Proposed Footings</p> | <p>1. All dimensions are in millimetres unless otherwise stated.</p> <p>2. All dimensions are to the face of the work unless otherwise stated.</p> <p>3. All dimensions are to be checked and confirmed before commencing work.</p> <p>4. All dimensions are to be checked and confirmed before commencing work.</p> |

**Development Application**

**Project:** The Empire Hotel

**Location:** 105A Parramatta Road, Annandale NSW NSW

**Site:** 2403 DA3101

**DA:** 01

**DA Type:** General Arrangement Section B

|              |                  |              |         |                |        |
|--------------|------------------|--------------|---------|----------------|--------|
| Project No.  | 2403             | DA No.       | DA3101  | Section        | 01     |
| Project Name | The Empire Hotel | Project Date | 2023/18 | Project Status | DA3101 |

| Demolition Legend   | DA Marking Legend   | General Notes  |
|---|---|--|
| <p>1. Existing Footings</p> <p>2. Existing Structure</p> <p>3. Proposed Structure</p> <p>4. Proposed Footings</p> | <p>1. Proposed Structure</p> <p>2. Proposed Footings</p> <p>3. Proposed Structure</p> <p>4. Proposed Footings</p> | <p>1. All dimensions are in millimetres unless otherwise stated.</p> <p>2. All dimensions are to the face of the work unless otherwise stated.</p> <p>3. All dimensions are to be checked and confirmed before commencing work.</p> <p>4. All dimensions are to be checked and confirmed before commencing work.</p> |

1 Typical Awning Section  
1:50

**Development Application**

**Project:** The Empire Hotel

**Location:** 105A Parramatta Road, Annandale NSW NSW

**Site:** 2403 DA3200

**DA:** 01

**DA Type:** Awning Signage Proposal

|              |                  |              |         |                |        |
|--------------|------------------|--------------|---------|----------------|--------|
| Project No.  | 2403             | DA No.       | DA3200  | Section        | 01     |
| Project Name | The Empire Hotel | Project Date | 2023/18 | Project Status | DA3200 |



**Attachment B Council Flood Certificate**

---

Ir301015-03949wjh180511-Empire Hotel FRA.docx



Contact: James Ogg  
Phone: (02) 9392 5641

19 April 2018

Eric Armstrong  
103A Parramatta Road  
Annandale NSW 2038

**Flood Certificate**

As requested, attached is the Flood Level Information Report for the following address:

- 103A Parramatta Road, Annandale

The information contained in the report is derived from the Draft Leichhardt Flood Study (May 2015 prepared by Cardno).

The information is provided in good faith and in accordance with the provisions of s.733 of the Local Government Act.

Should you have any questions please call Council's Stormwater & Emergency Management Section on 8382 5000.

Yours faithfully

James Ogg  
**COORDINATOR – STORMWATER & EMERGENCY MANAGEMENT**

PO Box 14 Petersham 2049 | P 02 9392 5000 | E [ccouncil@innerwest.nsw.gov.au](mailto:ccouncil@innerwest.nsw.gov.au)

Customer Service Centres | Petersham 2-14 Fisher Street | Leichhardt 7-16 Wetherill Street | Ashfield 260 Liverpool Road



### Property Flood Level Information Report

|                         |                                 |                |     |
|-------------------------|---------------------------------|----------------|-----|
| <b>Applicant Name</b>   | Eric Armstrong                  | <b>Our Ref</b> | 621 |
| <b>Property Address</b> | 103A Parramatta Road, Annandale |                |     |
| <b>Date of Issue</b>    | 19 April 2018                   |                |     |

#### About this Report

This report provides flooding information for the area in the vicinity of the above property. This information can be used to assist in understanding the extent of flooding affecting this property and can be used to assist in preparation of a Flood Risk Management Report in accordance with Section E1.1.4 of Council's Development Control Plan (DCP 2013). It is recommended that the information in this report be interpreted by a suitably qualified professional.

This report includes two pages; this cover page with an explanation of the information provided, and the second page is a figure providing information on the flooding behaviour in the area. The figure includes peak water levels, depths and flow rates for the 100 year ARI and peak water levels for the Probable Maximum Flood event.

The flood levels provided are based on available information including numerical modelling results prepared by Cardno for Leichardt Council. Further details are available in the *Draft Leichardt Flood Study* (Cardno, 2015). All flood levels and depths are provided to the nearest 0.05 metres.

#### Definitions

The following provides a brief definition of some of the key terms utilised in this report:

|                                   |   |
|-----------------------------------|---|
| Average Recurrence Interval (ARI) | The long-term average number of years between the occurrences of a flood as big as or larger than the selected event. The 100 year ARI flood event can be expressed as having a 1% chance of occurrence in any given year or as the flood that could occur once every 100 years.                    |
| Probable Maximum Flood (PMF)      | The PMF is the largest flood that could conceivably occur at a particular location. This event is used to determine what might occur in events larger than a 100 year ARI.  |
| 100 year ARI Flow Path/Extent     | The area of land expected to be inundated by either a flow path or mainstream flooding during a 100 year ARI flood event. The extents are limited to the areas where depths of flow are greater than 150mm.   |
| 100 year ARI High Hazard          | Areas within the 100 year ARI flood extents where the depth and/or velocity of flow is likely to represent a possible danger to personal safety; evacuation by trucks is difficult; able-bodied adults would have difficulty wading to safety; and/or potential for structural damage to buildings. |
| Flood Planning Level (FPL)        | The Flood Planning Level is calculated by adding a 500 mm freeboard onto the 100 year ARI flood level.  |
| Freeboard                         | The freeboard is incorporated into the Flood Planning Level to provide a factor of safety to the flood levels. It accounts for a number of factors, including wave action, localised obstructions to flows, and model uncertainty.  |
| Australian Height Datum (AHD)     | A common national surface level datum approximately corresponding to mean sea level.  |

#### Notes

The ground levels shown on the attached figure are based on aerial survey data undertaken by AAM Hatch on behalf of Council. The ground levels should be verified by a suitably qualified surveyor.

The location of stormwater pits and pipes on the attached figure are indicative only. The location and dimensions of pipelines should be verified by a suitably qualified surveyor.

The water depths shown are provided at the location shown and are indicative only. They do not necessarily represent the maximum depth in the area. For example, where a point is located on the centreline of a road, the depths will be higher within the road gutter.

The information is provided in good faith and in accordance with the provisions of s.733 of the *Local Government Act*.



Property Flood Level Information Report



The information provided is in good faith and in accordance with the provisions of s.733 of the Local Government Act.

The aerial photo was taken by AAM Hatch and is dated at 2006.

