



 DEVELOPMENT ASSESSMENT REPORT	
Application No.	DA201800108.01
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.
Date of Lodgement	25 October 2019
Applicant	David Jank
Owner	Tu Phuong Quach
Number of Submissions	No submissions
Value of works	Not stated
Reason for determination at Planning Panel	Application involves modifications to a new licenced premises approved by IWLPP
Main Issues	Deletion of condition requiring security guards
Recommendation	Approval subject to modified conditions
Attachment A	Recommended modified conditions of consent
Attachment B	Consent Determination No. 201800108
Attachment C	IWLPP Report Determination No. 201800108
Attachment D	Applicant's response to NSW Police referral



LOCALITY MAP

Subject Site		Submissions (nil)		↑ N
Notified Area		Supporters (nil)		

1. Executive Summary

This report concerns an application under Section 4.55 of the Environmental Planning and Assessment Act to modify Determination No. 201800108 dated 16 July 2018 to allow a continuation of extended trading hours, delete a condition requiring the provision of a security guard, and allow entertainment. The application was notified in accordance with Council's notification policy and no submissions were received.

The modification is referred to the Inner West Local Planning Panel for determination as the proposal involves relatively substantial modifications to a new licenced premises approved by the IWLPP.

Council generally supports the extension of the trading hours and modification of Condition 40 to allow entertainment however the modification to delete the requirement for a security guard is not supported.

On balance, the application is considered suitable for approval subject to the imposition of appropriate modified conditions.

2. Background

Approval was granted by Determination No. 201800108 dated 16 July 2018 to fit-out and use the premises as a licensed bar operating 11:00am to Midnight Mondays to Thursdays, 11:00am to 1:00am Fridays and Saturdays and 11:00am to 10:00pm on Sundays at the meeting of the Inner West Local Planning Panel on 10 July 2018. The decision of the Panel was unanimous.

Conditions 30 and 40 prescribed the following in relation to entertainment, hours of operation and security guards:

30. a) *The hours of operation must be restricted to between the hours of 11.00am to Midnight Monday – Saturday and 11.00am to 10.00pm Sundays including public holidays.*
- b) (i) *For a period of not more than 12 months from the issue of any Occupation Certificate (Interim or Final) for the works approved in this consent, the hours of operation must be restricted to between the hours of 11.00am to Midnight Monday to Thursdays including public holidays, 11.00am to 1.00am the following day Friday and Saturday and 11.00am to 10.00pm Sunday.*
- (ii) *A minimum of 1 licensed security guard must be present patrolling the hotel from 10pm till half an hour after closing on Friday and Saturday nights.*
- c) *A continuation of the extended hours will require Council's approval under the Environmental Planning and Assessment Act by way of a fresh application.*
40. *No live music or entertainment to be provided within the premises.*

3. Proposal

Approval is now sought to modify Determination No. 201800108 dated 16 July 2018 to make the following changes:

- Extend the trading hours of operation specified by Condition 30(b)(i);
- Delete Condition 30(b)(ii) to remove the requirement for a security guard during the specified times; and
- Amend Condition 40 to allow 'entertainment'.

4. Site Description

The subject site is located on the southern side of Marrickville Road, between Gladstone Street and Victoria Road, Marrickville. The site consists of 2 allotments, with the approved licensed premises to occupy the existing shop on the eastern side of the site. The land is generally rectangular in shape with a total area of 188sqm and is legally described as Lot 4 Section 3 in Deposited Plan 2620, with a portion of the existing building also built over Lot 2 in Deposited Plan 1085166.

The site has a frontage to Marrickville Road of 6.6 metres, with a secondary (rear) frontage to Marrickville Lane. No on-site car parking is currently provided.

The site currently contains a 2 storey brick building which contains the subject use. The adjoining properties support single and 2 storey commercial buildings. The surrounding context of the site is a mix of commercial premises with shop top housing along Marrickville Road and low scale residential development on the opposite side of Marrickville Lane.

