







INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	DA200400670.06
Address	386 Parramatta Road, Petersham
Proposal	To modify Determination No. 200400670, dated 2 March 2005 under Section 4.55 of the Environmental Planning and Assessment Act to extend the existing trading hours and to extend trading hours for 12 special calendar events a year.
Date of Lodgement	8 May 2019
Applicant	Giovanni Cirillo
Owner	TM Line Pty Ltd ATFT TMB Settlement Trust
Number of Submissions	30 submissions
Value of works	Nil
Reason for determination at Planning Panel	Number of submissions
Main Issues	Acoustic impacts, management of operations and social impacts
Recommendation	Approved with Modified Conditions
Attachment A	Recommended conditions of consent
Attachment B	Acoustic Report
Attachment C	Plan of Management



LOCALITY MAP

Subject Site		Objectors		↑ N
Notified Area		Supporters		

Note: Due to scale of map, not all objectors could be shown. In addition, confidential submissions have also been omitted.

1. Executive Summary

This report is an assessment of the application submitted to Council to modify Determination No. 200400670 dated 2 March 2005 under Section 4.55 of the Environmental Planning and Assessment Act 1979 (EPA&A Act 1979) to permit an extension of trade from 12:00 midnight until 3:00am on Thursday, Friday, Saturday and Sunday (when the following Monday is a public holiday). In addition, an extension of hours is also sought from 12:00 midnight until 3:00am for 12 special calendar events a year.

The application was notified to surrounding properties and 30 submissions (29 objecting and 1 in support) were received.

The key issues that have arisen from the application include:

- Acoustic impacts and mitigation;
- Effective management of the premises; and
- Social impacts.

The recent site history includes the refusal of an application (DA200400670.03) which sought consent for an extension of trading hours until 3:00am. The refusal decision was appealed to the NSW Land and Environment Court (LEC) (*Rosa Maiolo v Inner West Council* [2017] NSWLEC 1525) and was subsequently dismissed. A key direction from the NSW LEC proceedings is as follows:

The applicant would, as a minimum, need to demonstrate appropriate management of the hotel within the existing approved trading hours for a reasonable period of time, without recorded breaches by the police or further substantiated resident complaints, before any new trial period could be reasonably considered.

As detailed within this report, advice received from NSW Police indicates that recorded events and incidents at the premises in 2019 compared to previous years has reduced. Further, the acoustic complaints received by Council appear to have reduced, however; remain unsubstantiated at this stage due to the inability to access the affected properties. In addition, as part of the LEC proceedings, substantial acoustic attenuation works have been undertaken at the premises to further mitigate impacts. Moreover, the application has outlined that the premises has improved its practices to adopt a more pro-active approach in mitigating amenity impacts on the surrounds; which is reflected in an updated Plan of Management (POM).

Notwithstanding the above, upon assessment of the application as lodged, the extension request is considered beyond what can be reasonably granted, in light of the recent site history i.e. LEC proceedings and Council's Hotel Trading Hours Policy; which adopts a merit based approach for licensed premises seeking extensions to trading hours based on their performance. However, it is considered that the premises should be afforded the opportunity to trade in a limited capacity (pub and gaming operations only) until 1:30am on Thursday, Friday, Saturday and a number of special calendar events for one (1) year on a trial basis. All other existing approved hours of operation are to remain unaltered. This approach would enable any potential impacts to be realised and if during this time, the management of the premises during the extended trading hours is found to be unsatisfactory, the trial will not be renewed and the premises will revert to existing approved core hours of operation.

2. Proposal

The proposal seeks consent for an extension to existing hours of operation of the Petersham Inn Hotel as follows:

Approved	Proposed
10:00am to 12:00 midnight (Monday to Saturday)	10:00am to 3:00am (Thursday, Friday and Saturday) <i>Note: all days not listed above remain unaltered)</i>
10:00am to 10:00pm (Sundays excluding public holidays)	10:00am to 3:00am (Sundays when the following Monday is a public holiday).

In addition to the above, the modification also seeks an extension of hours until 3:00am for 12 special calendar events a year that fall outside the abovementioned days. However, the application information only specified the following 11 events:

- 1) Australia Day (26 January)
- 2) St. Patricks Day (17 March)
- 3) Anzac Day (25 April)
- 4) Melbourne Cup (First Tuesday in November)
- 5) Christmas Eve (24 December)
- 6) Boxing Day (26 December)
- 7) New Year’s Eve (31 December)
- 8) NRL Grand Final
- 9) AFL Grand Final
- 10) World Cup (Soccer) Final
- 11) FA Cup (Soccer) Final

Nb: It is noted that the Soccer World Cup is not being held within the next year, as such, there are only 10 events specified.

3. Site Description

The subject site is located on the southern corner of Parramatta Road and Phillip Street, Petersham. The site consists of strata titled allotment with a total area of approximately 1,281.6sqm and is legally described as Lot 11 SP 67608.

The site includes a mixed use development with ground floor commercial uses addressing Parramatta Road including the Petersham Inn Hotel; with apartments on the floors above. The site is listed as a local heritage item (no. I209) and is located within the Parramatta Road Commercial Precinct Heritage Conservation Area (HCA).

The area is generally characterised by commercial uses along Parramatta Road and residential uses south, southwest and southeast of the subject site. The site adjoins a row of attached 2 storey commercial buildings to the west and a public laneway (Hughes Street) to the south.

4. Background

4(a) Site history

The following application outlines the relevant development history of the subject site:

Subject Site

Application	Proposal	Decision & Date
Court Order No. 10326	To carry out of alterations and additions to the existing buildings at 386-414 Parramatta Road, Petersham and the use of these buildings for hotel, retail and residential purposes.	Approved on 12 November 1997 by the NSW Land & Environment Court (LEC)
DA200400680	Staged deferred commencement consent to carry out alterations involving the fit out of part of the premises for use as a tavern with restaurant/bistro, gambling facilities and provide entertainment within the hotel as stage 1 and application for a Place of Public Entertainment licence as stage 2. An operative consent was issued for stage 1 of the consent.	Approved 2 March 2005
DA200400670.01	Application under Section 96 of the Environmental Planning and Assessment Act to modify Determination No. 200400670 to extend the trial period for hours of operation of the premises.	Approved 27 October 2006
DA200400670.02	Application under Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No 200400670 dated 27 October 2006 to continue extended trading hours for Petersham Inn between the hours of 10.00am to 3.00am the following day Mondays to Saturdays and 10.00am to 10.00pm Sundays excluding Public Holidays.	Approved 10 August 2015
DA200400670.03	Application under Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No. 200400670, dated 10 August 2015, to continue extended trading hours for Petersham Inn between the hours of 10.00am to 3.00am the following day Mondays to Saturdays and 10.00am to 10.00pm Sundays excluding Public Holidays for 5 years.	Refused 3 August 2016

CA201600013	Class 1 Appeal in LEC - Refusal - under Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No. 200400670, dated 10 August 2015, to continue extended trading hours for Petersham Inn between the hours of 10.00am to 3.00am the following day Mondays to Saturdays and 10.00am to 10.00pm Sundays excluding Public Holidays for a further 5 years.	Appeal dismissed 26 September 2017
DA200400670.04	Application under Section 96 of the Environmental Planning and Assessment Act to modify Modified Determination No.200400670 to seek retrospective approval for building works that have been carried out which include the installation of a raised stage, extension of the service bar and installation of a partition wall in the rear lounge area, extension of internal glazed sound lock, adjust door location and partition wall in the main bar area, and to install timber clad screen partitions between the gaming area and the pedestrian entry along the Parramatta Road frontage.	Refused 16 October 2017
DA200400670.05	Application under Section 96AB of the Environmental Planning and Assessment Act to review Determination No. 200400670.04 dated 27 February 2017 to 2015 to seek retrospective approval for building works that have been carried out which include the installation of a raised stage, extension of the service bar and installation of a partition wall in the rear lounge area and adjust door location and partition wall in the main bar area	Refused 16 October 2017

Unauthorised works

The following unauthorised works have been undertaken at the premises and which were the subject of applications DA200400670.04 and DA200400670.05, respectively:

- Installation of a raised area within the rear lounge area;
- Extension of the service bar within the rear lounge area;
- Adjust door location and partition wall in the main bar area;
- Installation of a partition wall and nib wall within the rear lounge area; and
- Installation of timber clad screen partitions between the gaming area and the pedestrian entry along the Parramatta Road frontage.

It is understood that the above works were undertaken to create a dedicated space to conduct live entertainment at the premises. The abovementioned applications to retrospectively approve these works were ultimately refused by Council on the following key ground:

- The unauthorised works facilitate an intensification of use at the premises which has the potential to adversely impact the amenity of residents of the premises and the surrounding neighbourhood.

As discussed in this report, the recommendation is for a modest extension of hours for pub and gaming operations only on a trial basis, with the restriction that no form of live entertainment or amplified music are to occur. As a result, the recommendation does not seek to rely upon the unauthorised works to allow it to proceed.

4(b) Application history

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

Date	Discussion / Letter / Additional Information
6 August 2019	The applicant was advised that the proposal as presented was not supported.
14 August 2019	A meeting was held between Council staff and the applicant to discuss amendments to the proposal to include an extension of trade until 1:30am for general pub and gaming room operations only. In addition, Council sought information from the applicant with respect to the noise attenuation measures undertaken at the premises.
30 August 2019	An additional information request was issued to the applicant for amendments to the Plan of Management (POM) and further information with respect to Acoustic Impacts.
2 September 2019	Additional information submitted.
3 September 2019	Additional information submitted.
10 September 2019	Additional information submitted.

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:

5(a)(i) Marrickville Local Environment Plan 2011 (MLEP 2011)

The application was assessed against the following relevant clauses of the *Marrickville Local Environmental Plan 2011*:

- Clause 2.3 - Zone objectives and Land Use Table
- Clause 4.4 - Floor space ratio
- Clause 5.10 - Heritage Conservation

(i) Clause 2.3 - Land Use Table and Zone Objectives

The site is zoned B2 Local Centre under the MLEP 2011. The existing approved uses are to remain unaltered by the proposal and are consistent with the relevant objectives of the zone.

(ii) Clause 4.4 – Floor space ratio

The existing maximum floor space ratio for the development is to remain unaltered by the proposal.

(iii) Clause 5.10 Heritage Conservation

The site is listed as a heritage item under MLEP 2011, namely Petersham Inn Hotel (Item I209). The site is also located within a Heritage Conservation Area (HCA) under MLEP 2011 (Heritage Conservation Area C5 – Parramatta Road Commercial Precinct).

It is acknowledged that the proposal does not include any new works to the premises. Therefore, the heritage significance of the property or the surrounding HCA is to be unaffected by the proposal. Notwithstanding, the Acoustic Report submitted with the application outlined that the following physical works to the fabric of the building had been carried out in 2017, which assist in reducing noise impacts on the apartments directly above:

- Two layers of 16mm fyrcheck plasterboard have been installed below a 250mm thick slab servicing the first floor apartments above with an airspace, which varies between 150-400mm. Insulation has been provided within the airspace.

Further information was requested with respect to the above works and the applicant submitted the Joint Expert Acoustic Report for NSW LEC proceedings (*Rosa Maiolo v Inner West Council* [2017] NSWLEC 1525), which included the following:

- Installation of carpet to the stairs leading to the basement dressing rooms; and
- Removal of the ceiling mounted speakers, installation of vibration isolators to the speaker support structures, installation acoustic insulation in the ceiling cavity in the vicinity of the speakers, repair of the plasterboard ceiling and mounting the speakers below the ceiling.

The Joint Expert Acoustic Report outlined that the above works had been carried out for the benefit of the proceedings and were sanctioned by the NSW LEC.

As discussed above, with respect to unauthorised works to the live entertainment area, the recommendation is for an extension of hours only to the pub and gaming operation component of the hotel, not the live entertainment component. Therefore, the works carried out are not relevant to the recommendation.

In summary, it is considered that the modification is generally acceptable against the relevant provisions of MLEP 2011 subject to a trial period.

5(b) Draft Environmental Planning Instruments

Draft Marrickville Local Environmental Plan 2011 (Amendment 4) (the Draft LEP Amendment) was placed on public exhibition commencing on 3 April 2018 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979.

The amended provisions contained in the Draft LEP Amendment are not relevant to the assessment of the application. Accordingly, the development is considered acceptable having regard to the provisions of the Draft LEP Amendment.

5(c) Development Control Plans & Council Policies

The application has been assessed and the following provides a summary of the relevant provisions of Marrickville Development Control Plan 2011 (MDCP 2011).

Part of MDCP 2011	Compliance
Part 2.6 – Acoustic and Visual Privacy	Yes - see discussion below.
Part 2.8 – Social Impact	Yes - see discussion below.
Part 5 – Commercial and Mixed Use Development	Yes – see discussion below.
Part 8 – Heritage	Yes (refer to LEP discussion above).

In addition to the above, the proposal has been assessed against Council’s Hotel Trading Hours Policy, which has been addressed under 5(c)(iv) below.

The following provides discussion of the relevant issues:

(i) Part 2.6 Acoustic and Visual Privacy

It noted that various works have been carried out to the premises under the many consents issued and during the LEC proceedings, to mitigate acoustic impacts on nearby residential receivers and the locality. Such measures include the following:

- Installation of carpet to the stairs leading to the basement dressing rooms; and
- Removal of the ceiling mounted speakers, installation of vibration isolators to the speaker support structures, installation acoustic insulation in the ceiling cavity in the vicinity of the speakers, repair of the plasterboard ceiling and mounting the speakers below the ceiling.

Additionally, existing conditions of consent mitigate noise impacts to nearby residential receivers are as follows:

7. *Noise from patrons and amplified music emitted from the licensed premises shall comply with the following criteria:*
 - (a) *The L10 noise level emitted from the licensed premises shall not exceed 3dB(A) above the background(L90) noise level in any Octave Band Centre Frequency (31.5Hz to 8 KHz) between the hours of 7am to 12 midnight when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.*

- (b) *The LA10 noise level emitted from the licensed premises shall not exceed the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8 KHz) between the hours of 12 midnight to 7am when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.*
- (c) *Notwithstanding compliance with the above clauses, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight to 7am.*

The acoustic report and supplementary information conclude that given the extent of existing works undertaken to mitigate noise impacts, the operation of the premises until 3:00am could achieve the noise criteria set out within the above-mentioned condition. Notwithstanding this, as Council's assessment recommends restriction of amplified music and entertainment beyond 12:00 midnight, the proposal could readily comply with the above condition.