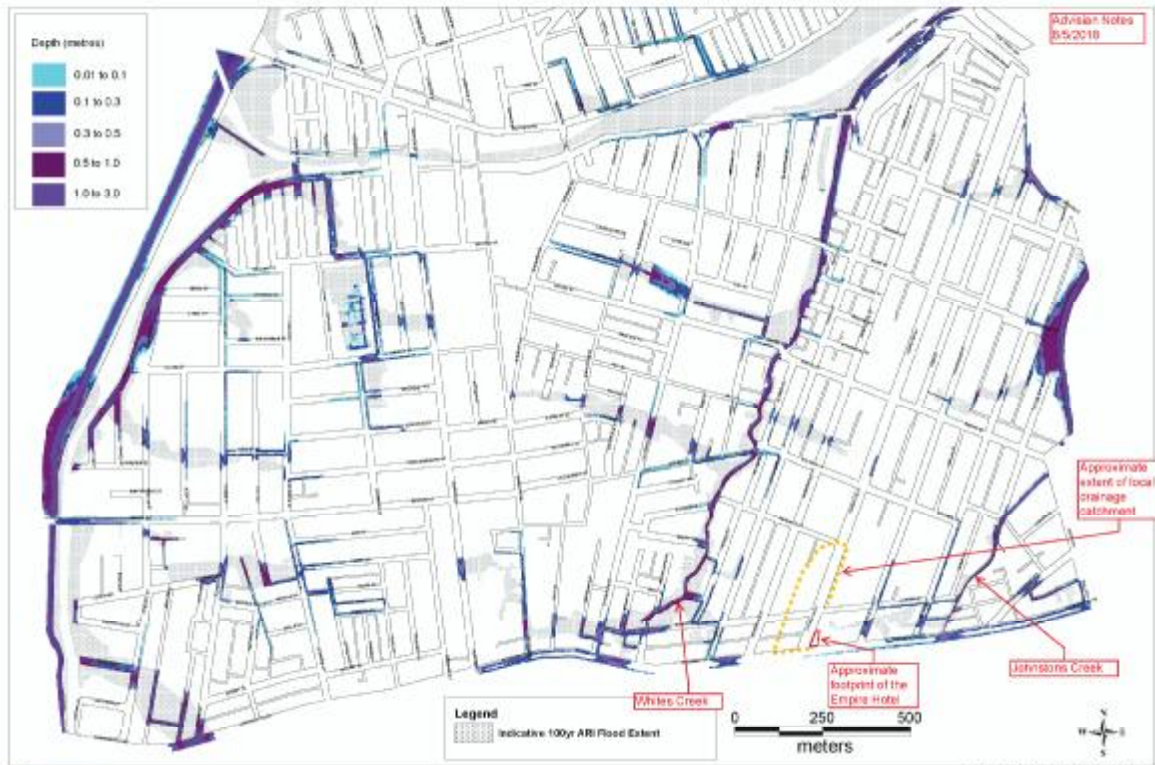


**Attachment C      Flood Mapping (Cardno 2015)**

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Ir301015-03949wjh180511-Empire Hotel FRA.docx





Cardno  
L0029  
June 2016

Leichhardt Flood Study

Figure 8.2- 100yr ARI Peak Depth Sheet1  
J:\NW\2016\LeichhardtFloodStudy\Report\Figures\Fig\_8.2-100yrARI-PeakDepth-Sheet1.VKR



Cardno  
L0029  
June 2016

Leichhardt Flood Study

Figure 8.3- PMF Peak Depth Sheet1  
J:\NW\2016\LeichhardtFloodStudy\Report\Figures\Fig\_8.3-PMF-PeakDepth-Sheet1.VKR



Figure 9.2 - 100yr ARI - Hazard Sheet 1  
 Leichhardt Flood Study  
 2019/2020 Leichhardt Flood Study Figure 9.2 - 100yr ARI - Hazard Sheet 1



Figure 9.3 - PMF - Hazard Sheet 1  
 Leichhardt Flood Study  
 2019/2020 Leichhardt Flood Study Figure 9.3 - PMF - Hazard Sheet 1

Attachment F- DA Acoustic Assessment

Empire Hotel  
**Empire Hotel, Annandale**  
DA Acoustic Assessment

AC01

Issue 3 | 1 March 2018

This report takes into account the particular instructions and requirements of our client. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

Job number 259542-00

Arup  
Arup Pty Ltd ABN 18 000 906 145












**Arup**  
Level 10 201 Kent Street  
PO Box 76 Millers Point  
Sydney 2000  
Australia  
[www.arup.com](http://www.arup.com)

**ARUP**

Document Verification

ARUP

|   |   |  |   |  |   |           |                                     |
|---|---|--|---|--|---|-----------|-------------------------------------|
| Job title                                 |   | Empire Hotel, Amundale   |   | Job number   |   | 259542-00 |                                     |
| Document title                            |   | DA Acoustic Assessment   |   | File reference   |   |           |                                     |
| Document ref                              |   | AC01   |   |  |   |           |                                     |
| Revision                                  | Date  | Filename   | AC01 (v1) Empire Hotel_DA_Acoustics   |  |   |           |                                     |
| Issue 1                                   | 15 Feb 2018   | Description  | First issue   |  |   |           |                                     |
|   |   |  | Prepared by   | Checked by   | Approved by   |           |                                     |
|   |   | Name   | Guy Hopkins   | Glenn Wheatley   | Glenn Wheatley  |           |                                     |
|   |   | Signature  |      |  |  |           |                                     |
| Issue 2                                   | 28 Feb 2018   | Filename   | AC01 (v2) Empire Hotel_DA_Acoustics.docx  |  |   |           |                                     |
|   |   | Description  | Issue Update  |  |   |           |                                     |
|   |   |  | Prepared by   | Checked by   | Approved by   |           |                                     |
|   |   | Name   | Guy Hopkins   | Glenn Wheatley   | Glenn Wheatley  |           |                                     |
| Signature                                 |  |  |  |  |   |           |                                     |
| Issue 3                                   | 1 Mar 2018  | Filename   | AC01 (v3) Empire Hotel_DA_Acoustics.docx  |  |   |           |                                     |
|   |   | Description  | Issue Update  |  |   |           |                                     |
|   |   |  | Prepared by   | Checked by   | Approved by   |           |                                     |
|   |   | Name   | Guy Hopkins   | Glenn Wheatley   | Glenn Wheatley  |           |                                     |
| Signature                                 |  |  |  |  |   |           |                                     |
|   |   | Filename   |   |  |   |           |                                     |
|   |   | Description  |   |  |   |           |                                     |
|   |   |  | Prepared by   | Checked by   | Approved by   |           |                                     |
|   |   | Name   |   |  |   |           |                                     |
|   |   | Signature  |   |  |   |           |                                     |
| Issue Document Verification with Document |   |  |   |  |   |           | <input checked="" type="checkbox"/> |

AC01 - Issue 3 - 1 March 2018 (1) - ARUP  
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11/03/2018

11/03/2018 11:03:00 AM

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## Appendices

### Appendix A

Unattended noise monitoring

11/03/2018

11/03/2018

## Executive Summary

---

Arup has been engaged by the Empire Hotel to provide an acoustic assessment for proposed alterations and additions, which include:

- ♦ Alterations to the existing ground floor gaming area;
- Future works to fit out basement into basement bar with two additional staircases;
- Provision for a continuation of the 3 am venue licence.

