



**ELECTRONIC DETERMINATION –
INNER WEST LOCAL PLANNING PANEL**

Site Address:	244-246 Marrickville Road, Marrickville
Application No.	DA201800108.01
Type of Determination	Electronic
Date of Determination	4 May 2020
Panel Members	Adjunct Professor David Lloyd QC Mrs Mary-Lynne Taylor Ms Annelise Tuor Ms Kath Roach
Declarations of Interest	Nil

BACKGROUND

A report on an application to modify Determination No. 201800108 dated 16 July 2018 to allow a continuation of extended trading hours, delete condition requiring a security guard, and allow entertainment was considered by the Inner West Local Planning Panel at its meeting on 10 March 2020.

The Panel resolved unanimously to defer the determination of the application, with the following being noted in the minutes of that meeting:

The Panel adjourned the decision of the matter at 2:31pm to consider items 3 to 5.

Matter resumed 4:05pm

The decision of the Panel is to defer the matter to be determined electronically upon receipt of an acoustic report to Council within two weeks as per the below:

An Acoustic Report is to be prepared by a suitably qualified acoustic consultant and to be submitted to and approved by the Senior Manager Planning at Inner West Council. The report is to assess and demonstrate the external and internal noise levels to ensure that the external noise levels in accordance with NSW Noise Policy for Industry and Liquor and Gaming NSW and any other relevant guidelines. The report is to include but not be limited:



1. *Maximum noise levels*

- *dB(A)*
- *dB(C)*

of amplified entertainment, in both the indoor and outdoor area of the premises

2. *the times of use of amplified entertainment in each area.*
3. *the times at which all windows and doors are to be closed to satisfy noise criteria.*
4. *the times that the atrium roof is to be closed to satisfy the noise criteria.*
5. *the cumulative impact of the indoor and outdoor areas operating at maximum patron capacity and noise level of amplified entertainment.*

The decision of the panel was unanimous.

As per Agenda Item 2 of the 10 March 2020 IWLPP meeting, the following additional information was submitted to Council on 20 March 2020 for consideration by the Panel:

- Acoustic report prepared by GHD, report no. 2127067 dated 13 February 2018
- OC Acoustic report prepared by GHD, reference 2127067 dated 14 December 2018

PANEL CONSIDERATION AND DECISION

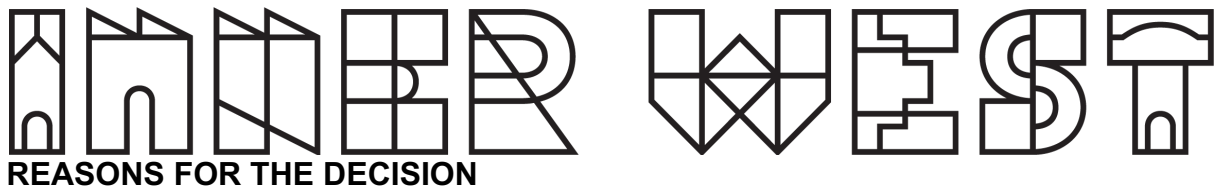
At its meeting of 10 March 2020, the Panel considered the matter for Item 2, the material presented at the meeting and the matters observed at the site inspection.

The Panel unanimously determined to defer its decision to an electronic determination, pending additional information by the applicant.

Subsequently, the Inner West Local Planning Panel exercising the functions of the Council under section 4.55(2) of the Environmental Planning and Assessment Act 1979 modifies the development consent Determination No. 201800108 dated 16 July 2018 to allow a continuation of extended trading hours and allow entertainment subject to the modified conditions listed in Attachment A.

Voting:

For	David Lloyd (Chair)
	Annelise Tuor
Against	Mary-Lynne Taylor
	Kath Roach



In exercising his casting vote in favour of the determination, the Chair adopted the parliamentary practice whenever there is a tied vote, which meant that the application for modification insofar as it relates to the removal of the requirement for a security guard failed and remains as condition 30A(c). For the reasons in the Council's Assessment Reports, the Panel members agreed unanimously to adopt the recommendation to approve the other changes to the conditions in the recommendation in the Supplementary Assessment Report.

The panel members supporting the recommendation for the retention of the security guard, endorse the reasons contained in the original Assessment Report, and in particular rely upon the advice of the Inner West Area Command of the NSW Police Force that the subject premises holds a "Hotel Liquor Licence with a capacity of 150 patrons and does not classify as a small venue under the Liquor Act". The other venues that the applicant referred to in support of the deletion of the condition are small bars with a capacity of 60 people. The requirement for a security guard is therefore consistent with that of other similar venues in the locality. Whilst the applicant has said that there has been no problem with the operation of the premises the Police report states that it is their belief that the presence of the security guard has deterred any alcohol related violence and that Friday and Saturday nights are traditionally times of such a risk.

The panel members opposing the recommendation for the retention of the security guard rely upon the good track record of the applicant during the review period including the significant number of licensing inspections conducted, the nature of the surroundings on the main street, there being a number of small wine bars and some large licensed premises mixed in with closed main street frontage, and the efforts made by the applicant to date. Moreover, in the current environment it is necessary to ensure that small businesses can operate effectively without the imposition of unnecessary overheads. The security at the premises can be managed in view of the operating environment and into the future trial period without the imposition of the requirement as part of the conditions.

The decision of the panel was a casting vote by the Chair (2/2)



Item No: 2	
Application No.	DA201800108.01
Site Address:	244-246 Marrickville Road, Marrickville
Proposal	To modify Determination No. 201800108 dated 16 July 2018 to allow a continuation of extended trading hours, delete condition requiring a security guard, and allow entertainment.
Applicant	David Jank
Reason for Referral to IHAP	Application involves modifications to a new licenced premises approved by IWLPP.
Material considered by the Panel	Supplementary Assessment Report
Meeting & Site Inspection by the Panel	10 March 2020
Recommendation	Approval