In terms of noise impacts caused by patrons upon exiting the premises, the POM has been amended to require all patrons from 12:00 midnight to enter and exit the premises from the main doors servicing Parramatta Road, which will assist in reducing impacts on nearby residential receivers along Phillip Street. In addition, the POM now includes provisions requiring security and general staff to assist exiting patrons in accessing taxis and rideshare vehicles to allow for their efficient dispersal from the area.

Subject to the imposition of conditions which include restriction of hours, entertainment and the provision of a 12 month trial period to ensure the performance of the hotel will be monitored to comply with the terms of the approval and demonstrates that the venue can operate in a manner that does not detract unreasonably from the amenity of the area, it is considered the proposal can achieve compliance with the relevant objectives and controls outlined by Part 2.6 of MDCP 2011

(ii) Part 2.8 – Social Impact

A Social Impact Statement (SIS) was submitted with the application in accordance with the relevant provisions under this Part. It concluded that the proposal would not have a detrimental social impact, subject to the effective management of the hotel by way of mitigating impacts, particularly with respect to noise.

It noted that the SIS submitted is based on an extension of trading hours until 3:00am, which includes the provision of entertainment and amplified music. As a condition is included in the recommendation of this report which restricts the extension of trading hours until 1:30am on Thursday, Friday, Saturday and a number special events for pub and gaming operations only; with amplified music or live entertainment not being permitted past 12:00 midnight, it is considered the proposal's social impact will be lesser than what was originally forecast

In light of the above, it is considered the proposal achieves the relevant objectives and controls outlined by Part 2.8 of MDCP 2011. In any case, as a moderate extension is proposed on a trial basis, in a similar manner to the acoustic impacts; the social impacts of the extension will be monitored. If it is found that, the extension results in unacceptable social impact, the trial will not be continued and the premises will revert to its existing core hours of operation.

(iii) Part 5 – Commercial & Mixed Use Development

Part 5.3 *Commercial/Light Industrial/Residential Interface* of the MDCP 2011 includes objectives and controls that aim to assist in the effective management of impacts on residential properties resulting from nearby commercial and light industrial uses. As

discussed previously, the POM for the premises has been amended to assist with this aim as follows:

- Restriction of any form of live entertainment past 12:00 midnight;
- Restriction of amplified music past 12:00 midnight;
- Restriction of patrons admitted to the premises after 12:30am;
- Restriction of access to amplification equipment to the Manager and Acoustic Engineer only at all times;
- Confinement of the entry and exit point to the premises from Parramatta Road after 12:00 midnight, to redirect patrons away from Phillip Street;
- Employment of two (2) security guards during extended trading hours to remain outside the venue at closing time until the last patron has left the vicinity to ensure the efficient and orderly dispersal of patrons;
- Measures for staff to assist patrons to access taxis and rideshare vehicles upon exiting the premises to ensure they disperse from the area in an efficient and orderly manner;
- Measures requiring staff and cleaning contractors to clean the immediate surrounds of the premises on a regular basis, including the removal of litter; and
- Measures requiring the transferring of waste to the waste storage area after 8:00pm through the internal passageway only.

The new measures outlined above are designed to reduce amenity impacts on nearby residential receivers. The effective utilisation of the above measures will be monitored over the course of the recommended trial period for the extended trading hours.

In terms of the provisions within Part 5.3 with respect to noise and vibration generation, this matter has been addressed under Part 5.3(c)(i) above.

Given the above, the Plan of Management submitted is considered acceptable and a condition is included in the recommendation requiring the premises to operate at all times in accordance with the Plan of Management submitted, as amended by other conditions of consent.

Furthermore, subject to the imposition of recommended conditions, the proposed modification demonstrates that it can achieve the relevant objectives and controls outlined by Part 5.3 of the MDCP 2011.

(iv) Council's Hotel Trading Hours Policy

The former Marrickville Council adopted a merit based approach for the assessment of applications in relation to extended trading hours of hotels on 6 September 2005 under Council's Hotel Trading Hours Policy, which is still in force. Council endorsed that merit based approach, including the use of management plans and limited consents as the preferred approach for dealing with applications for extended trading hours for licensed premises.

Under Council's Hotel Trading Hours Policy, any approval granted for extended hotel trading hours would be limited to a trial period to ensure that the extended trading hours are reviewed and assessed in the light of the performance of the hotel and to ensure that the extended trading hours do not interfere with the amenity of the locality.

Under Council's Hotel Trading Hours Policy the length of the trial periods are subject to an initial 1 year trial period. Subject to satisfactory conduct of the premises during the initial trial period, the second trial period can be 2 years and third trial period can be 4 years.

As outlined previously, the applicant originally sought an extension of trading of hours until 3:00am. Upon assessment of the application as lodged against the above, which permits the

extension of hours for hotels based on their performance in terms of managing impacts, it was considered that given the site's recent history in terms of a refused application for a continuation of extended of hours and subsequent LEC proceedings, the extension originally sought was considered unreasonable.

Notwithstanding the above, it is acknowledged that based on information provided by the NSW Police, incidents involving the premises over the last year have reduced from previous years. In addition, information provided with the application outlines that the premises is under new management and a more pro-active approach is now taken to the management of the hotel's impacts and operations.

In light of the above, it is considered that the premises can be afforded the opportunity to trade on a trial basis in a limited capacity (pub and gaming operations only) until 1:30am on Thursday, Friday, Saturday and a number of special calendar events for one (1) year in-line with Council's Hotel Trading Hours Policy. All other existing approved hours of operation are to remain unaltered.

5(d) Section 4.55 of the Environmental Planning and Assessment Act

Under Section 4.55 of the Environmental Planning and Assessment Act, 1979, Council, when considering a request to modify a Determination, must:

- a) be satisfied that the development as modified is substantially the same development as the development for which consent was originally granted;
- b) consult with any relevant authority or approval body;
- c) notify the application in accordance with the regulations;
- d) consider any submissions made; and
- e) take into consideration the matters referred to in Section 4.15 as are of relevance to the development the subject of the application.

The development being modified is substantially the same development as the development for which consent was originally granted. No authorities or bodies were required to be consulted. The application was notified in accordance with the regulations and Council's policy. The submissions received have been considered. The relevant matters under Section 4.15 have been addressed within this report.

5(e) The Likely Impacts

The assessment of the Development Application demonstrates that, subject to the recommended conditions, the proposed extension of operational hours will have minimal impact on the locality.

5(f) The suitability of the site for the development

Provided any adverse effects on adjoining properties are minimised by way of appropriate management of operations, this site is considered suitable to accommodate the proposal, and this has been demonstrated in the assessment of the application.

5(g) Any submissions

An on-site notice displayed on the property and residents/property owners in the vicinity of the property were notified of the development in accordance with the relevant provisions under the MDCP 2011. As a result, 30 submissions were received (29 objecting and 1 in support). Matters raised within the submissions received are addressed within the table below and issues have been grouped to avoid repetition.

Issue	Comment
Acoustic Amenity	This matter has been addressed under Section 5(c)(i)
The LEC decision for the refusal of the extension of hours application should be upheld	This matter is addressed under Section 1 – Executive Summary.
Anti-social behaviour & community safety	<p>As discussed under Section 5(c)(iii), the applicant has amended the POM for the premises to reduce the potential for anti-social behaviour to occur and to improve community safety, with a focus on dispersing the patrons in an orderly manner upon their exit.</p> <p>Further, as discussed under Section 6(b), the advice received from the NSW Police indicates incidents have reduced over the last year. In addition, the NSW Police did not recommend refusal of the application on community safety grounds and provided recommended conditions to manage the extended hours of trade.</p>
Appropriateness of the venue and conditions of approval	<p>It is understood that the venue provides ancillary live entertainment as part of its general operations. In addition, it is acknowledged that the current determination notice for the premises includes the following condition:</p> <p style="text-align: center;"><i>2. No entertainment being provided until such time as a Place of Public Entertainment licence has been granted.</i></p> <p>In 2009 the NSW State Government removed the requirements for licensed premises to require a Place of Public Entertainment Licence. Under the changes venues can have live entertainment. This change would in turn prevail over any previous conditions issued applicable to live entertainment.</p> <p>Further to the above, some submissions made claims the premises is being used as a sex services premises. Advice received from Council's Compliance Unit does not substantiate these claims.</p>
Parking & Traffic	<p>Given this current application is for the extension of existing trading hours and there is no increase in floor area at the hotel, there is no requirement for an increase in the number of parking spaces as required under the provisions of Part 2.10 <i>Parking</i> of the MDCP 2011.</p> <p>Parking of vehicles illegally, including vehicles that hinder access to private driveways can be reported to Council's Rangers.</p> <p>With regard to traffic generation, the extension of existing hours by 1.5 hours for 3 nights a week are unlikely to result in a noticeable increase in the level of traffic than what currently</p>

	exists in the immediate locality and in particular the hours given the existing use.
Littering	As discussed under Section 5(c)(iii), the applicant has amended the POM for the premises to address this matter through regular patrols.
Heritage Impacts	This matter is addressed under Section 5(a)(iv).
Reduction in property values	This is noted however is not material in the assessment of this application.

5(h) 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. As outlined within this report, the proposal is recommended for approval with reduced hours on a trial basis to ensure the operation complies with the terms of the approval and demonstrates that the venue can operate in a manner that does not detract unreasonably from the amenity of the area.

6 Referrals

6(a) Internal

The application was referred to the following internal sections and issues raised in those referrals have been discussed within this report.

Section	Advice
Environmental Health	No objection raised, subject to conditions.
Development Compliance	Due to the inability to access affected properties, acoustic complaints received have been unable to be substantiated at this stage. In any case, the proposed extension until 3:00am was not supported. As a result, a moderate extension on a trial basis until 1:30am with the restriction of live entertainment and amplified music is now proposed.

6(b) External

The application was referred to the following external body and issues raised in those referrals have been discussed within this report.

External body	Advice
NSW Police	Extension of hours until 3:00am not supported, however provided conditions in the event Council were of a mind to approve the application. As a result, the applicant has changed the scope of the application seeking a moderate extension on a trial basis until 1:30am with the restriction of live entertainment and amplified music beyond midnight.

	Further, recorded events and incidents in 2019 had reduced significantly, when compared to previous years of trade.
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7. Section 7.11 Contributions/7.12 Levy

Section 7.11 contributions or 7.12 levies are not payable for the proposal.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

The development is unlikely to result in any significant impacts on the amenity of the adjoining premises/properties and the streetscape and is considered to be in the public interest.

The application is considered suitable for approval subject to the imposition of appropriate conditions.

9. Recommendation

- A. That the Inner West Local Planning Panel, as the consent authority pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*, approve Application No. DA200400670.06 to modify Determination No. DA200400670, to extend the existing trading hours for the premises in a limited capacity (pub and gaming operations only) until 1:30am on Thursday, Friday, Saturday and 10 special calendar events on a trial basis for one (1) year at 386 Parramatta Road, Petersham subject to the modified conditions listed in Attachment A below.

Attachment A – Recommended modified conditions of consent

Recommended modified conditions of consent

A. **THAT** the application under Section 4.55 of the Environmental Planning and Assessment Act 1979 to modify Determination No. 200400670 dated 2 March 2005 be **APPROVED** and a modified Determination be issued with the Determination being modified in the following manner:

(i) **THAT** the following conditions being amended to read:

1a. The operation of the hotel premises complying at all times with the approved Management Plan for "**Hotel Plan of Management** Petersham Inn", submitted to Council on ~~5 October 2005~~ **11 September 2019** in accordance with Part A of this determination. The Management Plan as approved is not to be further amended without the prior written approval of ~~Marrickville~~ **Inner West** Council. If there is any inconsistency between the Management Plan and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.

Reason: To ensure that there is an appropriate Management Plan for the operation of the hotel.

16. (i) The hours of operation being restricted to between the hours of 10.00am to 12.00 midnight Mondays to Saturdays and 10.00am to 10.00pm Sundays excluding Public Holidays.

(ii) For a period of not more than twelve (12) months from the date of the issue of DA200400670.0206, the hours of operation being restricted to between the hours of **10.00am to 12.00 midnight Mondays to Wednesdays, 10.00am to 10.00pm Sundays excluding Public Holidays** and 10.00am to ~~3.00am~~ **1:30am** the following day ~~Mondays~~ **Thursdays** to Saturdays **and the following 10 special calendar events:**

- **Australia Day (26 January)**
- **St. Patricks Day (17 March)**
- **Anzac Day (25 April)**
- **Melbourne Cup (First Tuesday in November)**
- **Christmas Eve (24 December)**
- **Boxing Day (26 December)**
- **New Year's Eve (31 December)**
- **NRL Grand Final**
- **AFL Grand Final**
- **World Cup Final (Soccer)**
- **FA Cup Final (Soccer)**

The extended hours of operation referred to in this part of the condition, in excess of those referred to in part (i) of this condition, not relating to the provision of ~~public~~ **live or any other form of entertainment or amplified music and is to only permit pub and gaming room operations.**

(iii) A continuation of the extended hours will require Council's approval under the Environmental Planning and Assessment Act by way of a fresh application.

Reason: To ensure that the extended hours of operation are reviewed and assessed in light of their performance and to ensure that the use does not interfere with the amenity of the locality.

Attachment B – Acoustic Report

ACOUSTICS AND AIR

PETERSHAM INN
EXTENDED HOURS NOISE ASSESSMENT

REPORT NO. 18329
VERSION A

OCTOBER 2018

PREPARED FOR

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WILKINSON  MURRAY

PETERSHAM INN
EXTENDED HOURS NOISE ASSESSMENT

REPORT NO. 18329 VERSION A

DOCUMENT CONTROL

Version	Status	Date	Prepared By	Reviewed By
A	Final	2 October 2018	Neil Gross	Ben Lawrence

Note

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AAAC

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Celebrating 50 Years in 2012

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PETERSHAM INN
EXTENDED HOURS NOISE ASSESSMENT

REPORT NO. 18329 VERSION A

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GLOSSARY OF ACOUSTIC TERMS

Most environments are affected by environmental noise which continuously varies, largely as a result of road traffic. To describe the overall noise environment, a number of noise descriptors have been developed and these involve statistical and other analysis of the varying noise over sampling periods, typically taken as 15 minutes. These descriptors, which are demonstrated in the graph below, are here defined.

Maximum Noise Level (L_{Amax}) – The maximum noise level over a sample period is the maximum level, measured on fast response, during the sample period.