Project noise goals have been established based on a combination of unattended long-term, and short-term attended noise monitoring. The attended surveys were also used to assess typical activities within the Empire Hotel with supplementary measurements at the adjacent residence.

A predictive assessment was carried out for the proposed gaming room extension and basement fitout. Based on the assessment undertaken, recommendations have been provided for both physical noise mitigation and operational management. It is recommended that further detailed assessment and advice would be required prior to the issue of the Construction Certificate.

With appropriate design and verification, along with implementation of the mitigation and management measures, the proposed development is capable of satisfying the relevant noise criteria.

## Recommendations

### Gaming Area

- ♦ Background music should not be provided in the areas between midnight and 3 am
- ♦ Acoustically absorptive finishes should be incorporated into the ceiling and walls (noting existing Reopar acceptable on the boundary wall).
- ♦ A noise monitor is recommended to be installed in the gaming area as a management tool. In the absence of such a device, it would be difficult for staff to know if and when patrons are creating excessive noise, without being permanent located within the gaming room at all times. The device could be similar to that used for monitoring music noise, with the alert device (typically visual only) located within sight of general staffing areas.
- Signage may be implemented to make patrons aware of the proximity to residential premises and the need to keep noise to a minimum.
- Adjust sound levels on gaming machines to lowest practical level. Measured noise levels presented in this report can be used for guidance.
- Include a solid barrier at the top of the existing parapet, extending a minimum of 1.2 m above the existing wall. The build-up of the barrier should be of solid

Empire Hotel

Empire Hotel, Annandale  
DA Acoustic Assessment

construction ( $14\text{kg/m}^2$ ) with a continuation of the absorptive lining facing inwards. Alternatively, to accommodate solar access to residence, a solid transparent construction should be employed i.e. glazed/perspex construction ( $14\text{kg/m}^2$ ). The length of the barrier should start before end of the residential building and extend the full length of the gaming area. It is noted that this measure would also assist by reducing current mechanical plant noise from the hotel.

- Construct all new external walls and floors (i.e. for the extension) to have a minimum acoustic rating of  $R_w 40$ .

### Basement

- ♦ It is recommended that the airborne sound insulation performance of the common wall between the lounge-bistro and residence (approximate 5 m section) is confirmed. Further acoustic upgrade of the wall may be warranted to address the predicted exceedances, which could include construction of an independent stud wall with layers of plasterboard (i.e. 2 x 16 mm fire rated) with insulation in the cavity.
- Should the common wall also be found to be structurally connected, it is recommended that the new staircase, be independent from the boundary wall to limit structure borne noise from foot fall.
- ♦ Acoustically absorptive finishes should be incorporated into the fitout of the basement area, with focus on highly absorptive ceiling (recommended greater than NRC 0.7). Wall panels could also be included where practicable. The greater extent of acoustic treatment, will assist in reducing overall patron noise.
- All amplified sound, including background music and TVs etc., should be provided via an in-house sound system which should be fitted with an appropriate noise limiter. It is recommended that an RMS compressor/limiter (eg. Rane TLF, BSS Blu, Symetrix Jupiter or MediaMatrix X-Frame SS) be used. Multi-band compression is recommended for greater control over the critical frequency bands. As different noise limits apply before and after midnight, the device should include or support multiple time-based settings. The noise limits and setting of the device should be made during acoustic compliance testing by an appropriately qualified acoustic consultant (in conjunction with the system engineer/technician).

### Building services equipment

Building services equipment (e.g. mechanical, hydraulic and electrical equipment) for the development has not been selected at this stage of design. During ongoing design of the development, building services equipment will be selected and provided with noise and vibration attenuation measures as required to meet the Project goals.

Noise mitigation treatment may be required, including:

Empire Hotel

Empire Hotel, Annandale  
DA Acoustic Assessment

- Specification of maximum sound power levels for all items of plant as part of the project documentation.
- Use of attenuators to control fan noise
- Acoustic louvres to control noise from plantroom ventilation openings
- Vibration isolators to reduce vibration input to the building structure
- Acoustic screens around external plant, where required
- Incorporation of sound absorptive treatments in plantroom spaces.



## 1 Introduction

Arup has been engaged by the Empire Hotel to provide an acoustic assessment for proposed alterations and additions, which include:

- ◆ alterations to the existing ground floor gaming area;
- ◆ future works to fit out basement into pizzeria with three additional staircases;
- ◆ provision for a continuation of the 3 am venue license.

### 1.1 Site description

The Empire Hotel Annandale is located on the corner of Johnston Street and Parramatta Road. The nearest sensitive receiver with respect to the proposed development is identified as 103B Parramatta Road, immediately adjoining the hotel to the east. The location of the Hotel and the closest residential receiver are presented in Figure 1.



Figure 1: Location of Empire Hotel (red) and adjacent residential building (blue)

### 1.2 Proposed development

The acoustic assessment has been based on the following architectural drawings prepared by Humphrey & Edwards:

Table 1: Architectural Drawings

| Drawing number | Description                                | Revision |
|----------------|--|----------|
| 2403_241000    | Existing & Development Plan - Basement     | 05       |
| 2403_241001    | Existing & Development Plan - Ground floor | 05       |

Figure 2

2403\_243100  
2403\_243100

| Drawing number | Description                             | Revision |
|----------------|---|----------|
| 2403_243100    | General Arrangement - Basement          | 01       |
| 2403_243100    | General Arrangement Plan - Ground Floor | 01       |
| 2403_243100    | General Arrangement Section A           | 01       |
| 2403_243100    | General Arrangement Section B           | 01       |

The locations of works within the development are presented in Figure 2 and Figure 3 with respect to the nearest sensitive receiver to the proposed development.



Figure 2: Location of work for upgrade – Ground Floor



Figure 3: Location of works for upgrade – Basement

10/03/2018

10/03/2018

### 1.3 Assessment locations

The assessment locations are described in Table 2.

Table 2: Assessment locations

| ID | Location                              | Relevant Hotel Activities                         |
|----|---------------------------------------|---|
| A1 | External – 103D Parramatta Rd Level 1 | Outdoor gaming area and mechanical plant.         |
| A2 | Internal – 103B Parramatta Rd Level 1 | After midnight assessment of outdoor gaming area. |
| A3 | Internal – 103B Parramatta Rd Ground  | Basement internal use                             |

## 2 Existing noise environment

Criteria for the assessment of operational noise are derived from the existing noise environment of an area, excluding noise from the subject development.

Fuel Sheet B of the NSW *Noise Policy for Industry* (NPI) outlines two methods for determining the background noise level of an area, being 'B1 – Determining background noise using long-term noise measurements' and 'B2 – Determining background noise using short-term noise measurements'. This assessment has used a combination of long-term and short-term noise monitoring.

In addition, supplementary attended measurements were used to assess the current noise sources from the Empire Hotel.

### 2.1 Noise measurement locations

Noise measurements are ideally carried out at the nearest or most potentially affected locations surrounding a development. An alternative, representative location should be established in the case of access restrictions or a safe and secure location cannot be identified. Furthermore, representative locations may be established in the case of multiple receivers as it is usually impractical to carry out measurements at all locations surrounding a site.