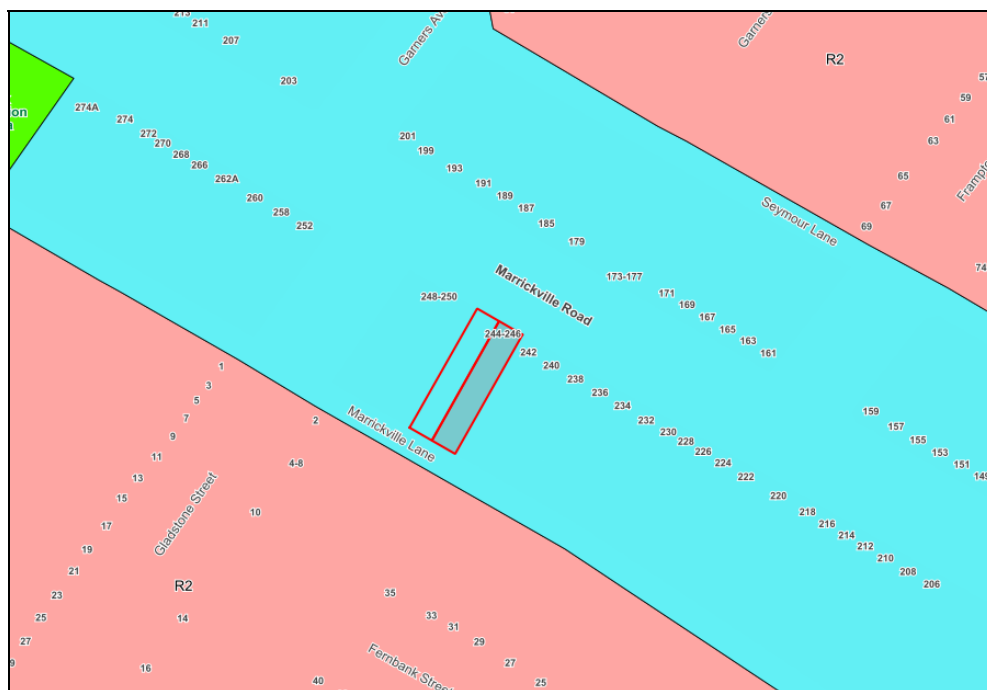


Image: Locality Zoning Map

5. Background

5(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
DA201800108 (Parent consent)	To fit-out and use the premises as a licensed bar	16 July 2018 - Approved
CDC201700056	Complying Development Certificate Issued for fit-out of food premises 'Decolata Café' at No.246 Marrickville Road (western side)	22 May 2017 – Private Building Certifiers (NSW) Pty Ltd – Approved

Surrounding properties

Application	Proposal	Decision & Date
248-250 Marrickville Road DA201300018	To carry out alterations and additions to the premises to create a medical centre on part of the ground floor and use the remainder of the ground floor as a pharmacy and to convert part of the first floor level into two commercial suites	6 May 2013 - Approved.
242 Marrickville Road DA200800186	To carry out alterations and additions and use the ground floor shop as a clothing shop and to erect associated signage	3 October 2008 – Approved

5(b) Application history

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

Date	Event
25 October 2019	Subject application lodged.
27 November 2019	Additional submission received from applicant.
4 December 2019	Final referral received from NSW Police

6. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.55(2) of the Environmental Planning and Assessment Act 1979.

The original assessment under section 4.15 of the Act remains relevant and is attached to this report as Attachment C.

6(a) Relevant Provisions

An assessment having regard to each proposed modified condition is detailed below:

Condition 30.b)(i)

Condition 30.b)(i) reads as follows:

“For a period of not more than 12 months from the issue of any Occupation Certificate (Interim or Final) for the works approved in this consent, the hours of operation must be restricted to between the hours of 11.00am to Midnight Monday to Thursdays including public holidays, 11.00am to 1.00am the following day Friday and Saturday and 11.00am to 10.00pm Sunday.”

The application seeks consent to amend part (b)(i) to allow the extended hours of operation between midnight and 1:00am the following day on Fridays and Saturdays to continue.

The application was referred to Council's Development Compliance Officer who raised no concern with the proposal and provided the following comments, in part:

“A review of Council records revealed there have been no complaints/concerns raised in relation to the operations of the subject premises.

The premises have been consistently complying with the conditions as stated on their development consent. There have been no Warnings, Notices, Orders and or PINS issued from when the Hotel commenced operations.