L_{A1} – The L_{A1} level is the noise level which is exceeded for 1% of the sample period. During the sample period, the noise level is below the L_{A1} level for 99% of the time.

L_{A10} – The L_{A10} level is the noise level which is exceeded for 10% of the sample period. During the sample period, the noise level is below the L_{A10} level for 90% of the time. The L_{A10} is a common noise descriptor for environmental noise and road traffic noise.

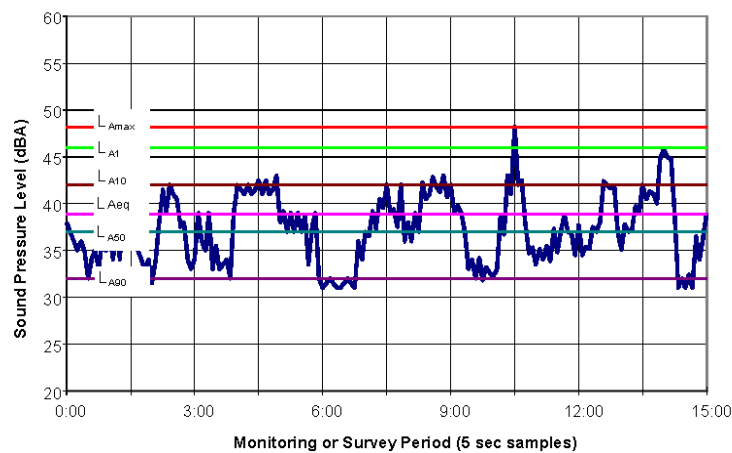
L_{A90} – The L_{A90} level is the noise level which is exceeded for 90% of the sample period. During the sample period, the noise level is below the L_{A90} level for 10% of the time. This measure is commonly referred to as the background noise level.

L_{Aeq} – The equivalent continuous sound level (L_{Aeq}) is the energy average of the varying noise over the sample period and is equivalent to the level of a constant noise which contains the same energy as the varying noise environment. This measure is also a common measure of environmental noise and road traffic noise.

ABL – The Assessment Background Level is the single figure background level representing each assessment period (daytime, evening and night time) for each day. It is determined by calculating the 10th percentile (lowest 10th percent) background level (L_{A90}) for each period.

RBL – The Rating Background Level for each period is the median value of the ABL values for the period over all of the days measured. There is therefore an RBL value for each period – daytime, evening and night time.

Typical Graph of Sound Pressure Level vs Time



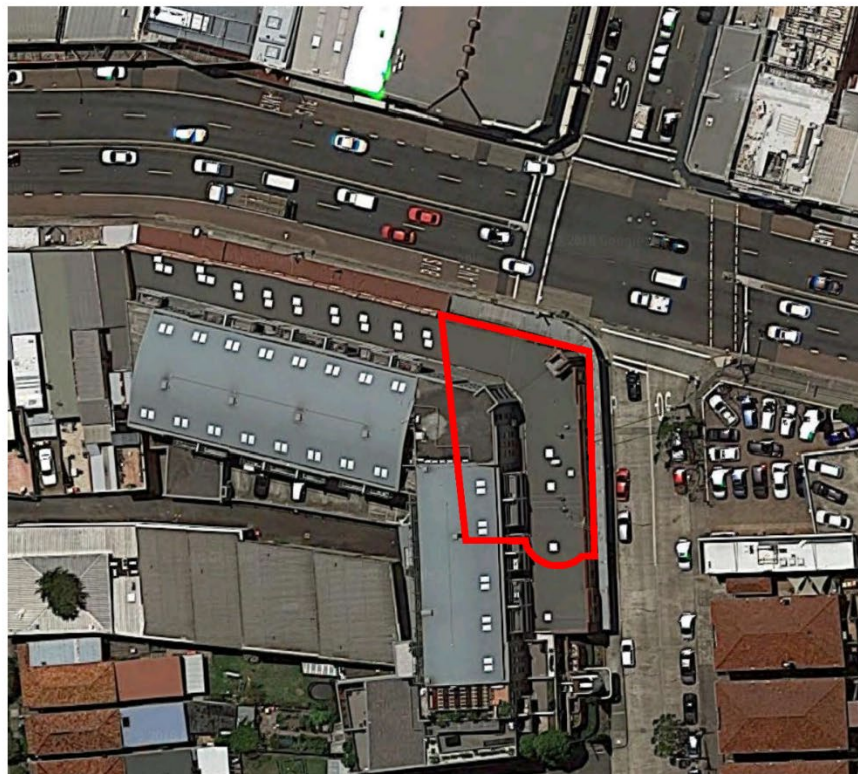
1 INTRODUCTION

The Petersham Inn Hotel is located on the ground floor of 386 Parramatta Road, Petersham on the corner of Phillip Street. The Hotel includes a Public Bar (**Bar**), a club (**Club**), gaming room, amenities and back of house areas including a kitchen. An aerial of the hotel and surrounding area is shown in Figure 1. The extent of the Hotel on the ground floor is outlined in red.

A previous consent allowed trading beyond 12midnight until 3.00am, but this lapsed a few years ago as a result of complaints and non-compliances in noise. Since this time, a new operator is present, and a number of measures have been implemented at the Hotel to include an upgraded plasterboard ceiling beneath the concrete slab, insulation in the ceiling void, resiliently mounded speakers below the plasterboard ceiling and noise limiters able to provide separate noise limits in the club and bar. It is proposed to extend trading on Thursday to Saturday nights until 3.00am the following morning and any night before a public holiday.

This report provides an updated noise assessment to address the potential impacts of noise.

Figure 1-1 Aerial photos showing Hotel and surrounds



2 SITE DESCRIPTION AND OPERATIONS

The Hotel is licenced for 231 patrons. This is further broken down as follows:

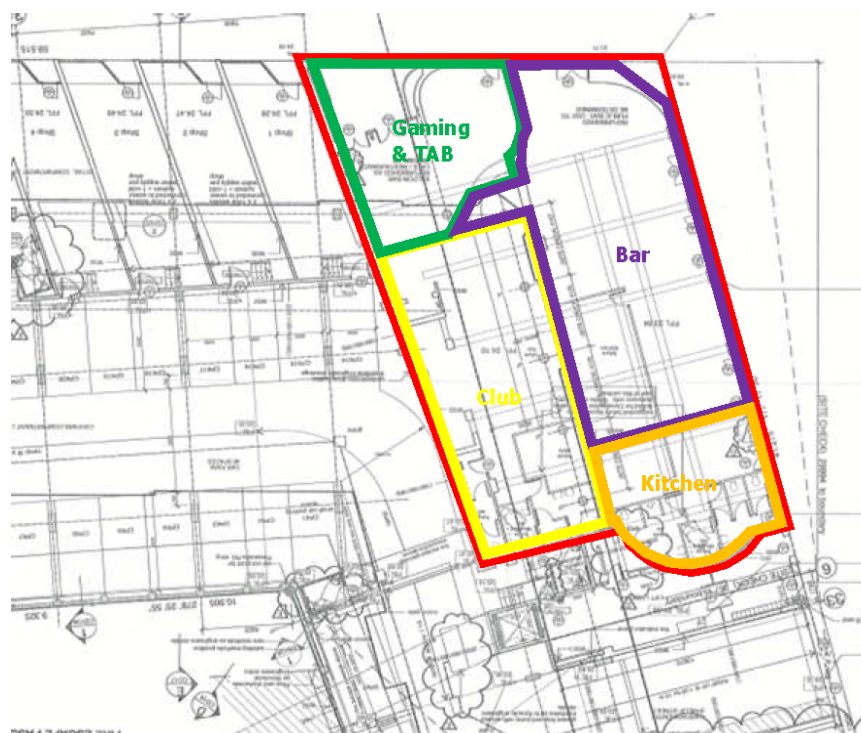
- Public Bar – 106 patrons
- Club – 67 patrons
- TAB area – 35 patrons
- Gaming area – 23 patrons.

The approved trading hours are 10.00am to 12midnight Monday to Saturday and 10.00am to 10.00pm Sunday, which is consistent with the current trading hours. Adult entertainment is provided in the Club on Thursday, Friday and Saturday nights until just prior to closing time.

For the proposed extended trading hours, adult entertainment is proposed to cease at least 1 hour prior to closing. The speakers in the Bar will be switched off and the noise limiter in the Club altered to the post-midnight settings, although music spill from the Club will be played in the Bar. The Bar will include wall-mounted TV speakers to play sports commentary.

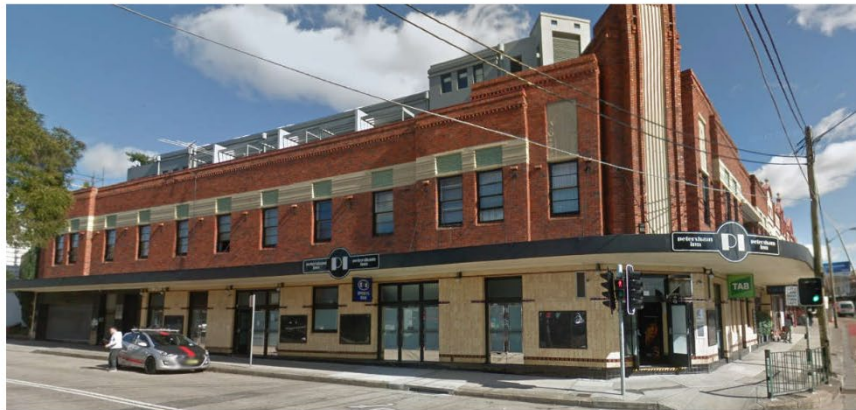
The layout of the Hotel is shown in **Figure 2-1**. Curtains cover the two small openings between the Club and the Bar.

Figure 2-1 Hotel Layout



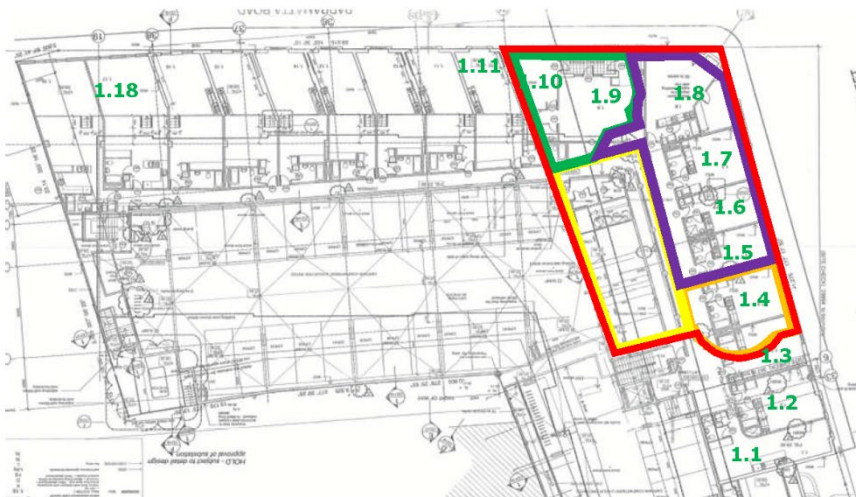
Residential premises are located directly above the Hotel on the first floor. These are generally studio apartments and fitted with double glazed windows to Phillip Street and Parramatta Road to control aircraft and traffic noise.

Figure 2-2 Level 1 View showing Philip Street Frontage



Architectural floor plans dated May 2001 prepared by Baker Kavanagh Architects, received from Council, shows 18 apartments on Level 1 as shown in Figure 2-3. These plans are used to determine the relationship of the Level 1 apartments to the Hotel.

Figure 2-3 Level 1 Apartment Layout overlaid on Hotel footprint



The first floor of 1 Phillip Street contains Apartments 1.1 to 1.18. Apartments 1.1 to 1.2 face Phillip Street and are not directly above the Hotel but are directly above the Phillip Street carpark entry and the residential lobby. Apartment 1.3 and 1.4 are above the residential lobby and the

Hotel kitchen area. Apartments 1.5 to 1.7 face Phillip Street and are directly above the Bar area of the Hotel. Apartment 1.8 is located on the corner of Phillip Street and Parramatta Road and is directly above the main entrance to the Hotel and the Bar. Apartment 1.9 and 1.10 face Parramatta Road and are directly above the TAB area of the Hotel. Apartments 1.11 to 1.18 are generally above the commercial shops on Parramatta Road.

Some part of the Level 1 corridor and carpark are directly above the Club area of the Hotel. There are no Apartments on Level 1 that are directly over the Club area of the Hotel.

The most affected residential apartments within 1 Phillip Street, Petersham are Apartments 1.3 to 1.10.

The second floor of 1 Phillip Street, Petersham contains 25 residential apartments. Some parts of Apartments 2.8 to 2.11 are located directly above the Hotel, albeit with the Level 1 carpark between. The remaining Apartments (2.1 to 2.7 and 2.12 to 2.25) on Level 2 are not directly above the Hotel. Level 2 is offset from the Hotel and Level 1, and further to the southwest from the corner of Parramatta Road and Phillip Street, Petersham.

The third floor of 1 Phillip Street, Petersham contains 23 residential apartments, and are located directly above Level 2. The fourth floor of 1 Phillip Street, Petersham contains 24 residential apartments, and are located directly above Level 3. The fifth floor of 1 Phillip Street, Petersham contains 24 residential apartments, and are located directly above Level 4.

A commercial car dealership and two storey terrace dwellings are located opposite the Hotel; the closest and most affected being at 2 Phillip Street, Petersham.

Parramatta Road carries heavy traffic volumes and creates significant background noise throughout the day and night. Regular aircraft overflight is present when Sydney Airport is operating in certain modes.

2.1 Acoustical Upgrade Works

Since November 2016, several noise controls have been installed to reduce the noise impact to the residential apartments above.

The slab between the Hotel and the apartments is understood to be at least 250mm. Beneath this, two layers of 16mm fyrcheck plasterboard are installed with an airspace which varies between 150-400mm. Insulation is provided within the airspace.

A noise limiter has been installed in the Hotel to limit the amplified music level in both the Bar area and Club area of the Hotel.

Four speakers are secured to the ceiling in the Club. The speakers have been vibration isolated, such that they are not physically touching the ceiling or wall surfaces. Steel rods with rubber mounts are inserted to reduce the low frequency noise and vibration transmitting into the ceiling structure above.

A solid core door with acoustic seals has been installed between the Club and the Kitchen back-of-house area.

Simple sound level meters have been purchased by the manager of the Hotel to monitor the noise level as necessary. One meter is mounted on the wall of the DJ corner, above the audio control desk.