The unattended long-term measurement location is shown graphically in Figure 4, identified as L1. The monitor was located on a low-level roof, in line with residential first floor bedroom. Photos are also presented in Figure 5.

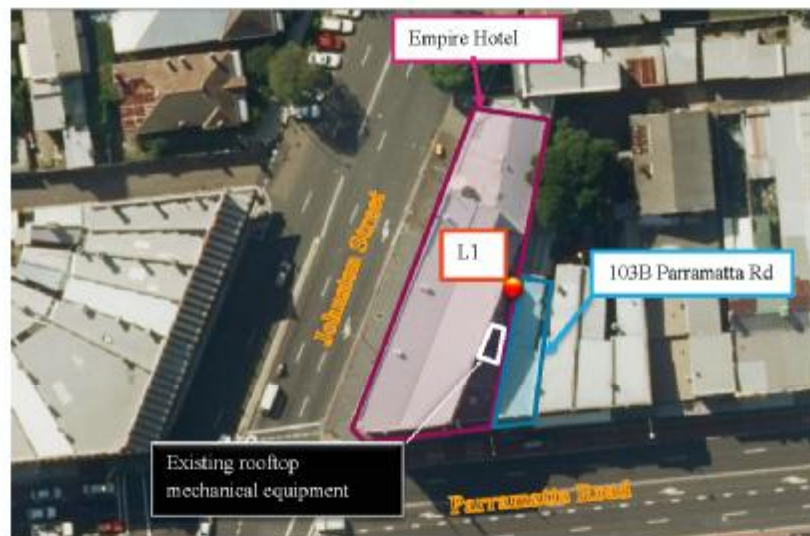


Figure 4: Location of long term monitoring logger.

Empire Hotel

Empire Hotel, Annandale  
DA Acoustic Assessment



To north: Boundary, near void to gaming

To south: Rear of 103B Parramatta Rd

Figure 5: Logger location relative to residential building and Empire Hotel.

The supplementary attended measurement locations are outlined in Table 5 and shown graphically in Figure 6.

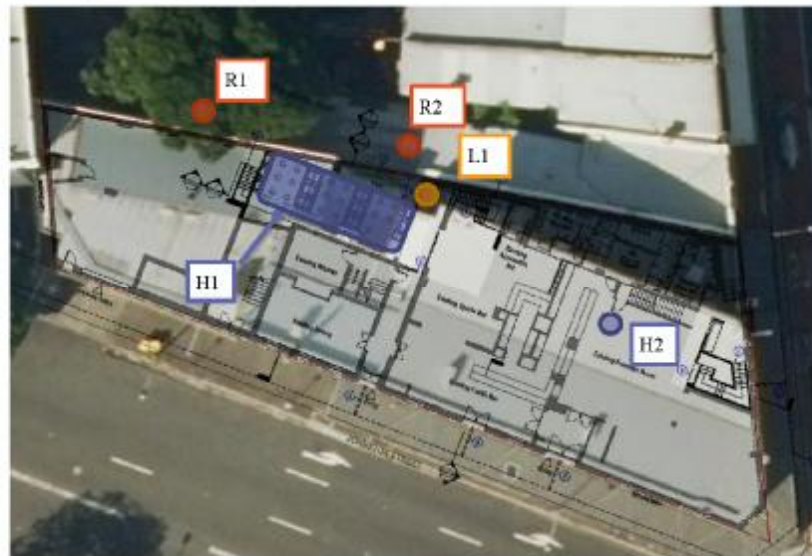


Figure 6: Location of attended noise monitoring.

## 2.2 Unattended long-term noise measurements

Unattended long-term noise monitoring was carried out from Thursday, 18 January to Thursday, 25 January 2018. The long-term noise monitoring methodology and noise level-vs-time graphs of the data are included in Appendix A.

Table 3 presents the overall single Rating Background Levels (RBL) and representative ambient  $L_{eq}$  noise levels for each assessment period, determined in accordance with the NSW NPI.

Table 3: Long-term noise monitoring results, dB(A)

| Location                            | Time Period | Rating Background Noise Levels $L_{d50}$ | Ambient $L_{eq}$ noise levels |
|-------------------------------------|-------------|--|-------------------------------|
| L1 - low level roof of Empire Hotel | Day         | 49                                       | 55                            |
|                                     | Evening     | 54                                       | 57                            |
|                                     | 10pm-12am   | 52                                       | 55                            |
|                                     | Night       | 40                                       | N/A                           |

Day: 07:00-19:00 Monday to Sunday and 09:00-19:00 Sundays & Public Holidays

Evening: 18:00-22:00 Monday to Sunday & Public Holidays

Night: 22:00-05:00 Monday to Sunday and 22:00-05:00 Sundays & Public Holidays

As required by the NPI, the estimated ambient noise levels presented are from 500 frequency levels (per octave band level). A +2.5 dB measurement correction was required for the measured results.

It is noted that the background noise level is controlled by road traffic from Parramatta Road and rooftop mechanical equipment (refer to Figure 4) during the daytime and evening periods. However, during the night time the background level is controlled by traffic noise, due to the rooftop mechanical equipment turning off at minimum capacity.

Regarding octave band background noise levels, required for assessment against the Liquor and Gaming NSW standard criteria, additional analysis was carried out for select periods of the monitoring (analysed raw files), and are presented in Table 4.

Table 4: Long-term noise monitoring results, octave band  $L_{eq}$

| Desc.   | Period    | Overall (dB(A)) | Octave band centre frequency – $L_{eq}$ (dBZ) |    |     |     |     |     |     |     |     |
|---|-----------|-----------------|---|----|-----|-----|-----|-----|-----|-----|-----|
|   |           |                 | 31.5  | 63 | 125 | 250 | 500 | 1 k | 2 k | 4 k | 8 k |
| L1 - Empire Hotel, Annandale - low level roof |           |                 |   |    |     |     |     |     |     |     |     |
| L <sub>eq</sub>                               | Day       | 49              | 56  | 57 | 55  | 50  | 46  | 43  | 40  | 35  | 25  |
|   | Evening   | 54              | 55  | 58 | 59  | 54  | 52  | 48  | 45  | 39  | 29  |
|   | 10pm-12am | 52              | 53  | 58 | 58  | 52  | 49  | 46  | 44  | 38  | 27  |
|   | Night     | 40              | 43  | 45 | 43  | 41  | 37  | 36  | 30  | 21  | 13  |

### 2.3 Attended short-term noise measurements

Attended noise measurements were carried out on the evening of 2 February 2018 between 20:00 – 21:30. The purpose of the attended survey was to assess typical activities within the Empire Hotel and supplementary measurements at the adjacent residence.

Table 5 presents both background noise levels ( $L_{Aeq}$ ) and noise events ( $L_{A10}$ ) at the identified locations. Supporting octave band levels are presented in Table 6.