Based on the above, it would be my recommendation to approve the application for extended trading hours...”

The application was also referred to NSW Police who raised no concern with the continuation of extended trading hours.

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. 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.

In accordance with Council's Hotel Trading Hours Policy, any approval granted for extended 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 premises 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 as follows:

“..... new applications for extended trading hours be subject to an initial one (1) year trial period. Subject to satisfactory conduct of the premises during the initial trial period, the second trial period can be two (2) years and third trial period can be four (4) years.”

Considering the feedback provided from Council's Development Compliance Officer and NSW Police, it is considered appropriate to continue the trial trading hours for a further period of 2 years in accordance with the Hotel Trading Hours Policy. A further 2 year trial period would give Council the opportunity to review the performance and operation of the hotel with extended trading hours.

A further trial period also allows Council to review management practices and the appropriateness of the operating hours. The regularity of the trial periods ensures that

practices can be reviewed and if there are any issues, establish mechanisms to address such matters of concern which may be affecting the amenity of surrounding residences.

It is recommended that the condition be amended to allow a further 2 year trial period in accordance with Council's policy.

(i) Condition 30.b)(ii)

Condition 30.b)(ii) reads as follows:

"A minimum of 1 licensed security guard must be present patrolling the hotel from 10pm till half an hour after closing on Friday and Saturday nights."

The application provided an SEE in support of the proposal which provides a number of examples of Small Bar Licence holders in the locality generally that are not required to provide security.

The requirement for 1 security guard between the hours of 10:00pm and 1:30am on Fridays and Saturdays was imposed by the Inner West Local Planning Panel as part of the original Determination. The following was noted, in part, in the minutes of the IWLPP meeting:

"The Panel supports the findings contained in the Assessment Report and resolves that the application be approved as per the recommendation contained in that report, subject to the following changes:

- (iv) *That condition 30 be amended as follows... b)(ii) be amended to refer to 1 licensed security guard in lieu of 2.*

The Panel is persuaded by the applicant that 1 security person rather than 2 is needed as this can be monitored during the trial period and then increased if necessary; furthermore there are other conditions that need to be complied with to maintain the amenity of the area."

In the Statement of Environmental Effects the applicant considers that the premises is akin to a small bar, and lists the following examples of small bars in the inner west generally which do not have security guard requirements:

Where's Nick, Marrickville

Small Bar License, 60 patrons.

Security Requirement, Thursday, Friday, Saturday 21:00-00:30.

Titus Jones, Marrickville

Small Bar License, 60 Patrons.

Security Requirement, Thursday, Friday, Saturday 21:00-00:30

Gasoline Pony, Marrickville

Hotel Liquor License, 100 patrons.

No security requirements.

Miss Wolf, Marrickville

Small Bar License, 60 Patrons.

No security requirements.

Temperance Society, Summer Hill

Small Bar License, 60 Patrons.

No security requirements.
Butchers Brew, Dulwich Hill
Small Bar License, 60 Patrons.
No Security Requirements.

Golden Gully, Leichardt
Small Bar License, 60 Patrons.
No Security Requirements.

The Police provided the following advice, in part, in their referral:

"The submission made by the applicant mentioned several small bar licenses. The applicant fails to compare itself to the two closest hotels of the same liquor license including;

- Royal Exchange Hotel, 203 Marrickville Road, Marrickville, which is required to have a licensed security guard from 9pm until half hour [after] the last patron has left on Thursday, Friday and Saturday Nights*
- The Crown & Emperor Hotel Marrickville, 220 Marrickville Road, Marrickville, which has a requirement for a minimum of two (2) Licensed Security/Crowd Controller is to patrol the premises from 9.00pm to 30 minutes after close on Thursday, Friday and Saturday nights, or when live entertainment is being held.*

The venue is the holder of a Hotel Liquor Licence with a capacity of 150 patrons and does not classify as a small venue under the Liquor Act.

This security guard condition is in line with the conditions with other hotels within the area. Further, the applicant has failed to consider the much smaller patron capacities of these venues which are considered when reviewing the risks and safety of patrons."

The Applicant subsequently lodged a further submission on 27 November 2019 requesting Council reconsider its position and permit the removal of the security requirement. That submission is attached to this report as Attachment D.