3 CONSENT CONDITIONS

DA Modified Consent 200400670.02 dated 10 August 2015, Condition 7 of the Consent states:

Noise from patrons and amplified music emitted from the licensed premises shall comply with the following criteria:

- a) *The L_{10} noise level emitted from the licensed premises shall not exceed **3dB(A)** above the background (L_{90}) noise level in any Octave Band Centre Frequency (31.5Hz to 8kHz) between the hours of 7am to 12midnight when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.*
- b) *The LA_{10} noise level emitted from the licensed premises shall not exceed the background (LA_{90}) noise level in any Octave Band Centre Frequency (31.5Hz to 8kHz) between the hours of 12midnight to 7am when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.*
- c) *Notwithstanding compliance with the above clauses, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12midnight to 7am.*

Liquor Licence LIQH400104685, Condition 220 of Liquor Licence LIQH400104685 for the Petersham Inn Hotel, commencing 23 May 1960 with unlimited duration states:

*The $L_{A,10}$ noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre (31.5Hz to 8kHz inclusive) by more than **5dB** between 7am and 12midnight at the boundary of any affected residence.*

The $L_{A,10}$ noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz to 8kHz inclusive) between 12midnight and 7am 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 12midnight and 7am.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels are in no way supported or condoned by the Authority.

For the purpose of this condition the $L_{A,10}$ can be taken as the average maximum deflection of the noise emission from the licensed premises.

Compliance with Condition 7 of the Consent will also ensure compliance with the Liquor Licence.

4 BACKGROUND NOISE LEVELS

Background noise levels were measured on previous occasions, while the Hotel was either inaudible or not in operation by both Day Design and The Acoustic Group.

Despite several attempts to arrange access to the Level 1 apartments, access was either refused by the residents contacted, or the residents failed to commit to the agreed time. Therefore, background noise levels were measured by Day Design on Friday 25 November 2016 in the Level 1 corridor, directly outside the Level 1 apartments prior to midnight and on Saturday 26 November 2016 after midnight. The Acoustic Group also collected data inside Apartment 1.3.

The background noise level was measured outside 2 Phillip Street on Monday 23 January 2017 before midnight and on Tuesday 24 January 2017 just prior to 3am.

The measured ambient background L_{90} noise levels are shown below in Table 4-1. The ambient L_{10} noise levels are shown below in Table 4-2.

Table 4-1 Measured Ambient L_{90} Background Noise Level, dB

Location, Time	Octave Band Centre Frequency, Hz									A
	31.5	63	125	250	500	1k	2k	4k	8k	
Level 1 – Corridor										
Before midnight	46	39	38	34	30	25	14	13	13	31
Midnight to 3am	47	39	38	33	31	25	13	12	13	31
Apartment 1.3										
Before midnight	42	38	36	36	28	25	22	16	15	32
2 Phillip Street										
Before midnight	50	49	48	43	38	37	33	25	34	42
Midnight to 3am	49	46	43	39	37	36	32	28	28	41

Table 4-2 Measured Ambient L_{10} Noise Level, dB

Location, Time	Octave Band Centre Frequency, Hz									A
	31.5	63	125	250	500	1k	2k	4k	8k	
Level 1 – Corridor										
Before midnight	52	47	44	39	33	30	18	15	14	36
Midnight to 3am	56	46	43	38	35	32	21	21	17	36
2 Phillip Street										
Before midnight	62	62	59	56	53	55	51	42	45	59
Midnight to 3am	63	62	56	53	53	54	51	44	35	58

The background noise levels in the corridor of Level 1 is generally the same before and after midnight as it is not influenced by outside noise. The levels in Apartment 1.3 are similar. On the basis the external noise levels are similar at 2 Phillip Street the Apartment 1.3 levels before midnight are considered to be representative of the levels after midnight.

It is important to note that the measured L₁₀ noise level caused by ambient noise, such as traffic, mechanical plant and people, all of which not associated with the Hotel, exceeds the noise criteria established in accordance with Condition 7 of the DA Consent, hence any measurements of hotel noise need to remove the ambient noise to determine the contribution from the Hotel only.

5 NOISE CRITERIA

The noise criteria for noise emission from the Hotel has been determined from Condition 7 of the DA Consent as this is more stringent than the Liquor License conditions.

The noise criteria at the most affected residential premises for noise emission from the Hotel are shown below in Table 5-1. For inaudibility these reflect a background noise level minus 7dB in each octave. Consideration is also required in the low frequencies for noise levels below the threshold of hearing.

Table 5-1 Noise Criteria

Location, Time	Octave Band Centre Frequency, Hz									A
	31.5	63	125	250	500	1k	2k	4k	8k	
Level 1 Apartments – 1 Phillip Street										
Before midnight	45	41	39	39	31	28	25	19	18	35
Midnight to 3am	42	38	36	36	28	25	22	16	15	32
Inaudibility inside	35	31	29	29	21	18	15	9	8	25
Threshold of hearing	53	42	22							
2 Phillip Street										
Before midnight	53	52	51	46	41	40	36	28	37	45
Midnight to 3am	49	46	43	39	37	36	32	28	28	41
Inaudibility inside	Requires access but can be estimated from external background levels									

6 RECOMMENDATIONS

In order to meet the noise criteria in Condition 7 of the Consent, it is recommended that both the Club area and Bar area operate on separate noise limiters which control noise levels in the areas such that the following noise limits for a before and after 12 midnight operation from music and patron noise can be achieved. The limits are summarised in Table 6-1. Note these limits are based on each area operating on its own. Since they operate contemporaneously, allowance should be made for the contribution from the other area.

Table 6-1 Overall Noise Limits Music & Patrons

Location, Time	Octave Band Centre Frequency, Hz									A
	31.5	63	125	250	500	1k	2k	4k	8k	
Club										
Before midnight	80	83	91	94	94	98	95	89	83	101
Midnight to 3am	70	73	81	84	84	88	85	79	73	91
Bar										
Before midnight	69	73	86	87	88	91	81	81	81	93
Midnight to 3am	55	62	74	79	76	81	79	74	73	85

The noise limiter should be programmed to automatically set to change the limit setting at midnight to avoid relying on management to reduce the settings at midnight. Only the manager of the Hotel should have access to alter the settings in conjunction with the Hotel's acoustic or audio consultant. Recommended music limits in each area are summarised in Table 6-2.

Table 6-2 Recommended Music Limits

Location, Time	Octave Band Centre Frequency, Hz									A
	31.5	63	125	250	500	1k	2k	4k	8k	
Club										
Before midnight	77	85	84	81	86	87	82	78	68	90
Midnight to 3am	69	75	74	72	77	78	73	68	59	81
Bar										
Before midnight	65	69	79	79	79	81	79	74	73	85
Midnight to 3am	51	58	70	74	74	76	74	69	68	80

In order to manage patron noise, it is recommended that ingress and egress to the Hotel is only via Parramatta Road entrances after 12midnight.

7 PREDICTED NOISE LEVELS

Noise levels have been predicted at the nearest receivers based on the music being limited per the recommendations above and the premises at maximum capacity, with the assumption that half the patrons internally could be talking with a raised voice. Table 7-1 shows the noise levels within the premises and the levels within the apartments and outside 2 Philip Street with windows and doors closed.

Table 7-1 Predicted Noise Levels

Location, Time	Octave Band Centre Frequency, Hz									A
	31.5	63	125	250	500	1k	2k	4k	8k	
Club										
Before midnight	77	85	84	82	86	87	82	78	68	90
Midnight to 3am	69	75	74	75	80	80	74	69	61	80
Bar										
Before midnight	66	70	79	81	83	83	80	75	73	87
Midnight to 3am	57	62	72	78	81	80	76	71	69	84
Predicted Levels Inside Apartments 1 Philip Street										
Before midnight	47	42	36	32	29	22	17	12	9	30
Criteria	45	41	39	39	31	28	25	19	18	35
Complies	< Threshold		Y	Y	Y	Y	Y	Y	Y	Y
Midnight to 3am	39	35	29	29	27	18	13	7	4	27
Criteria	35	31	29	29	21	18	15	9	8	25
Complies	< Threshold		Y	Y	Y	Y	Y	Y	Y	Y
Predicted Levels Outside 2 Philip Street										
Before midnight	28	28	32	33	30	31	29	18	16	35
Criteria	53	52	51	46	41	40	36	28	37	45
Complies	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Midnight to 3am	20	20	25	30	28	28	25	14	12	32
Criteria	49	46	43	39	37	36	32	28	28	41
Complies	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Inaudibility outside	42	39	36	32	30	29	25	21	21	33
Complies	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

The predicted noise levels, based on the music levels controlled by a noise limiter and the maximum patron numbers, will meet the pre and post midnight criterion at both the residences directly above and also on the opposite side of Philip Street.

In relation to inaudibility within a residence then it is considered predicted noise levels will be less than background minus 7dB or at the low frequencies be below the threshold of hearing.

8 SUMMARY

This report has assessed the potential noise impact from a proposed extension of hours for the Petersham Inn from 12midnight until 3.00am Thursday to Saturday nights and any night preceding a public holiday. Acoustical upgrade works have occurred in recent years.

Because there are residences directly above the Hotel and on the opposite side of Philip Street, strict control of music noise is required for the pre and post midnight periods in both the Club and Bar areas of the Hotel. This is controlled by a music limiter which is only accessible to the hotel manager. The limiter settings should be documented in the Plan of Management.

With these controls in place, noise levels are predicted to comply with the requirements of the Consent which requires inaudibility inside premises.

A Plan of Management should address management of patron noise, including the requirement for ingress and egress to only be allowed directly to Parramatta Road after 12midnight.

Should complaints arise from audibility of music, access will be required to the affected apartments and adjustments made accordingly to the limiter settings.

Attachment C – Plan of Management



HOTEL PLAN OF MANAGEMENT

PETERSHAM INN

386 Parramatta Road, Petersham

Hotel Liquor Licence No. LIQH400104685

Dated 03 September 2019

Petersham Inn



INNER WEST SYDNEY'S PREMIER SPORTS BAR

Servicing the community

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1. The Licence

- (a) The Petersham Inn will operate under the authority of Full Hotel Licence No. LIQH400104685
- (b) Details of the License requirements are as follows:
 - (1) Principal Activity:

The sale of liquor for consumption on the licensed premises, or take-away off the premises.
 - (2) Maximum Licensed Trading Hours:
 - (A) Monday to Saturday - 10:00am to 3:00am
 - (B) Sunday - 10:00am to 10:00pm
- (c) All take away alcohol sales will cease at 11 pm daily except Sunday will be 10pm
- (d) *Licence document* - The Petersham Inn Liquor Licence Document folder contains all details of licensed trading hours and conditions. The Licence Document folder will be kept on the premises at all times.
- (e) A copy of the Licence Document is contained in Schedule 1.





2. Premises Operations

2.1 Hours of Operation

- (a) The Petersham Inn has the following opening hours:
- 10am – 12am (midnight), Monday – Wednesday
 - 10am – 1:30am, Thursday – Saturday
 - 10am – 10pm, Sunday

2.2 Maximum occupancy

- (a) The maximum occupancy of the Petersham Inn is 231 patrons broken down as (as per Appendix A):
- Public Bar – 106 patrons
 - Club – 67 patrons
 - TAB area – 35 patrons
 - Gaming area – 23 patrons.

2.3 Live Entertainment

- (a) Live entertainment is provided within the Hotel (identified in appendix A – Club) until 12am (midnight).
- (b) No live public entertainment is permitted to continue past midnight under any circumstance.

2.4 No Dance Parties

The Hotel is prohibited from holding dance parties and raves.

2.5 Restrictions on operation after midnight (based on 1:30 am hours of operation)

- (a) No new patrons are to be admitted to the premises after 12:30am.
- (b) All sale and supply of liquor to cease 30 minutes before close.
- (c) All live entertainment to cease at midnight.



2.6 Noise Mitigation

- (a) All amplification equipment is centrally controlled and is not accessible to the public. Only the Manager and Acoustic Consultant are to have access to the system settings.
- (b) The Club and Bar (as depicted in appendix A) operate to different noise limits. This can be appropriately managed through the Hotel's BLU 100 model BSS DSP (Digital Signal Processor) series. The noise limiter must be programmed to correspond with the noise limits stipulated in this Plan of Management and must automatically reduce noise output at 12am (midnight).
- (c) It is the responsibility of the manager on duty to ensure that all amplification equipment is functioning correctly and to ensure that noise levels are adhered to.
- (d) All staff involved in the provision of entertainment must adhere strictly to the directives of the duty manager with respect to sound equipment.
- (e) From after 12am (midnight), the entry and exit of patrons and staff is to occur through the main doors to Parramatta Road.
- (f) The LA10 noise level emitted from music and patrons on the licensed premises shall not exceed the background (L90) noise level in any octave band centre frequency (31.5 Hz to 8 kHz) between the hours of 7:00am and 12:00 midnight when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
- (g) The LA10 noise level emitted from music and patrons on the licensed premises shall not exceed the background (LA90) noise level in any octave band centre frequency (31.5Hz to 8kHz) between the hours 12:00 midnight and 7:00am when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
- (h) Notwithstanding compliance with the above clauses, 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.
- (i) The Petersham Inn is committed to maintaining these acceptable levels of noise.
- (j) The following measures are designed to assist with this:
 - (1) Doors are closed whenever amplified music is conducted – except the main entrance doors to Parramatta Road.
 - (2) Bottles are emptied into plastic bags before being placed in bins. Bins are to be wheeled to the rubbish bin area for collection as part of the closing procedure. Where bins are



wheeled to the rubbish area after 8pm, only the internal passageway should be utilised as described in Section 12.4 of this Plan of Management.

- (3) Signs are placed in specific locations reminding our patrons to respect our neighbours when leaving the premises.
- (4) The premises is well serviced by taxis and is easily accessible to ride share drivers. Security and staff are to assist patrons to access transport and disperse from the area. Any patrons who do not wish to arrange transport from the venue should be encouraged to disperse in an orderly manor on foot.
- (5) Staff members will assist in arranging external transport when requested.
- (6) Staff and security assist in keeping the premises, and its immediate vicinity, clean and tidy during the Hotel's operational hours.
- (7) Cleaners are employed on a nightly basis to clean the premises. As part of these duties they are expected to pick up and clear any litter in the immediate vicinity of the premises.
- (8) Signs will be located within the hotel adjacent to egress points advising patrons of the nearby residences and seeking quiet and orderly ingress and egress from the premises. Staff and security are to take action to quieten leaving guests as required.