Table 5: Attended noise monitoring results, dB

| Location   | Time  | $L_{Aeq}$ | $L_{A10}$ (Hotel) | Comment   |
|--|-------|-----------|-------------------|---|
| <b>Residential locations</b>                                 |       |           |                   |   |
| R1 – 103B Parramatta Rd Rear Yard                            | 20:13 | 48        | N/A               | Background noise measurement taken in resident's backyard. More essentially shielded from Parramatta Rd compared to R2.   |
| R2 – 103B Parramatta Rd First Floor Bedroom (windows closed) | 20:27 | 28        | N/A               | No obvious external noise sources controlling the background noise level. Noise from Hotel inaudible.   |
| R2 – 103B Parramatta Rd First Floor Bedroom (window open)    | 20:35 | 37        | N/A               | Background noise level dominated by Parramatta Rd and influenced by mechanical plant. Noise from within Hotel inaudible.  |
| <b>Hotel locations</b>                                       |       |           |                   |   |
| H1 – Outdoor gaming area                                     | 20:48 | -         | 69                | (A) Booth average in outdoor gaming area. No machine feature. Background noise controlled by limited patron noise other than gaming machine use.                                  |
|  | 20:51 | -         | 68                | (B) Outdoor gaming area located a nook directly in front of background noise speaker. Music playing.  |
|  | 20:55 | -         | 69                | (C) Outdoor gaming area 3 patrons on poker machines, 1 patron playing a feature. No music in background.  |
| H2 – Ground floor dining area                                | 21:03 | -         | 87                | Measurement taken in dining area. At approximately 50% capacity, with loud conversations.   |
| L1- Logger location  | 21:21 | 56        | 58                | Measurements taken at long term monitoring location. Rooftop equipment in operation. Mechanical equipment and road traffic noise dominant, poker machines audible during feature. |

Table 5

Table 5: Attended measurements

| Location | Time  | L <sub>100</sub> | L <sub>10</sub> (Hotel) | Comment  |
|----------|-------|------------------|-------------------------|--|
|          | 21:22 | 52               | 57                      | Measurements taken at long term monitoring location with shielding of roofing equipment from residential building. Mechanical equipment and road traffic noise (e.g. cars, poker machines) audible during feature. |

It is noted that the measurements at the residential location revealed lower background noise level in the rear yard area compared to the level 1 locations. However, as noise from the gaming area is more acoustically shielded from the rear yard (due to relative height of boundary wall and roof structure at rear of property), the elevated assessment location has been deemed the representative and appropriate assessment location for the development.

Table 6: Attended measurements, octave band noise levels.

| Location   | Desc.           | Overall (dBA) | Octave band centre frequency Hz (dBZ) |    |     |     |     |    |    |    |    |
|--|-----------------|---------------|---------------------------------------|----|-----|-----|-----|----|----|----|----|
|  |                 |               | 31.5                                  | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k |
| R1   | Log             | 48            | 54                                    | 52 | 51  | -7  | 45  | 43 | 39 | 26 | 20 |
| R2 - Windows closed                                      | Log             | 27            | 46                                    | 40 | 37  | 27  | 21  | 22 | 27 | 14 | 13 |
| R3 - Windows open  | Log             | 37            | 40                                    | 40 | 47  | 38  | 33  | 30 | 38 | 18 | 13 |
| H1 - Gaming room   | L <sub>10</sub> | 63            | 62                                    | 64 | 70  | 68  | 60  | 57 | 53 | 48 | 44 |
| H1 - Background music                                    | L <sub>10</sub> | 68            | 65                                    | 67 | 76  | 74  | 64  | 64 | 59 | 54 | 53 |
| H1 - Gaming room - machine, feature, no background music | L <sub>10</sub> | 63            | 62                                    | 63 | 69  | 59  | 56  | 58 | 58 | 53 | 48 |
| H2 - Dining room   | L <sub>10</sub> | 82            | 69                                    | 64 | 68  | 73  | 79  | 79 | 76 | 67 | 57 |
| L1 - Logger position                                     | L <sub>10</sub> | 58            | 63                                    | 64 | 67  | 59  | 57  | 54 | 51 | 42 | 33 |
| L1 - Logger position                                     | L <sub>10</sub> | 57            | 69                                    | 65 | 67  | 58  | 55  | 52 | 47 | 39 | 30 |



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### 3 Acoustic Criteria

Noise emission from the proposed development will generally relate to patrons, background music, gaming machines and mechanical plant. Noise from mechanical plant is typically assessed against different criteria to other activity noise associated with the Hotel.

Reference has been made to existing conditions of consent (D/2001/015) and Leichhardt Council Standard Conditions of Development Consent. Activity noise within the Hotel (patrons and music etc.) should generally comply with the standard criteria adopted by Liquor and Gaming NSW, while noise from mechanical equipment is typically assessed against the NSW EPA *Noise Policy for Industry* 2017 (previously the Industrial Noise Policy).

#### 3.1 Activity noise – Liquor and Gaming NSW

Liquor and Gaming NSW (L&GNSW), through the Liquor Act 2007, is the regulatory authority that deals with noise pollution issues pertaining to licensed premises. Noise emission from licensed premises in NSW, such as restaurants, bars and clubs, should aim to comply with the standard noise criteria set by L&GNSW. While not necessarily a prescribed requirement, L&GNSW recommends the use of their standard noise criteria when assessing noise impact from licensed premises and when determining the occurrence of noise nuisance and annoyance. The criteria are also outlined in Leichhardt Council Standard Conditions of Development Consent. The criteria are considered to apply to all noise emission associated with activities from the licensed area of the premises, including music and patron noise, however excludes mechanical plant.

The L&GNSW ‘Standard Noise Condition’ states:

*“The LA10\* noise level emitted from the licensed premises shall not exceed the background noise level in an Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7:00am 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 an Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 7:00am 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 7:00am.*

*Interior noise levels which still exceed safe hearing levels are in no way supported or condoned by the NSW Office of Liquor, Gaming and Racing.*

*This is a minimum standard. In some instances the Board may specify a time earlier than midnight in respect of the above condition.*

*\*For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises.”*

It is noted that pre-midnight L&GNSW criteria does not specifically address an internal assessment location that would be relevant to the noise transmission via the common wall (e.g. basement operations). While the same ‘background + 5 dB’ criteria could be adopted, in line with current criteria adopted by the Leichhardt Council, a criterion of ‘background + 0 dB’ is proposed. The lower level of intrusion is considered appropriate on the basis that the receiver does not have the opportunity to further reduce noise, as would be the case of an external transmission path where windows could be closed.

### 3.1.1 Project noise goals

The octave band noise goals set out in Table 7 have been established from the noise monitoring results, with assessment periods established typically in line with the NSW NPI assessment periods, while the period 10:00 pm to midnight has been established due to the L&GNSW criteria changing at midnight.

The project noise goals for location A2 have been based on a background noise levels taken as the maximum level of either 10 dB below the external background or the internal background with windows closed.