2.7 Security

- (a) The security personnel engaged by the Hotel shall hold a relevant Security Licence, and have completed suitable courses and received suitable certificates to enable them to maintain appropriate behaviour on the premises.
- (b) On Thursday, Friday and Saturday nights from 7:00pm, two (2) security guards will be deployed at the Hotel. One security person will be deployed to the entrance to the Hotel. The second security will be deployed to roam the Hotel and the immediate vicinity of the Hotel when entertainment is on offer.
- (c) The Licensee shall make arrangements that if required, additional security personnel can be provided at the Hotel at short notice.
- (d) The Licensee shall ensure that there are adequate numbers of security personnel and/or management present upon the Hotel to ensure alcohol is consumed properly and responsibly.
- (e) The Licensee shall require any security person on duty at the Hotel to:
 - (1) Be appropriately licensed and have successfully completed suitable Responsible Service of Alcohol courses.



- (2) Be dressed in a readily identifiable uniform and clearly display identification as a security officer. When working outside the Hotel, that uniform is to include a reflective vest.
- (3) Report to Licensee or Duty Manager to obtain a briefing on his or her duties before commencing duty at the Hotel.
- (4) Prevent any person, detected as intoxicated, from entering the premises and bring to the notice of the Licensee or Duty Manager any person observed in the premises who might be displaying signs of approaching intoxication
- (5) Prevent patrons leaving the Hotel with open drinking containers.
- (6) Record the details of incidents reported in an 'Incident Book' kept at the Hotel as soon as practicable.
- (7) Co-operate with the Police, Liquor & Gaming, Council, or any other private security personnel operating in the area near the Hotel.
- (8) Monitor the behaviours of patrons in the vicinity of the Hotel and encourage them to leave its vicinity in a quiet and orderly fashion.
- (9) Collect any rubbish in the Hotel's security patrol area that may be associated with the hotel's activities.
- (10) Security Guards will conduct themselves in a professional and proactive manner and ensure the hotel trades within the boundaries of its Liquor Licence, and that the quiet and good order of patrons and hotel guests is maintained both internally and in the immediate vicinity of the Hotel.

2.8 The Incident Register

- (a) The Licensee must ensure an Incident Register of a type approved by Liquor & Gaming NSW is maintained where written details of incidents that occur at the premises must be recorded and signed by all staff involved in the incident. An incident register will be required to be completed on all incidents which necessitate action by an emergency service, Fire brigade, Police and maintenance called in after hours. As well, a director of the owner of hotel is required to be informed.
- (b) The incident report should contain:
 - The date & time of the incident
 - The details of the incident.

The action taken, including the name and appointment of the person or persons notified of the incident, the time notified, the instruction given to the Security personnel and the time the



instructions were carried out.

The Hotel Incident Register is located in the office.

2.9 Closed Circuit Television Equipment (CCTV)

- (a) Sufficient security cameras will be located to as far as practicable provide coverage to entrances / exits and all parts of the premises to which the public have access (excluding toilet areas).
- (b) The cameras and associated equipment have been selected to ensure that the quality of images recorded is of an acceptable standard and shall automatically record date and time of exposure.
- (c) The equipment shall be maintained in working condition with any repairs or maintenance required being carried out as quickly as is reasonably possible.
- (d) Video surveillance must either commence recording 1 hour prior to opening and operate continuously until at least 1 hour after closure, or be of a type that is movement activated.
- (e) The CCTV recording equipment must be stored in a secure place by management to ensure the integrity of the recordings.
- (f) Assist with the recording of footage to be made available to the Police or L&GNSW on receipt of a formal "notice to produce" (written request), provided the Hotel is permitted sufficient time to make a copy of the requested CCTV footage.

2.10 Transport

Where possible staff and management will assist patrons with transport enquiries including contacting taxis and limousines when requested.

3. Our Objective

- (a) The Petersham Inn aim is to provide a Full Hotel which includes bar, restaurant plus recreational entertainment at a venue that will provide an enjoyable & safe atmosphere for patrons, staff and management.





- (b) Patrons can expect outstanding customer service with all areas adequately staffed and safety being maintained at all times.
- (c) All patrons of our venue will be served in a friendly, responsible and professional manner.
- (d) Staff will assist patrons in their decision to drink in moderation and where appropriate arrange transport home.
- (e) Staff meetings and training sessions are conducted on a regular basis, which also allows staff to discuss any concerns and to share information.
- (f) Management, security and owner guarantee their full support for any staff member who has to refuse service.
- (g) The purpose of this Hotel Plan of Management is to establish performance criteria for various aspects of the operations of the Hotel having regard to the relevant matters under the Liquor Act and Regulations, Gaming Act and Regulations, and the Environmental Planning and Assessment Act.
- (h) The Hotel Licensee and all management will make themselves familiar with, and at all times comply with, the conditions as listed on the Petersham Inn Hotel Liquor Licence No. LIQH400104685.
- (i) The Hotel shall be operated in accordance with the requirements of any Marrickville Council Development Consent or Approval granted under the Environmental Planning and Assessment Act 1979.
- (j) Any issues raised by the Marrickville Police Local Area Commander or delegate, shall be dealt with as soon as practicable, with the intention of obtaining a suitable outcome for all parties involved.
- (k) Any issues raised by nearby residents affected by the operation of the Hotel, shall be dealt with in a sympathetic and timely fashion, with an emphasis on maintaining the hotels ongoing support in the community.
- (l) The Licensee or Manager on duty, will ensure adequate staff are rostered to ensure the safe and compliant operation of the Hotel at all times.
- (m) The Hotel will be operated under the direct supervision of the Licensee or appropriately experienced supervisory staff whenever liquor is being sold or supplied at the premises.
- (n) Alcohol consumption by all patrons of the Hotel shall be actively monitored by the Licensee/Management/Staff of the premises.



4. Responsible Service of Alcohol at the Premises

4.1 Responsible Service of Alcohol

- (a) The Petersham Inn acknowledges that our business operates within a broader community and that community is not obliged to tolerate inconvenience or disturbance as a result of the way our business is conducted.
- (b) The Responsible Service of Alcohol is important to our premises for legal, health and social reasons. We must ensure patrons do not become intoxicated and present a problem for management, staff and the community, or a safety risk to themselves &/or others. This also means liquor cannot be sold or supplied to intoxicated or disorderly persons, or to anyone who is under the age of 18.
- (c) The Hotel shall adopt and promote the New South Wales Liquor Industry Intoxication, Prevention of Intoxication and Responsible Promotion of Alcohol Products Guidelines.
- (d) All hotel management, staff and any contracted security are required to have completed an approved Responsible Service of Alcohol Course by an accredited RSA course provider, and are to be diligent in enforcing RSA and Harm Minimisation practices, while on duty.
- (e) Strategies that The Petersham Inn will undertake to ensure the Responsible Service of Alcohol are:
 - (1) Development and availability of this Plan of Management to all employees
 - (2) Provide a range of low alcohol and non-alcoholic beverages at a generally cheaper price than full strength liquor and promote the availability of same.
 - (3) Provide a safe environment for staff and patrons.
 - (4) Prohibit competitions where part of the contest involves the consumption of liquor.
 - (5) Provide access to a telephone to allow contact with taxis and emergency services.
 - (6) Display signs that discourage excessive drinking such as the "No more it's the law" at key locations in the premises.
 - (7) Display any signs issued by Liquor & Gaming NSW ("L & G") explaining reasons for staff's actions at key locations in the premises.
 - (8) Conduct both formal and informal staff training with respect to responsible hospitality practices and make record of such training.



- (9) Refuse service to patrons showing signs of intoxication and disorderly persons and give staff autonomous authority with respect to refusal.
- (10) Assist patrons in their departure from the premises and call taxis if required.
- (11) Make water freely available to patrons at any time.
- (12) Prohibit liquor promotions that may encourage excessive consumption of liquor.
- (13) The Licensee or Manger on duty will ensure regular patrols of the Hotel are conducted to identify and address any issues relating to intoxication, anti-social or violent behaviour, and patron safety, either by staff or contracted security.
- (14) The Licensee will endeavour that early intervention occurs on behalf of staff when a patron is showing signs of approaching intoxication at all times the premises is open and alcohol is sold or supplied.

4.2 Drink Promotions

- (a) All drink promotions will be conducted as per the 'Liquor Promotions Guidelines' issued by Liquor & Gaming NSW.
- (b) The external advertising of free drinks, multiple drinks and/or drink discounting that could result in excessive drinking is prohibited.
- (c) The prohibition on advertising does not apply inside of the premises, except where the advertising inside the premises is audible or visible outside. If staff or security notices that any such advertising is visible or audible from outside, the Duty Manager must be immediately advised.
- (d) Drinking promotions such as happy hours and two for one offers are not banned, provided they are conducted responsibly and do not lead to rapid or excessive consumption of alcohol.
- (e) In order to ensure compliance with these requirements, all decisions regarding advertising and promotions will be made at management level. It is the policy of management that all venue advertising will be carried out responsibly and with due regard for the proper, controlled and moderate use of alcohol.

4.3 Drinking Practices

- (a) The licensee will ensure that the following drinking practices are not conducted on the licensed premises:
 - (1) Any competition or game in which contestants or players consume liquor on the premises; or



- (2) Any activity that may encourage the rapid or excessive consumption of liquor or promote intoxication.
- (b) On any day the hotel is open and trading as per the 'Prevention of Intoxication Guidelines', the following drinks shall not be sold or supplied after midnight;
 - (1) Any drink (commonly referred to as a 'shot', a 'shooter' or a 'bomb') that is designed to be consumed rapidly.
 - (2) Any drink prepared on the premises that contains more than 30 ml of spirits or liqueur, other than a cocktail that contains spirits or liqueur (or both) mixed with other ingredients and that is not designed to be consumed rapidly.





5. Liquor Accords

- (a) The Petersham Inn believes individual licensees need to work co-operatively with each other to develop approaches that benefit both the industry as a whole and the broader community.
- (b) The Petersham Inn is a supporter of liquor accords between licensees as they promote the responsible service of alcohol, encourage improvements in safety and security and involve improved communication and co-operation between licensees and the community.
- (c) The Petersham Inn will be a member of the Marrickville Liquor Accord and regularly attend its meetings.





6. Provision of food at the premises

The Hotel food model is an important and integral part of the business plan. The Hotel will have a full a la carte or menu available daily from 12pm – 3pm and 6pm – 10pm with a reduced snack menu available from 10pm until close and on Sundays the times will be 12pm – 3pm and 6pm – 9pm with a reduced snack menu available from 9pm until close.





7. Staff Training

- (a) The management of The Petersham Inn acknowledge that the Liquor Act 2007 and Prevention of Intoxication Guidelines requires all hotel management, bar staff and security to have completed an approved Responsible Service of Alcohol Course by an accredited RSA course provider, and are to be diligent in enforcing RSA and Harm Minimisation practices, while on duty.
- (b) All relevant staff must hold a current RSA qualification before they begin work with the hotel. All staff must have their RSA Competency Card, Certificate or electronic version available when working.
- (c) The principles of the RSA training course are reinforced by management at staff meetings and in-house training sessions which will generally be conducted on a regular basis. These include a review and update of RSA practices and in-house policies.
- (d) Induction training is also provided to new staff.
- (e) Staff meetings include an opportunity for situational analysis of how to refuse service.
- (f) All relevant staff need to have read and signed all policies, procedures and house rules prior to the commencement of their employment, in particular this Hotel Plan of Management.



8. Dealing with minors on premises

- (a) The following forms of identification (ID) can be accepted as evidence of age by licensed venues in NSW:
- (1) A driver's or rider's licence or permit (issued by an Australian State or Territory or any foreign country).
 - (2) Australian passport or a foreign passport issued by another country.
 - (3) NSW photo card (issued by Roads and Maritime Services NSW).
 - (4) Proof of age card issued by a public authority of the Commonwealth or of another State or Territory for the purpose of attesting to a person's identity and age.
 - (5) Keypass (over-18) identity card issued by Australia Post.
- (b) If a person is suspected to be a minor, staff will check for ID at the bar and throughout the premises if necessary. If the suspected person has no ID, it is safe to assume they are underage and staff should refuse service of alcohol.
- (c) However, bar and wait staff must also request ID if they suspect a person is a minor.
- (d) If a patron is suspected to be a minor, they must leave the premises. If the patron is uncooperative, notify security and management to handle the situation.
- (e) If a person uses a tampered or false ID, Police should be contacted and the person asked to remain until Police arrival.



9. Dealing with intoxicated, indecent, violent or quarrelsome patrons

9.1 Intervention

- (a) The Hotel will not permit intoxication or any indecent, violent or quarrelsome conduct on the premises. Any patron causing such disturbance shall be refused service and asked to leave the premises and immediate vicinity. They must be informed of the 'fail to quit' rules. If a patron does not leave the premises and vicinity on request, Police will be called. Guidelines to assist with the identification of intoxicated persons are attached at Schedule 2.
- (b) In the event a patron of the hotel is identified as showing signs of intoxication, all staff are required to intervene, and the following '**Relevant Steps**' are to be taken as follows;
- (1) Refuse Service of Alcohol.
 - (2) Direct the patron to leave the premises and the immediate vicinity.
 - (3) If the patron does not leave the premises on request, contact Police and inform them of the situation.
 - (4) Record these actions in the Hotel Incident Book as they occur or as soon as practicable thereafter.

Regarding patrons showing signs of intoxication, all staff including any contracted Security Guards are to abide by the following procedures at all times:

Intoxicated Person Attempting to Gain Entry

Staff: Inform Manager / Security

Manager: Refuse Entry - Ask to Leave - On Failure Call Police

Security: Refuse Entry - Ask to Leave - Fail to Leave - Call Police

Refusal of Service To Intoxicated Patron

Staff: Refuse & Inform Manager / Security

Manager: Ask to Leave - Offer Transport

Security: Ask to Leave - Offer Transport



Removal on Fail To Quit

Manager: Notify Security / Call Police

Security: Inside - Physically Remove (if safe to do so) or Call Police

IMPORTANT NOTE:

ANY PERSON THAT IS ASKED TO LEAVE, OR IS REFUSED ENTRY TO THE PREMISES, MUST BE INFORMED OF THE 'FAIL TO QUIT RULES' AS FOLLOWS:

You are required by law to move more than 50 metres away from our premises.

You cannot return to our venue for at least 24 hours.

You are not permitted to re-enter the vicinity (50m) within 6 hours.

If you fail to comply you commit an offence and Police may take action.

All staff have the right to refuse service or entry to any patron who displays signs of intoxication, or any person who creates discomfort for other patrons.

There are substantial fines associated with serving liquor to minors, intoxicated patrons and patrons behaving in an indecent, violent or quarrelsome manner. For information on these fines, staff should refer to fact sheets contained on L&GNSW's website (www.liquorandgaming.justice.nsw.gov.au).

9.2 Recognising an Intoxicated Person

- (a) The definition of "intoxicated" as described in Section 5 of the Liquor Act 2007 is that a person is intoxicated if,
 - (1) the person's speech, balance, co-ordination or behaviour is noticeable affected, and
 - (2) it is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.
- (b) Behavioural signs to look out for are attached in the Intoxication guidelines at Schedule 2.
- (c) If a person displays a combination of these signs, and they are caused by the consumption of alcohol, it is safe to assume that the person is intoxicated and therefore must be refused service.



9.3 The Role of Staff in Refusal of Service

(a) Security

- (1) Security must screen patrons who appear to be showing signs of intoxication or behaving in a disorderly manner. By thoroughly screening patrons at the front door, security can reduce the risk of trouble inside the premises. Any patron who displays signs of intoxication should be stopped at the front door. Security should then take the time to assess whether the patron is intoxicated.
- (2) Security must also closely monitor patron behaviour within the venue. Whilst it is easy to identify intoxicated persons who are being disorderly, equal attention must be paid to the "quiet drunk".
- (3) Communication is essential between security, bar and wait staff and management. Security staff when available must assist bar and wait staff in the refusal of service for whatever reason.
- (4) Where possible, security should notify other licensed venues of troublesome persons that have been ejected or refused entry and appear likely to move on to another venue.

(b) Bar/Wait Staff

- (1) Staff should be responsible in the service of alcohol. For example, a "pacer" (glass of non-alcoholic drink) may be recommended to a person who seems to be rapidly consuming alcohol.
- (2) If staff need to refuse service to an intoxicated or disorderly patron, the following is recommended:
 - (A) Use non-aggressive body language, tact and diplomacy. Politely inform the patron you will not serve them any more alcohol. If possible, avoid speaking to the patron in front of others.
 - (B) Don't be persuaded to give them "one last drink" after you have stated they have had enough.
 - (C) Repeat firmly, that by law they cannot be served another drink.
 - (D) Inform the patron they must leave the premises.
 - (E) Don't call your patron a "drunk" but warn them politely that their behaviour is unacceptable.



- (F) Don't raise your voice – if they raise theirs, lower yours
 - (G) Notify the Duty Manager and/or security.
 - (H) If considered necessary, management may impose a short term ban.
 - (I) If a patron is required to be evicted, ask them to leave politely. If they are uncooperative in leaving, call for assistance from the Duty Manager, security and/or staff to remove the patron.
- (3) If a patron is asked to leave the premises, there should be two staff members involved or police can be called to assist. If requested we will arrange a taxi for any person who has been asked to leave the premises.
- (c) Management
- (1) Management has the important role of supporting staff in their decision to refuse service. Management may be called on to assist staff in the removal of intoxicated or disorderly patrons, and should justify why the patron has been refused further service.
 - (2) Management must ensure that a person who has been refused service, is then informed they must leave the premises. If they don't leave the premises, Police must be called.





10. Community

10.1 Security – Nightly Closing Procedures

On Thursday, Friday and Saturday nights when trading past midnight to 1:30 am (and on any *special approved trading past midnight to 1:30am)

- a) At least two (2) security guards will remain outside the venue at the time of closing until the last patron has left the immediate vicinity to ensure patrons move away from the vicinity of the premises as quickly and quietly as possible - when entertainment is on (Thursday, Friday and Saturday including any *special approved days for trading past midnight).

On other nights (Sunday to Wednesday) when trading till midnight

- b) At least one (1) security guard will remain outside the venue until the last patron has left the immediate vicinity after closing to ensure patrons move away from the vicinity of the premises as quickly and quietly as possible - (when there is no entertainment & not including any *special approved days for trading past midnight)

10.2 Amenity of neighbourhood

- a) At all times the licensee of the hotel shall consider the amenity of its neighbours and hotel guests and shall take all reasonable measures to ensure that impacts adverse to the surrounding area do not occur.
- b) Management will take all reasonable measures to ensure that the behaviour of patrons and staff when leaving the premises after midnight does not detrimentally affect the amenity of the neighbourhood by the use of professionally trained personnel at the exit point and externally.

10.3 Complaints

Any complaints received will be kept in a complaints log and followed up by management

Complaints can be made via email which is located on the website.

A 24 hour phone message paging service has been activated and provides instant messaging to the key personnel. The key personnel include: The licensee, hotel operator/director. Messages will be responded to as soon as possible with respect to the nature of the call.

The phone numbers of appropriate contacts will be prominently displayed in the staff area of the hotel, eg: the Police, security company, fire brigade, ambulance service and the like.



10.4 Deliveries and Waste Removal

The premises have its own garbage room that can accessed internally or externally along Phillip Street.

Garbage and trade waste being stored within the site boundaries and contained in such a manner so as not to cause nuisance and being disposed of in an approved manner. All liquid wastes, other than stormwater being discharged to the sewer in accordance with the requirements of the Sydney Water Corporation, In this regard satisfactory arrangements for the disposal of trade wastes should be made with the Water Corporation. This ensures the proper disposal of garbage and trade waste.

During the weeknights any waste is placed in the garbage room via the internal entrance.

Staff members monitor the permitter of the premises to ensure it is kept clean and are responsible at all times to ensure that regular litter patrols are carried out on a daily basis to Council's satisfaction in the vicinity of the premises to collect, dispose of, in an approved manner, any litter dropped by patrons of the facility. This will protect the amenity of the surrounding area.

The licensee shall use his or her best endeavours to ensure that deliveries to the hotel are made between 7:00am and 6:00pm.

The removal of wastes and recyclable materials shall be made by Council or a recognised contractor between 7:00am and 6:00pm.

10.5 Doors and Windows

All doors and windows apart from the entrance doors are to be kept closed at all times when amplified music is being played within the hotel.



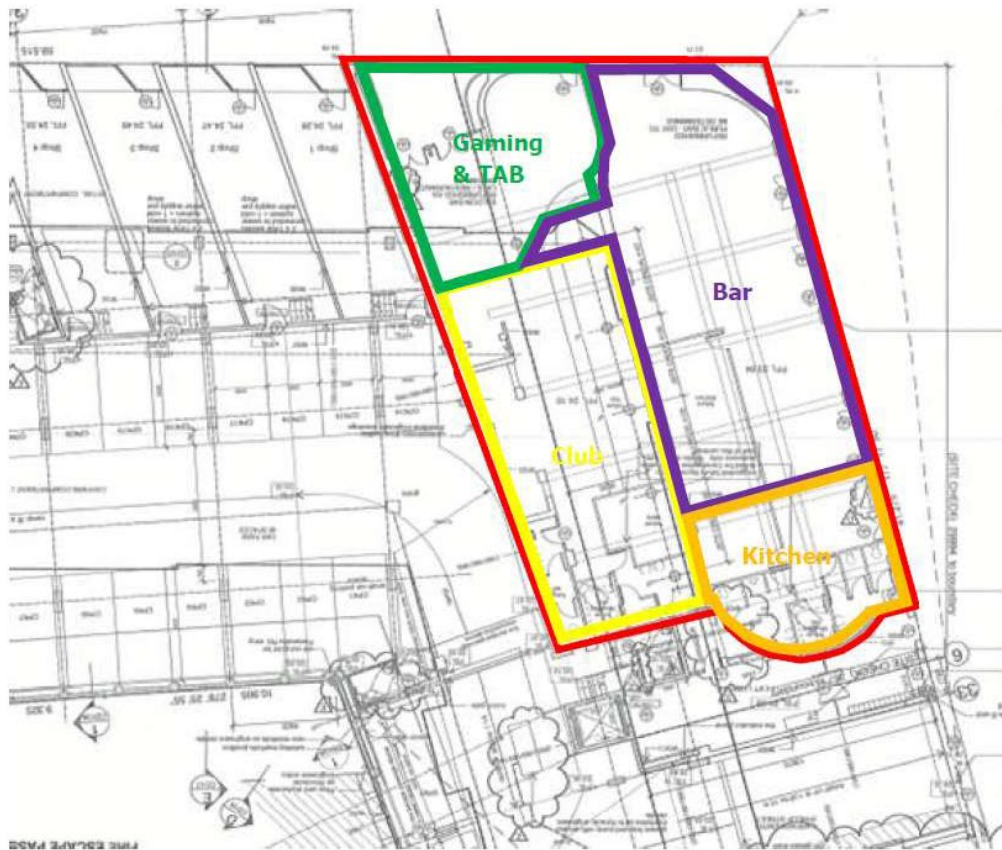
Petersham Inn



INNER WEST SYDNEY'S PREMIER SPORTS BAR

Servicing the community

Appendix A – Hotel Layout





Schedule 1- Liquor Licence Document





Schedule 2 - Intoxication Guidelines





Schedule 3 - Prevention of Intoxication





Schedule 4 - Liquor Promotion Guidelines



Attachment D – Determination No.200400670.02 dated 10 August 2015

DA200400670.02 CLEN2

MODIFIED MODIFIED DETERMINATION NO. 200400670

10 August 2015

R MAIOLO
PO Box 889
Rockdale NSW 2216

Dear Sir/Madam

**ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979 ("the Act")
NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

Pursuant to Section 81 of the Act, notice is hereby given of the determination by the Council of **Development Application No. 200400670** to carry out alterations involving the fitout of part of the premises for use as a tavern with restaurant/bistro, gambling facilities and provide entertainment within the hotel and application for a Place of Public Entertainment licence relating to property situated at:

Building Code of Australia Building Classification: 9b

In determining this application, the Council considered all matters listed under Section 79C of the Act that were relevant to the Development Application.

The Development Application was determined on 2 March, 2005 pursuant to Section 80(3) of the Act by the granting of a "Deferred Commencement" Consent.

- a) Granting a deferred commencement consent for consent to carry out alterations involving the fitout of part of the premises for use as a tavern with restaurant/bistro, gambling facilities and provide entertainment within the hotel subject to the terms and conditions set out in the First Schedule;
- b) Granting a deferred commencement consent for a Place of Public Entertainment licence subject to the terms and conditions set out in the Second Schedule.

FIRST SCHEDULE**PART A - DEFERRED COMMENCEMENT CONSENT**

This part of the consent will not operate and it may not be acted upon until the Council or its delegates are satisfied that the following requirement(s) have been satisfied:

1. A plan of management for the hotel being submitted to Council's satisfaction
Reason: To ensure that the operation of the hotel is carried out at all times in accordance with a Plan of Management.

The following revised heritage related information and details being submitted:

2. A revised Statement of Heritage Impact being prepared by the heritage consultant and to be submitted to the satisfaction of the Council's Heritage and Urban Design Advisor. This Statement of Heritage Impact is to provide conservation policies in accordance with the 2001 NBRSP Conservation Management Guidelines, as far as possible, to guide building work to the heritage item.

Reason: To accurately reflect the proposal as agreed following discussion and further research and analysis.

3. A Demolition Plan is to be prepared showing precise details of the following:
 - All material to be demolished and significant fabric and finishes to be conserved and protected during demolition and the construction phases of the development;
 - Measures used to protect significant areas, spaces, elements and finishes;
 - Program of demolition within or adjacent to significant areas, spaces or elements;
 - Proposed location of all new services; and
 - Schedules of material to be salvaged and the methods use for salvage in each instance.

This plan to be submitted to the satisfaction of the Council's Heritage and Urban Design Advisor.

Reason: To ensure that the impact on original significant fabric is minimised and demolition is in accordance with the Statement of Heritage Impact.

4. Results of research into non-abrasive cleaning methods to remove cement render from wall tiles and the results of a test patch to be submitted to the satisfaction of the Council's Heritage and Urban Design Advisor.

Reason: To accurately reflect the proposal as agreed following discussion and further research and analysis, and to guide further decisions.

5. Following the results of research into non-abrasive cleaning methods, treatment and restoration of the northern curved wall to be according to details submitted, following advice from the heritage consultant and to the satisfaction of Council's Heritage and Urban Design Advisor.

Reason: To accurately reflect the proposal as agreed following discussion and further research and analysis.

6. Further details to be submitted for the following:
- treatment and restoration of the northern curved wall
 - the lightweight stud walls to be constructed in a reversible manner without causing harm to the tiles and in a manner which permits the tiles to be restored at a later date
 - the new flooring
 - restoration of the plaster ceiling and neon lighting in the main bar area
 - the wall tiles, floor tiles and door threshold of the new gaming room in the former saloon bar
 - the two new sets of stairs
 - restoration of the fireplace, seating alcove and columns in the former saloon bar
 - location of the two surviving mirrored wall lights and details of the new bar of the restaurant
 - location of the two surviving leadlight window sashes.

These details to be provided following advice from the heritage consultant and to the satisfaction of Council's Heritage and Urban Design Advisor.

Reason: To accurately reflect the proposal as agreed following discussion and further research and analysis.

7. Further details being submitted on fire upgrading and air conditioning locations, in accordance with the advice of the heritage consultant.

Reason: To ensure that the impact on original significant fabric is minimised and work is in accordance with the Statement of Heritage Impact.

8. Further details being submitted of the restoration of the exterior curved display case, the missing set of double doors to the Parramatta Road entrance, window, following advice from the heritage consultant and to the satisfaction of Council's Heritage and Urban Design Advisor.

Reason: The accurately reflect the proposal as agreed following discussion and further research and analysis.

9. The person acting on this consent shall demonstrate in writing that they have complied with Clause 139 of the NSW Heritage Act. An archaeological monitoring program is to be undertaken to record any archaeological deposits exposed, if any, during excavation work. A current excavation permit is to be obtained for the work.

Reason: To satisfy statutory obligations under the NSW Heritage Act in relation to the management of archaeological deposits.

Evidence of the above matters was produced to Council's satisfaction and this consent operates from 6 October 2005.