Table 7: L&GNSW noise goals

| Assessment period   | Octave band centre frequency Hz (dBZ) |    |     |     |     |    |    |    |    |
|---|---------------------------------------|----|-----|-----|-----|----|----|----|----|
|   | 31.5                                  | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k |
| <b>Location A1 – 103B Parramatta Road – Level 1 Bedroom window</b>    |                                       |    |     |     |     |    |    |    |    |
| 7am – 6pm (external)  | 61                                    | 62 | 60  | 55  | 57  | 48 | 45 | 40 | 30 |
| 6pm – 10pm (external)   | 60                                    | 55 | 64  | 59  | 57  | 53 | 50 | 44 | 32 |
| 10am – 12am (external)  | 58                                    | 55 | 63  | 57  | 57  | 51 | 49 | 43 | 32 |
| 12am – 7am (external)   | 45*                                   | 45 | 43  | 41  | 37  | 35 | 30 | 21 | 13 |
| <b>Location A2 – 103B Parramatta Road – Internal (windows open)</b>   |                                       |    |     |     |     |    |    |    |    |
| 12am – 7am (internal)   | 43*                                   | 32 | 24  | 21  | 17  | 15 | 11 | 4  | 7* |
| <b>Location A3 – 103B Parramatta Road – Internal (windows closed)</b> |                                       |    |     |     |     |    |    |    |    |
| 7am – midnight (internal)   | 43*                                   | 42 | 34  | 31  | 27  | 23 | 21 | 14 | 13 |
| midnight – 7am (internal)   | 43*                                   | 32 | 24  | 21  | 17  | 12 | 11 | 4  | 7* |

**Note**

For the assessment of inaudibility Anup adopted a design criterion of 10 dB below the background noise level in each octave band for just starting noise sources, while for steady state sources such as mechanical plant, a design criterion of 5dB below the background noise in each octave band is adopted.

\* Threshold of hearing in accordance with AS3687.1, taken as the lowest third octave level for the respective octave band.

### 3.1 Mechanical plant noise criteria

Operational noise emissions from the project have been assessed in accordance with the NPI, which is primarily concerned with controlling intrusive noise impacts in the short-term for residences, and maintaining long-term noise level amenity for residences and other land uses.

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The NPI sets out the procedure to determine the project noise trigger levels relevant to an industrial development. The project noise trigger level is a level that, if exceeded would indicate a potential noise impact on the community and so 'trigger' a management response.

### 3.1.1 Intrusive noise criteria

The intrusiveness criteria are applicable to residential premises only. The intrusiveness criterion is summarised as follows:

- $L_{Aeq,Tmax} \leq \text{Rating Background Level (RBL)} + 5 \text{ dB}$

As the intrusiveness criteria is established from the prevailing background noise levels at the residential receiver locations, the rating background noise level is required to be quantified to establish Project noise goals.

### 3.1.2 Recommended and project amenity noise level

To limit continuing increases in noise levels from application of the intrusiveness level alone, the ambient noise level within an area from all industrial noise sources combined should remain below the recommended amenity noise levels specified in Table 2.2 of the NPI where feasible and reasonable. Table 8 summarises the RANLs and the PANLs applicable for the project.

Table 8: NPI RANLs and PANLs

| Receiver       | Indicative Noise Amenity Area | Time of day <sup>1</sup> | Recommended Amenity (RANL) $L_{Aeq,Tmax}$ | Project Amenity (PANL) $L_{Aeq,Tmax}$ |
|----------------|-------------------------------|--------------------------|---|---------------------------------------|
| A1 - Residence | Urban <sup>2</sup>            | Day                      | 60  | 55                                    |
|                |                               | Evening                  | 50  | 45                                    |
|                |                               | Night                    | 45  | 40                                    |

Notes:

1. Day: 7:00 am - 5:59 pm; Evening: 6:00 pm - 10:00 pm; Night: 10:00 pm - 7:00 am; Sundays & Public Holidays: Day: 8:00 am - 5:00 pm; Evening: 6:00 pm - 10:00 pm; Night: 10:00 pm - 8:00 am
2. That it is reasonable the dominant source of noise at the receiver location
  - a. the existing traffic noise is 10 dB(A) or more above the ANL for the area; and
  - b. it is unlikely that traffic noise will reduce over time

### 3.1.3 Sleep disturbance

The NSW NPI also considers potential sleep disturbance, however as plant noise is typically steady state in nature, it is not expected to result in short-term noise events that would warranted assessment against the sleep disturbance criteria. Furthermore, the I&GNSW criteria is considered appropriate for the assessment of potential sleep disturbance from internal activities, particularly given the inaudibility criteria between midnight and 7 am.

### 3.1.4 Project specific noise criteria

Based on the background and ambient noise monitoring, Table 9 summarises the derived project noise criteria based on the NPI.

Table 9: NPI Project noise criteria

| Receiver      | Time Period | Intrusive Noise Trigger Levels<br>L <sub>10,15min</sub> | Project Amenity<br>Criteria L <sub>10,15min</sub> |
|---------------|-------------|---|---|
| AI - External | Day         | 54*   | 55  |
|               | Evening     | 59*   | 45  |
|               | Night       | 45  | 40  |

Notes

1. The INP defines day, evening and night time periods as:
  - Day: the period from 7 am to 6 pm Monday to Saturday; or 8 am to 6 pm on Sundays and Public Holidays.
  - Evening: the period from 6 pm to 10 pm.
  - Night: the remaining period.
2. N/A Not Applicable
3. \* Criteria effected by rooftop mechanical plant load.

## 4 Operational noise assessment

### 4.1 Noise sources

Noise sources relevant to the proposal include:

- Speech from patrons using the gaming area
- Background music from gaming area
- Poker machine noise from gaming area
- Patron noise from proposed lounge/bistro and Dining Bar
- Mechanical services noise including the air handling system and exhaust systems

The following quantitative assessment focuses on patron, music and gaming noise. Noise levels used for predictions are drawn from the attended survey 2 February 2018, see Table 6.

### 4.2 Gaming room assessment

Noise levels from the proposed gaming area modifications and use after midnight were predicted to nearby residence at 1037 Parramatta Rd (assessment locations A1 and A2). Results have been assessed against licensed premises criteria set in Section 3.1.1.