PART B – CONDITIONS OF CONSENT

Once operative this part of the consent is subject to the following conditions:

GENERAL

1. The development being carried out substantially in accordance with the Project No. 03.587 – Drawing No. GA01, GA02, GA03 and GA04 - Issue A dated August 2004 and details submitted to the Council on 27 November 2004 with the application for development consent and as amended by the matters referred to in Part A of this Determination and the following conditions.
Reason: To confirm the details of the application as submitted by the applicant.
- 1a. The operation of the hotel premises complying at all times with the approved Management Plan for “Petersham Inn”, submitted to Council on 5 October 2005 in accordance with Part A of this determination. The Management Plan as approved is not to be further amended without the prior written approval of Marrickville Council. If there is any inconsistency between the Management Plan and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.
Reason: To ensure that there is an appropriate Management Plan for the operation of the hotel.
2. No entertainment being provided until such time as a Place of Public Entertainment licence has been granted.
Reason: To confirm the terms of Council's approval.
3. Four (4) off-street car parking spaces being provided for the usage of the entire hotel and bottle shop premises, paved, linemarked and maintained at all times in accordance with the standards contained within Marrickville Development Control Plan No. 19 - Parking Strategy.
Reason: To ensure practical off-street car parking is available for the uses in the building.
4. Council waiving the requirement of fifty-eight (58) off-street car parking space required for the entire hotel and bottle shop premises.
Reason: In view of the Land and Environment Court Order approval the whole mixed use development at No. 386-414 Parramatta Road and the associated deficient number of car parking spaces.
5. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, vapours, odours, dust, particular matter, or other impurities which are a nuisance or injurious or dangerous or prejudicial to health, the exposure to view of any unsightly matter or otherwise.
Reason: To ensure the operation of the premises does not affect the amenity of the neighbourhood.
6. The use of the premises not giving rise to transmission of unacceptable vibration to any place of different occupancy in accordance with the NSW Environment Protection Authority's Environmental Noise Control Manual.
Reason: To prevent loss of amenity to the area.

7. Noise from patrons and amplified music emitted from the licensed premises shall comply with the following criteria:
 - (a) The L10 noise level emitted from the licensed premises shall not exceed 3dB(A) above the background(L90) noise level in any Octave Band Centre Frequency (31.5Hz to 8 KHz) between the hours of 7am to 12 midnight when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
 - (b) The LA10 noise level emitted from the licensed premises shall not exceed the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8 KHz) between the hours of 12 midnight to 7am when assessed at the nearest affected residential boundary. The background noise level shall be measured in the absence of noise emitted from the licensed premises.
 - (c) Notwithstanding compliance with the above clauses, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight to 7am.
Reason: To prevent loss of amenity to the area.
8. The proprietors of the hotel being responsible at all times to ensure the orderly dispersal of patrons from the hotel. In this regard a uniformed security guard is to carry out regular patrols of the surrounding area between 10.00pm and 3.00am the following morning or 30 minutes after closing whichever occurs first to control the dispersal of patrons from the hotel.
Reason: To protect the amenity of the surrounding neighbourhood.
9. A minimum of two (2) licensed security guards being employed by the hotel to control the dispersal of patrons from the hotel.
Reason: To protect the amenity of the surrounding area
10. The operator of the premises being responsible at all times to ensure that regular litter patrols are carried out on a daily basis to Council's satisfaction in the vicinity of the subject premises to collect, and dispose of, in an approved manner, any litter dropped by patrons of the facility.
Reason: To protect the amenity of the surrounding neighbourhood.
11. Signs being appropriately located within the hotel, and a recorded message being played at the close of each performance, advising patrons of the nearby residences and seeking quiet and orderly ingress and egress from the premises. The proprietors of the hotel are to ensure that staff give appropriate directions to and take reasonable steps to control noisy or offensive behaviour of patrons entering or leaving the hotel.
Reason: To ensure the quiet and orderly ingress and egress of patrons of the hotel and to protect the amenity of the surrounding residential neighbourhood.
12. A separate application being submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.
Reason: To ensure the compliance of any advertisements or advertising structures with the requirements of Council's Advertising Code.

13. No storage of goods or equipment external to any building on the site being permitted.
Reason: To ensure the premises are kept in a neat and tidy manner.
14. No signs or goods to be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
Reason: To prevent the public footpath from being obstructed.
15. All loading and unloading in connection with the use being carried out from Phillip Street adjacent to the hotel and in such a manner as not to cause inconvenience to the public.
Reason: To ensure loading and unloading operations do not interfere with traffic and pedestrian movements in the area.
16. (i) The hours of operation being restricted to between the hours of 10.00am to 12.00 midnight Mondays to Saturdays and 10.00am to 10.00pm Sundays excluding Public Holidays.
(ii) For a period of not more than twelve (12) months from the date of the issue of DA200400670.02, the hours of operation being restricted to between the hours of 10.00am to 3.00am the following day Mondays to Saturdays and 10.00am to 10.00pm Sundays excluding Public Holidays. The extended hours of operation referred to in this part of the condition, in excess of those referred to in part (i) of this condition, not relating to the provision of public entertainment.
(iii) A continuation of the extended hours will require Council's approval under the Environmental Planning and Assessment Act by way of a fresh application.
Reason: To ensure that the extended hours of operation are reviewed and assessed in light of their performance and to ensure that the use does not interfere with the amenity of the locality.
17. Garbage and trade waste being stored within the site boundaries and contained in such a manner so as not to cause a nuisance and being disposed of in an approved manner. All liquid wastes, other than stormwater being discharged to the sewer in accordance with the requirements of the Sydney Water Corporation. In this regard, satisfactory arrangements for the disposal of trade wastes should be made with the Water Corporation prior to occupation.
Reason: To ensure the proper disposal of garbage and trade waste.
18. The developer liaising with the Sydney Water Corporation, the Energy Australia, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
Reason: To ensure that the development is adequately serviced.
19. Compliance with all of the conditions of any licence or approval issued in respect of the premises by the Liquor Administration Board of New South Wales.
Reason: To ensure that the premises are operated in a manner consistent with its Liquor Licence.
20. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
Reason: To ensure the work is carried out to an acceptable standard and in accordance with the State's building code.
21. A road opening permit shall be obtained for all works carried out in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code. Failure to obtain a road opening permit will incur an additional charge for unauthorised openings in the amount of \$1,321.30, as provided for in Council's adopted fees and charges.

Reason: To ensure that all restoration works are in accordance with Council's code.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

22. Where Council is appointed as the Principal Certifying Authority to carry out inspections of the works in progress for the purposes of issuing an Occupancy Certificate, a fee of \$1,608.75 is required to be paid to Council for the required inspections and the Occupation Certificate before the issue of a Construction Certificate.

Reason: To inspect the works in progress to confirm that the works are built in accordance with the development consent and construction certificate.

23. Access and sanitary facilities for people with disabilities are to be provided in accordance with Part D3 and Clause F2.4 of the Building Code of Australia, and AS 1428.1 'Design for access and mobility – General requirements for access – buildings', with particular reference directed to the following provisions:

- (a) the dimensions and internal layout of the sanitary facilities for people with disabilities must comply with AS 1428.2 (scale 1:50);
- (b) access (ramps) and internal ramps must comply with AS 1428.2 to provide unimpeded access to the building;
- (c) circulation spaces to the Phillip Street entrance, disabled persons water closet and the doorway between the TAB and Gaming Room must comply with AS 1428.2 to provide unimpeded access to the building;
- (d) The service counter provided with a work/counter space in accordance with Clause 24 'Furniture and Fitment' AS 1428.2 - 1992 "Design for access and mobility";
- (e) tactile ground surface indicators are to be provided in accordance with AS 1428.4; and
- (f) signs incorporating the international symbol of access complying with Clause 14 of AS 1428.1, must be provided in the locations nominated in Clause D3.6 of the Building Code of Australia so as to clearly identify the access facilities.

Details showing the layout and dimensions of the sanitary facilities for people with disabilities complying with AS 1428.1 'Design for access and mobility – General requirements for access – buildings', and other amendments in the design of the building to comply with the above requirements, must be submitted to the Consent Authority before the issue of a Construction Certificate.

Reason: To make reasonable provision in the development to facilitate access and provide facilities for people with disabilities and to ensure compliance with the relevant Australian Standards and Building Code of Australia.

24. Before the issue of the Construction Certificate the owner or builder shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged as a result of construction of the proposed development. Council may utilise part or all of any Building Security Deposit (B.S.D.) or recover in any court of competent jurisdiction, any costs to Council for such repairs.

Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

BEFORE COMMENCING WORKS

25. The Archival Record of the site, prior to all work shall be submitted to Council for approval, before works commence on site. The recording should be undertaken in accordance with the Guidelines for Archival and Photographic Recording of Heritage

Items prepared by the NSW Heritage Office. The record should include measured drawings, black and white photographs, and colour slides keyed to plans. Photographs should be of the whole site, including interior spaces, moveable objects, painted signage, significant features, exteriors, the grounds and streetscape views. Two copies of the final archival record shall be submitted to Marrickville Council, for lodgement with Council Archives and Local Studies Library.

Reason: To document agreed heritage information to get further details of heritage works and to ensure that the impact on original significant fabric is minimised.

26. You must not commence building work until:

- (a) a Construction Certificate has been issued by Council or an accredited certifier; and
- (b) the person having benefit of the development (the Applicant) has appointed a Principal Certifying Authority (PCA), and where Council is not the PCA, notify Council of the appointment of the PCA; and
- (c) you have given written notice to Council of your intention to commence building work in accordance with this Consent at least two (2) days before commencing the work.

Notification required by (b) and (c) above can be made by completing the attached form and returning it to Council's Development and Environmental Services Division.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

27. The approved plans **must** be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work, including excavation activity associated with the development, to ensure that the proposed work meets the requirements of Sydney Water in relationship to:

- (a) sewers;
- (b) watermains;
- (c) stormwater channels; and
- (d) development requirements where applicable.

Failure to submit these plans before commencing work may result in the demolition of the structure at the builder's expense should it be found that the work does not comply with the requirements of Sydney Water.

Reason: To ensure the location of Sydney Water's main sewer lines have been established before building work commences.

28. Before commencing work sanitary facilities are to be provided at or in the vicinity of the work site at a rate of one (1) toilet for every 20 persons or part of 20 persons employed at the site and each toilet must be a standard flushing toilet and must be connected:

- (a) to a public sewer, or
- (b) if connection to a public sewer is not practicable, to an *accredited sewage management facility* approved by Council, or
- (c) if connection to a public sewer or an *accredited sewage management facility* is not practicable, to some other *sewage management facility* approved by Council.

Such facilities are to be located in a position which will not cause a nuisance to the surrounding neighbourhood.

Reason: To ensure that sufficient and appropriate sanitary facilities are provided on the site.

CONSTRUCTION AND SITE WORKS

29. The Australia ICOMOS *Burra Charter* shall guide conservation and development of the site. An appropriately qualified heritage consultant shall be engaged by the person acting on this consent to guide the conservation works with a view to maximising the retention of the historic fabric.

Reason: To ensure that the works are guided by an appropriately qualified person to protect the building's heritage.

30. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00 am to 5.30 pm Mondays to Saturdays, excluding Public Holidays. All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. All construction vehicles bringing materials to and from the site being loaded and unloaded wholly within the property. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer being responsible to ensure that all contractors associated with the development are fully aware of these requirements.

Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.

31. The works being undertaken in accordance with the following heritage conditions:

- (i) Appropriately experienced tradespeople shall be involved with the project;
- (ii) All tradespeople to be issued with a copy of the consent and demolition plan;
- (iii) The only demolition to occur is that indicated in the Demolition Plan submitted to Council at Deferred Commencement;
- (iv) All work to be done in accordance with the conservation policies as set out in the submitted Revised Statement of Heritage Impact and in accordance with details submitted to Council at Deferred Commencement; and
- (v) The concrete kerb and guttering and coloured concrete lettering in the pavements of Parramatta Road and Phillip Street are to be adequately protected and conserved during works.

Reason: To ensure that the works are carried out by appropriately qualified tradespeople, in accordance with approved information and details and to protect the building's heritage.

32. The following heritage works being undertaken:

- (i) The exterior curved glass display cabinet being repaired to match existing;
- (ii) The missing set of exterior double entry doors off Parramatta Road being reinstated with replicas matching those already installed;
- (iii) All new pipes and plumbing for services being grouped together and located in damaged areas of the floor tiles, to avoid all unnecessary damage to the original floor tiles. No new services to be chased into the original walls but to be concealed behind the lightweight partitioning and with no damage to the original wall tiling, and as advised on-site by the heritage consultant;
- (iv) All wall tiles, except those indicated for removal as per the Demolition Plan, are to be retained behind lightweight stud walls;
- (v) The only wall tiles to be removed, as per the Demolition Plan, are those to create the new openings in the dividing wall. No other tiles are to be removed. The number of tiles removed to be kept to an absolute minimum;
- (vi) All floor tiles, except those indicated for removal as per the Demolition Plan, are to be retained under new vinyl or similar flooring fixed with minimum damage to the original tiles and constructed in a reversible manner without causing harm to the tiles and in a manner which permits the tiles to be restored at a later date;

- (vii) The only floor tiles to be removed, as per the Demolition Plan, are those to create the two new sets of stairs. No other tiles are to be removed. The number of tiles removed to be kept to an absolute minimum;
- (viii) All tiles being carefully removed with as little damage as possible, as per the Demolition Plan, and stored on site in a secure, lockable area;
- (ix) Treatment and restoration of the northern curved wall being in accordance with details submitted to Council at Deferred Commencement;
- (x) The top-glazed 'Lavatory' door being retained and conserved in situ;
- (xi) The broken pendent light to be restored, or replaced with replica, and installed in the half-spherical ceiling indent on the north end of the main bar ceiling, as per Statement of Heritage Impact;
- (xii) Restoration of the plaster ceiling and neon lighting in the main bar area being in accordance with details submitted to Council at Deferred Commencement;
- (xiii) Restoration of the fireplace, seating alcove and columns in the former saloon bar to be in accordance with details submitted to Council at Deferred Commencement;
- (xiv) The two surviving mirrored wall lights installed behind the new bar of the restaurant and the new bar of the restaurant being in accordance with details submitted to Council at Deferred Commencement;
- (xv) The wall tiles, floor tiles and door threshold of the new gaming room in the former saloon bar to be retained, restored and recreated being in accordance with details submitted to Council at Deferred Commencement;
- (xvi) The two surviving leadlight window sashes to be re-installed in their original location, if known, or in another appropriate location being in accordance with details submitted to Council at Deferred Commencement; and
- (xvii) The cellar hatch on the floor of the former saloon bar to be retained and conserved under the new proposed flooring, in accordance with details submitted at Deferred Commencement.

Reason: To ensure that the works are carried out, in accordance with approved information and details and to protect the building's heritage.

33. The area surrounding the building work being reinstated to Council's satisfaction upon completion of the work.

Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.