Table 10: A1 Assessment – external location

| Details  | Octave band centre frequency - Hz (dBZ) |    |     |     |     |    |    |    |    |
|--|---|----|-----|-----|-----|----|----|----|----|
|  | 31.5                                    | 63 | 125 | 250 | 500 | 1k | 2k | 4k | 8k |
| <b>Gaming with background music – no feature</b>   |   |    |     |     |     |    |    |    |    |
| Predicted level                                    | 42                                      | 42 | 49  | 46  | 37  | 33 | 27 | 19 | 12 |
| Criteria   | 7am - 6pm                               | 61 | 62  | 60  | 53  | 51 | 43 | 36 | 30 |
|  | 6pm - 10pm                              | 69 | 63  | 64  | 52  | 57 | 53 | 50 | 44 |
|  | 10pm - 12am                             | 64 | 65  | 63  | 57  | 54 | 51 | 46 | 43 |
|  | 12am - 3am                              | 43 | 45  | 43  | 41  | 57 | 56 | 36 | 21 |
| <b>Gaming - No background music – with feature</b> |   |    |     |     |     |    |    |    |    |
| Predicted level                                    | 39                                      | 40 | 45  | 35  | 31  | 32 | 29 | 22 | 14 |
| Criteria   | 7am - 6pm                               | 61 | 62  | 60  | 53  | 51 | 43 | 36 | 30 |
|  | 6pm - 10pm                              | 69 | 63  | 64  | 52  | 57 | 53 | 50 | 44 |
|  | 10pm - 12am                             | 64 | 65  | 63  | 57  | 54 | 51 | 46 | 43 |
|  | 12am - 3am                              | 43 | 45  | 43  | 41  | 57 | 56 | 36 | 21 |

1. Excesses are in red relative to licence frequency highlighted in bold red

Table 11:

Table 11: A2 Assessment

Table 11: A2 Assessment – internal windows open

| Details  | Octave band centre frequency - $L_{ik}$ (dBZ) |           |           |           |           |           |           |          |                      |
|--|---|-----------|-----------|-----------|-----------|-----------|-----------|----------|----------------------|
|  | 31.5  | 63        | 125       | 250       | 500       | 1k        | 2k        | 4k       | 8k                   |
| <b>Gaming with background music – no feature</b>   |   |           |           |           |           |           |           |          |                      |
| Predicted level                                    | 32  | 33        | 39        | 36        | 27        | 23        | 17        | 9        | 2                    |
| Criteria 12am - 3am                                | +3 <sup>U</sup>                               | <b>32</b> | <b>24</b> | <b>21</b> | <b>17</b> | <b>16</b> | <b>11</b> | <b>4</b> | <b>7<sup>U</sup></b> |
| <b>Gaming - No background music – with feature</b> |   |           |           |           |           |           |           |          |                      |
| Predicted level                                    | 29  | 30        | 35        | 35        | 21        | 20        | 19        | 13       | 4                    |
| Criteria 12am - 3am                                | +3 <sup>U</sup>                               | 32        | <b>24</b> | <b>21</b> | <b>17</b> | <b>16</b> | <b>11</b> | <b>4</b> | <b>7<sup>U</sup></b> |

1. Exceedance at each octave band centre frequency highlighted in bold red

The results indicate that use of the gaming area complies with the pre-midnight criteria, however exceedance with the after-midnight criteria. While exceedance is generally minor without background music at the external assessment locations, the inaudibility criteria is exceeded more substantially. Accordingly, consideration has been given to a noise barrier at the top of the existing parapet, extending another 1.2 m. The results of this design proposed is outlined below. The results indicate compliance across all octave bands with the exception of 125 Hz, where a marginal exceedance of 3 dB is predicted. This is considered inconsequential, and as no background music would be present, it is considered that there would be no other obvious audible components in this octave band.

Table 12: A2 Assessment – internal windows open – With mitigation (1.2 m parapet)

| Details  | Octave band centre frequency - $L_{ik}$ (dBZ) |    |           |           |           |           |           |          |                      |
|--|---|----|-----------|-----------|-----------|-----------|-----------|----------|----------------------|
|  | 31.5  | 63 | 125       | 250       | 500       | 1k        | 2k        | 4k       | 8k                   |
| <b>Gaming - No background music – with feature</b> |   |    |           |           |           |           |           |          |                      |
| Predicted level                                    | 29  | 24 | 27        | 15        | 8         | 7         | 5         | 0        | 5                    |
| Criteria 12am - 3am                                | +3 <sup>U</sup>                               | 32 | <b>24</b> | <b>21</b> | <b>17</b> | <b>16</b> | <b>11</b> | <b>4</b> | <b>7<sup>U</sup></b> |

2. Exceedance at each octave band centre frequency highlighted in bold red

### 4.3 Basement assessment

Noise levels from the proposed basement lounge were predicted to the ground floor of the adjacent residence at 10313 Parramatta Rd (assessment location A3).

Based on site inspections, it has been assumed that both the Hotel and residence walls are independent two leaf brick work.

Results have been assessed against licensed premises criteria set in Section 3.1.1.1. Attended measurements taken in the existing dining area have been used as a reference for this assessment.

For the proposed operations, an average sound pressure level of  $L_{10}$  85 dB(A) has been assumed, which accounts for patron and background music noise, and considered appropriately conservative for the lounge bistro area, having a seating capacity of 36 in an area of approximately 66 m<sup>2</sup>.

Table 13

Table 13: A3 Assessment

Table 13: A3 Assessment

| Assessment Location<br>Noise source |                | Octave band centre frequency - Hz (dBZ) |    |     |     |     |    |    |     |     |
|-------------------------------------|----------------|---|----|-----|-----|-----|----|----|-----|-----|
|                                     |                | 31.5                                    | 63 | 125 | 250 | 500 | 1k | 2k | 4k  | 8k  |
| Predicted level                     |                | 11                                      | 6  | -2  | 16  | 14  | 4  | -9 | -25 | -44 |
| Criteria                            | 7am - midnight | 10                                      | 12 | 24  | 21  | 21  | 22 | 21 | 14  | 13  |
|                                     | midnight - 3am | 4                                       | 32 | 24  | 11  | 11  | 12 | 11 | 4   | 7   |

1 Exceedances or such octave band centre frequency highlighted in red

The results indicate compliance prior to midnight, while some exceedance in two bands are indicated with respect to the inaudibility goals.

On the basis of the assessment findings, recommendations are presented in following section to mitigate and manage impacts for the proposed operations.

## 5 Recommendations

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Based on the assessment undertaken, the following recommendations provide in-principle advice for the mitigation and management of noise emission from the premises. This information is presented for Council approval process and project planning and shall not be used for construction unless otherwise approved in writing by the acoustic consultant. It is recommended that further detailed assessment and advice would be required for prior to issue of the Construction Certificate.

### 5.1.1 Gaming area

- ◆ Background music should not be provided in the areas between midnight and 3 am
- Acoustically absorptive finishes should be incorporated into the ceiling and walls (noting existing Respor acceptable on the boundary wall).
- ◆ A noise monitor is recommended to be installed in the gaming area as a management tool. In the absence of such a device, it would be difficult for staff to know if and when patrons are creating excessive noise, without being permanent located within the gaming room at all times. The device could be similar to that used for monitoring music noise, with the alert device (typically visual only) located within sight of general staffing areas.
- Signage may be implemented to make patrons aware of the proximity to residential premises and the need to keep noise to a minimum.
- Adjust sound levels on gaming machines to lowest practical level. Measured noise levels presented in this report can be used for guidance.
- Include a solid barrier at the top of the existing parapet, extending a minimum of 1.2 m above the existing wall. The build-up of the barrier should be of solid construction (14 kg/m<sup>2</sup>) with a continuation of the absorptive lining facing inwards. Alternatively, to accommodate solar access to residence, a solid transparent construction should be employed i.e. glazed/perspex construction (14kg/m<sup>2</sup>). The length of the barrier should start before end of the residential building and extend the full length of the gaming area. It is noted that this measure would also assist by reducing current mechanical plant noise from the hotel.
- Construct all new external walls and floors (i.e. for the extension) to have a minimum acoustic rating of  $R_w$  40.

### 5.1.2 Basement

- It is recommended that the airborne sound insulation performance of the common wall between the lounge-hisiro and residence (approximate 5 m section) is confirmed. Further acoustic upgrade of the wall may be warranted to address the predicted exceedances, which could include construction of an independent stud wall with layers of plasterboard (i.e. 2 x 16 mm fire rated) with insulation in the cavity.



Empire Hotel

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- Should the common wall also be found to be structurally connected, it is recommended that the new staircase, be independent from the boundary wall to limit structure borne noise from foot fall.
- Acoustically absorptive finishes should be incorporated into the fitout of the lounge/bistro area. This should include highly absorptive acoustic treatment (25-50mm) fixed to soffit where practicable (recommended greater than NRC 0.7) and/or acoustic wall panels should also be included where practicable. The greater extent of acoustic treatment, will assist in reducing overall patron noise.
- All amplified sound, including background music and TVs etc., should be provided via an in-house sound system which should be fitted with an appropriate noise limiter. It is recommended that an RMS compressor/limiter (e.g. Rane JTA1, BSS Blu, Symmetric Jupiter or MediaMatrix X-Frame 88) be used. Multi-band compression is recommended for greater control over the critical frequency bands. As different noise limits apply before and after midnight, the device should include or support multiple time-based settings. The noise limits and setting of the device should be made during acoustic compliance testing by an appropriately qualified acoustic consultant (in conjunction with the system engineer/technician).

## 5.2 Building services equipment

Building services equipment (e.g. mechanical, hydraulic and electrical equipment) for the development has not been selected at this stage of design. During ongoing design of the development, building services equipment will be selected and provided with noise and vibration attenuation measures as required to meet the Project goals.

Noise mitigation treatment may be required, including:

- Specification of maximum sound power levels for all items of plant as part of the project documentation.
- Use of attenuators to control fan noise
- Acoustic louvres to control noise from plantroom ventilation openings
- Vibration isolators to reduce vibration input to the building structure
- Acoustic screens around external plant, where required
- Incorporation of sound absorptive treatments in plantroom spaces.

## 6 Conclusion

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Arup has completed an acoustic assessment for the proposed gaming room extension and basement fitout of the Empire Hotel, Amundale in accordance with relevant Leichhardt Council, NSW EPA and Liquor & Gaming NSW noise criteria.

Further to the assessment, to address potential noise emission from the use, recommendations have been made with regard to the physical building design, operational management measures, and the approach to detailed design and verification. It is expected that further acoustic design development will be required during the detailed design of the project, to verify and certify that the appropriate mitigation and management measures have been incorporated into the design prior to commencement of works. This typically addressed by requiring certification by an acoustic consultant prior to issue of the Construction Certificate. With appropriate design and verification, along with implementation of the mitigation and management measures, the proposed development is capable of satisfying the relevant noise criteria.

**Appendix A**

Unattended noise monitoring

## A1 Noise monitoring equipment

Unattended monitoring was carried out using the following equipment:

| Measurement location | Equipment/model | Serial No. | SLM Type |
|----------------------|-----------------|------------|----------|
| L1                   | A&K Nagra       | 878007     | Type 1   |

*Notes:*

All measurements comply with AS 1031.5: 672.1: 2014 'Type 1' class measurement - Sound Level Meters that designated either Type 1 as per table, and are suitable for field use.

The equipment was calibrated prior and subsequent to the measurement period using a Bruel & Kjaer Type 4231 calibrator. No significant drift in calibration was observed.

## A2 Extraneous/weather affected data

Measurement samples affected by extraneous noise, wind (greater than 5m/s) or rain were excluded from the recorded data in accordance with the procedures outlined in Appendix B of the NSW Industrial Noise Policy (INP).

Data provided by the Bureau of Meteorology (BOM), for the nearest representative weather station to noise monitoring location(s). Wind speed data was adjusted to account for the difference in measurement height and surrounding environment between the BOM weather station (measured 10 m above ground) and the microphone location based on Table C.1 of ISO 4354:2009 'Wind actions on structures'.

## A3 Logger graphs

The following noise level vs time graphs present overall dB(A) levels recorded by the unattended logger(s) for a range of noise descriptors, including  $L_{A50}$ ,  $L_{A90}$ ,  $L_{C10}$  and  $L_{Cmax}$ . While line graphs are presented, sampling is typically at 15 minute intervals.

Wind speeds are also shown where relevant, and periods of excluded data are shaded grey.



**Empire Hotel, Annandale (Facade)**

Additional detail:



Background and ambient noise monitoring results - NSW 'Industrial Noise Policy', 2000

| Date                                      | L <sub>Aeq</sub> Background noise levels <sup>1</sup> |                      |                    | L <sub>Aeq</sub> Ambient noise levels |                      |                    |
|---|---|----------------------|--------------------|---------------------------------------|----------------------|--------------------|
|   | Day <sup>1</sup>                                      | Evening <sup>2</sup> | Night <sup>3</sup> | Day <sup>1</sup>                      | Evening <sup>2</sup> | Night <sup>3</sup> |
| Thursday-18-January-2018                  |   | 55                   | 41                 |                                       | 59                   | 54                 |
| Friday-19-January-2018                    | 53  | 56                   | 43                 | 59                                    | 60                   | 53                 |
| Saturday-20-January-2018                  | 52  | 56                   | 45                 | 58                                    | 60                   | 54                 |
| Sunday-21-January-2018                    | 47  | 57                   | 42                 | 59                                    | 60                   | 52                 |
| Monday-22-January-2018                    | 53  | 57                   | 45                 | 59                                    | 61                   | 53                 |
| Tuesday-23-January-2018                   | 53  | 57                   | 43                 | 60                                    | 60                   | 54                 |
| Wednesday-24-January-2018                 | 49  | 57                   | 42                 | 59                                    | 60                   | 54                 |
| Thursday-25-January-2018                  |   |                      |                    |                                       |                      |                    |
| <b>Representative Weekday<sup>5</sup></b> | <b>53</b>   | <b>57</b>            | <b>43</b>          | <b>59</b>                             | <b>60</b>            | <b>53</b>          |
| <b>Representative Weekend<sup>2</sup></b> | <b>50</b>   | <b>57</b>            | <b>42</b>          | <b>59</b>                             | <b>60</b>            | <b>53</b>          |
| <b>Representative Week<sup>6</sup></b>    | <b>51</b>   | <b>57</b>            | <b>43</b>          | <b>59</b>                             | <b>60</b>            | <b>53</b>          |

1 dBA

1 Day is 06:00 to 18:00 on Sunday and 07:00 to 18:00 on other days

2 Evening is 18:00 to 21:00

3 Night is 21:00 to 06:00

4 Background noise levels are LAeq for individual days

5 Day is 06:00 to 18:00 on Sunday and 07:00 to 18:00 on other days

Unattended monitoring: Empire Hotel, Annandale (bucade)

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