34. The building shall achieve the required fire resistance levels specified in Part C of The Building Code of Australia. Your attention is drawn to the rear southern wall adjacent the western wall of the 'Banquetts'.

Reason: To ensure the proposed building has the required fire resistance levels.

35. The areas designated for public entertainment must be fire separated from the remainder of the building in accordance with Part C of the Building Code of Australia.

Reason: To ensure compliance with the Building Code of Australia.

36. Protection of openings is to comply with Part C3 of the Building Code of Australia with particular reference to:-

- (a) services passing through a floor are to be either installed in shafts complying with Specification C1.1 of the Building Code of Australia or protected in accordance with Clause C3.15; and
- (b) any service, including mechanical ventilation systems, that penetrates a building element (other than an external wall or roof) that is required to have a fire resistance level (FRL) is to comply with Clause C3.15.

Reason: To delay the spread of fire throughout the buildings.

37. Storerooms must be fire separated from the designated public entertainment areas by construction having a fire resistance level (FRL) of not less than 60/60/60 and all openings protected in accordance with Clauses NSW C3.11 and C3.14 of the Building Code of Australia as required Clause NSW H101.16 of the Building Code of Australia.
Reason: To comply with the Building Code of Australia.
38. Automatic smoke detection and alarm systems complying with Specification E2.2a of the Building Code of Australia are to be installed in the building in accordance with Clause E2.2 of the Building Code of Australia.
Reason: To provide early warning of a fire occurrence in the building.
39. Fire fighting equipment is to be provided to the building/site in accordance with Part E1 of the Building Code of Australia with particular reference to:-
(a) hose reels as required by Clause E1.4; and
(b) portable fire extinguishers as required by Clause E1.6.
Reason: To facilitate the fighting of fires to minimise damage to the building.
40. Emergency lighting in accordance with Clause E4.2 of the Building Code of Australia and exit/directional signs in accordance with Clause E4.5 and NSW E4.6 of the Building Code of Australia are to be provided in the building.
Reason: To provide safe passage from the building in the event of an emergency.
41. A hearing augmentation system shall be provide to the building in accordance with Part D of the Building Code of Australia.
Reason: To make reasonable provision in the development to provide facilities for people with disabilities and to ensure compliance with the relevant Australian Standards and Building Code of Australia.
42. The exit doors which discharges to Parramatta Road and Phillip Street must be redesigned to swing in the direction of egress in accordance with Clause D2.20 of the Building Code of Australia.
Note: The door must be designed so as to not open over the public way in accordance with Clause 21 of the Roads (General) Regulation 1994.
Reason: To ensure safe and orderly evacuation of the building in an emergency and to ensure the door does not obstruct the footway or road or cause a hazard to vehicles/pedestrians.
43. The stairway must comply with NSW Clauses D2.13 and D2.16 of the Building Code of Australia in respect to the dimensions of treads, risers and balustrades or other barriers.
Reason: To ensure the stair provides safe passage in relation to the nature, volume and frequency of likely usage.
44. The width of all paths of travel to exits must not be less than 1 metre in accordance with the requirements of Clauses D1.6 and NSW D1.6 of the Building Code of Australia.
Reason: To ensure that sufficient width is provided to all egress paths.
45. The final sub-circuit originating at the switchboard or distribution board must be protected by means of circuit breakers in accordance with NSW Part H of the Building Code of Australia.
Reason: To comply with the Building Code of Australia.
46. If the electrical switchboard supplies electricity to emergency equipment required to operate in the emergency mode, the room must be enclosed in construction having a fire resistance level (FRL) of not less than 120/120/120, and the access doorway to the room must be protected with a self-closing fire door having an FRL of not less than -

/120/30 in accordance with C2.13(e) of the Building Code of Australia. If the switchboard does not supply electrical power to emergency equipment the room must be enclosed in construction having an FRL of not less than 60/60/60, and the doorway to the room protected by a self-closing fire door having an FRL of not less than -/60/30 in accordance with NSW H101.19.1.

Reason: To ensure that adequate protection is afforded to the main switchboard.

47. The main electricity isolation switch must be located adjacent to the proposed fire control panel in the entrance lobby, and be suitably labelled in accordance with of NSW Part H of the Building Code of Australia.

Reason: To comply with the requirements of the Building Code of Australia.

48. The electrical supply must be constructed and installed in accordance with the requirements of Clause NSW H101.19 of the Building Code of Australia. Certification of the system must be submitted to and accepted by Council.

Reason: To comply with the Building Code of Australia.

49. In the place of public entertainment all edges to treads of stairs must be conspicuous in accordance with the requirements of Clause NSW D2.13(x) of the Building Code of Australia.

Reason: To comply with the Building Code of Australia.

50. All doors and doorways serving as a required exit must comply with the requirements of Clauses D2.19, D2.21, NSW D2.19 and NSW D2.21 of the Building Code of Australia.

Reason: To comply with the Building Code of Australia.

51. Air-handling systems installed in the building not designed to provide smoke control must shutdown upon activation of smoke detectors installed in accordance with Specification E2.2a and any other installed fire detection and alarm system including a sprinkler system complying with Specification E1.5 of the Building Code of Australia, unless exempted by Section 7 of AS 1668.1 'The use of mechanical ventilation and air-conditioning in buildings - Fire and smoke control', in accordance with the provisions of NSW Table E2.2 of the Building Code of Australia. Certification from a suitably qualified person must be submitted to and accepted by Council verifying compliance with this condition.

Reason: To ensure the air-handling systems do not unduly spread smoke throughout the building.

52. The effluent air from the kitchen exhaust vent must not cause a nuisance to the surrounding neighbourhood and the vent must be suitably located from any outdoor-air intake opening and natural ventilation device or opening, in accordance with Clause 3.7.2 of AS 1668.2 'The use of mechanical ventilation and air-conditioning in buildings - Mechanical ventilation for acceptable indoor-air quality'.

Reason: To ensure the kitchen exhaust vent is located in a position complying the Australian Standard.

53. The proposed kitchen being fitted-out to ensure that the premises comply with the Food Standards Code, Food Act 1989 and the Food Regulation 2001. Copies of the Code are available from Council's Development and Environmental Services Division, Level 1, Administrative Building 2 Fisher Street Petersham. To comply with the intent of these provisions the premises may incorporate the following features in the food preparation and storage areas:

- (a) All service pipes, condensate pipes and electrical conduits must be sealed into the walls, floor or plinths;

- (b) The doors of the airlock and sanitary compartments must be made close-fitting and self closing;
- (c) All joints formed by the butting together of fittings must be sealed in such a manner as to eliminate any cavity or crevice or alternatively, a clear space of at least 75mm is to be provided between fittings;
- (d) All glass used in the construction of counters, cupboards and food displays is to be of safety glass;
- (e) The construction and method of installation of all fixtures, fittings and equipment together with the floor, wall and ceiling finishes must be able to be effectively cleaned, unable to absorb grease, food particles or water and be unable to provide harbourage for pests i.e. smooth faced, impervious material free from cracks, crevices and open joints;
- (f) All walls in the food preparation and kitchen area are to be of solid construction and tiled to a height of 2.0m with glazed ceramic tiles and the wall above the tiles must be cement rendered to the ceiling to provide a smooth even surface, flush finished with the tile surface. The rendered walls must be painted with a light coloured washable paint;
- (g) All intersections of the floor with walls and plinths in the food preparation area must be covered with an approved material to a minimum radius of 25mm installed so that there is no horizontal or vertical edge;
- (h) Concrete plinths, 75mm in height and recessed 50mm to provide a toe space must be provided beneath refrigerators, benches and any other fitting not standing 200mm clear of the floor;
- (i) The sinks, tubs and bench work must be flush finished to the wall;
- (j) All refrigeration and freezer cabinets not sealed flush to the wall are to be kept a minimum of 200mm from walls or must be provided with wheels which allow the fully loaded fitting to be easily moved for cleaning purposes;
- (k) All shelving is to be located at least 25mm off the wall or the intersection of the shelf and wall must be completely sealed;
- (l) A wash hand basin supplied with hot and cold water through an approved mixing device must be provided and located in close proximity to the food preparation area;
- (m) A liquid soap dispenser and paper towel dispenser must be provided above or adjacent to the wash handbasin; and
- (n) Washing facilities must be provided and comply Food Standards Code.

Reason: To ensure that the premises comply with the relevant Acts and standards so as to promote sound hygiene and public health.

54. The grease arrestor room must be constructed in accordance the Food Standards Code. To comply with this requirement they must be able to be effectively cleaned, unable to absorb grease, food particles or water and be unable to provide harbourage for pests.

Reason: To ensure the room can be easily cleaned and does not cause an odour nuisance.

55. The coolroom which is of sufficient size for a person to enter must have:

- (a) a door which is capable of being opened by hand from inside without a key;
- (b) internal lighting controlled only by a switch which is located adjacent to the entrance doorway inside the coolroom;
- (c) an indicated lamp positioned outside the coolroom which is illuminated when the interior lights are switched on; and
- (d) an alarm that is –
 - (i) located outside but controllable only from within the coolroom; and
 - (ii) able to achieve a sound pressure level outside the coolroom of 90 dB(A) when measured 3 metres from the sounding device,

in accordance with Clause G1.2 of the Building Code of Australia.

Reason: To ensure the safety of users of the coolroom.

56. All appliances used for the storage of hot or cold food must be provided with a numerically scaled thermometer that:

(a) is readily accessible; and

(b) can accurately measure the temperature of potentially hazardous food to +/- 1°C.

Reason: To ensure that the premises comply with the relevant Acts and standards so as to promote sound hygiene and public health.

57. New or replacement bathroom or kitchen taps being AAA rated as defined by the Australian Standard MP 64 1995 - Manual of assessment procedures for water efficient appliances.

Reason: To conserve water.

58. New or replacement toilet(s) being dual flush as defined by the Australian Standard MP 64 1995 - Manual of assessment procedures for water efficient appliances.

Reason: To conserve water.

59. New or replacement urinals being AAA rated.

Reason: To conserve water.

BEFORE OCCUPATION OF THE BUILDING

60. You must obtain an Occupation Certificate from your Principal Certifying Authority before you occupy or use the building completed in accordance with this Consent. A copy of the Certificate must be forwarded to Council within seven (7) days of the Certificate being determined.

Reason: To comply with the provisions of the Environmental Planning and Assessment Act.

61. You are required under the Food Safety Standards to notify the Senior Food Surveillance & Inspection Officer, at the Central Sydney Public Health Unit of your intention to operate a food premises. You can do this on line at www.foodnotify.nsw.gov.au. Alternatively you can complete the relevant forms and Council will register the information for an administrative charge.

Reason: To ensure that the premises comply with the relevant Acts and standards.

62. A Cyclical Maintenance strategy for the conservation of the Petersham Inn shall be prepared and implemented to ensure the ongoing long-term maintenance of significant elements of the site. This should accord with the guidelines contained in The Maintenance of Heritage Assets: A Practical Guide, produced by the NSW Heritage Office, 1998. All Cyclical Maintenance documents to form part of the Body Corporate by-laws. Details being submitted to the satisfaction of Council's Heritage and Urban Design Advisor before occupation of the building.

Reason: To ensure ongoing conservation and maintenance of the heritage item.

63. All works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development shall be completed before occupation of the site. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications".

Reason: To ensure applicant completes all required work.

This consent is effective and operates from 6 October 2005. The consent will lapse unless the proposed development is commenced in accordance with Section 95 of the Act.

SECOND SCHEDULE**PART A - DEFERRED COMMENCEMENT CONSENT**

This part of the consent will not operate and it may not be acted upon until the Council or its delegates are satisfied that the following requirement(s) have been satisfied:

1. All building and fire upgrade works in the building, as specified in this consent, being completed.
Reason: To comply with the Building Code of Australia.
2. A detailed acoustical report from a recognised Acoustical Engineer being submitted to Council's satisfaction demonstrating that the noise restrictions within condition 7 are complied with during the operation of public entertainment representative of that to occur on the premises.
Reason: To protect the amenity of the surrounding neighbourhood from the emission of noise.

Evidence of the above matter(s) must be produced to the Council or its delegate within twelve months otherwise this part of the Consent will not operate.

PART B – CONDITIONS OF CONSENT

Once operative this part of the consent is subject to the following conditions:

GENERAL

1. Material used as a finish, surface, lining or the like to any floor, wall, ceiling, fixing furniture, closed back upholstered chairs or curtains, blinds and or similar decor must comply with Clause C1.10 of the Building Code of Australia. Certification of compliance with each material from an approved person or manufacturer shall be submitted to Council.

Reason: To minimise the spread of fire and the generation of smoke and toxic gases.

2. Artificial lighting must be provided in the building in accordance with Clause F4.4 of the Building Code of Australia and comply with the applicable Parts of AS 1680 'Interior lighting'.

Reason: To ensure satisfactory artificial lighting is provided for users of the building.

3. An appropriate floor plan diagram must be provided in a prominent position in the ground floor lobby specifying the location of the main switchboard containing the main electricity isolation switch. Details of the location of the diagram must be submitted to and approved by the Council prior to erection.

Reason: To ensure that the Fire Brigade can readily locate the switchboard in the case of an emergency as required by NSW Clause H101.19.1(a) of the Building Code of Australia.

4. The population capacities for each of the various areas of the must not exceed the following:

<u>Area</u>	<u>Maximum population</u>
Public Area	106
Gaming Room	23
Restaurant	67
TAB	35

Reason: To comply with the egress requirements of the Building Code of Australia.

5. The use naked flames within the place of public entertainment must be in accordance with Clause 5 of Schedule 2 of Local Government (Approvals) Regulation 1993.

Reason: To comply with the Local Government (Approvals) Regulation 1993.

6. Performances that involve danger to the public are not to be promoted or conducted.

Reason: To comply with Clause 6(1) of Schedule 2 of Local Government (Approvals) Regulation 1993.

Pursuant to Clause 68A(4) of the Regulations under the Act, Council will notify you in writing if Part A of this Consent has been satisfied and the date from which this Consent operates.

Under Section 97 of the Act you may, within twelve (12) months of receipt of this notice, appeal to the Land and Environment Court if you are dissatisfied with the Council's determination.

All conditions imposed by the Council must be observed. Breach of a condition is a breach of the Act and may also constitute an offence.

Yours faithfully

A handwritten signature in cursive script that reads "Judy Clark".

Judy Clark
Manager Development Assessment

Enquiries: Muriel Maher on 9392 5349

Ref: **D3A** TRIM Doc.87642.15