The applicant's submission was considered and neither the NSW Police nor Council's Development Compliance Officer supports the deletion of the requirement for a security guard. Council considers that it may be appropriate to review the requirement for a security guard after the subsequent 2 year trial period for the extended hours of operation recommended as part of this modified determination.

It is therefore recommended that Condition 30(b)(ii) remain unaltered.

(ii) Condition 40

Condition 40 reads as follows:

40. *No live music or entertainment to be provided within the premises.*

The application seeks consent to delete the term 'entertainment' from the condition. The SEE submitted with the application provides the following rationale for the request:

"The term entertainment is vague and contains no definition in planning instruments. It is the position of the applicant that 'entertainment' such as a DJ, trivia, television etc

may be provided, so long as the existing sound equipment is used in accordance with the approved Acoustic Report.

Whether staff operate the playlist, or a member of staff is employed to do this job as a sole endeavour should not interfere with the DA Approval. Similarly, a person employed to ensure music is optimally chosen, should be permissible within the context of the approved Acoustic Report.

In discussion with duty planners at Inner West Council, it is assumed that this is permissible, but the applicant seeks clarification to the DA wording in order to avoid confusion in future. No live music is proposed.”

The application was referred to Council’s Development Compliance Officer and NSW Police and no concern was raised regarding the deletion of the term ‘entertainment’ from the condition. It is recommended that the condition be amended to remove the term entertainment.

The application was also referred to Council’s Environmental Health Officer to review the acoustic aspects of the modification. Whilst in support of the removal of the restriction on entertainment, it was considered that there should be no entertainment in the form of amplified music on any part of the outdoor area at any time. This includes the rear atrium with open roof and the footpath in front of the premises.

It is noted that the original assessment of the proposal imposed a condition requiring that no live music or entertainment be provided on the premises (Condition 40) and required the submission of a supplementary acoustic report to the “Acoustic Assessment” prepared by GHD dated February 2018 (Condition 67). The acoustic report submitted as part of the satisfaction of Condition 67 was prepared on that basis.

It is noted that no further acoustic report was submitted with the modification application, and as the original DA did not consider the provision of live music or entertainment within the venue, it is considered further acoustic testing is warranted to ensure that these activities do not impact on any nearby residential receivers thereby maintaining the amenity of adjoining development. Therefore, Council’s Environmental Health Officer has recommended that an additional condition be imposed in relation to acoustic testing during the first sixty (60) days of entertainment being provided at the premises.

The condition is imposed to ensure that amenity of the area is not adversely affected and requires that a suitably qualified acoustic consultant be appointed to:

- measure and verify the noise emanating from the premises; and
- if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.

It is recommended that Condition 30.b)(i) be amended in the above manner and an additional condition be included in the modified determination regarding further acoustic testing.

Modification to conditions

- It is recommended that Condition 30.b)(i) be amended to allow a further 2 year trial period.
- It is recommended that Condition 40 be amended to delete the term ‘entertainment’ from the condition. The application was referred to Council’s Environmental Health Officer who recommended that the additional sentence be included in the condition:

There is to be no entertainment in the form of amplified music on any part of the outdoor area at any time.

- The application was referred to Council's Environmental Health Officer who recommended that the following additional Condition be included in the Determination:

69. *During the first sixty (60) days of entertainment being provided at the premises, the following acoustic measures must be undertaken:*

- a) *A suitably qualified acoustic consultant must be appointed to:***
 - (i) *measure and verify the noise emanating from the premises; and***
 - (ii) *if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.***
- b) *The noise measurements must be:***
 - (i) *undertaken without the knowledge of the applicant, manager or operator of the premises;***
 - (ii) *taken on at least three (3) different occasions on three (3) different days of the week (excluding Monday, Tuesday and Wednesday) from 11pm until the end of the public entertainment or close of business, whichever occurs first, and***
 - (iii) *Submitted to the Certifying Authority within four (4) weeks of testing.***
- c) *If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:***
 - (i) *submitted to Certifying Authority with the noise measurements;***
 - (ii) *implemented to the acoustic consultant's satisfaction before the end of the first sixty (60) days of public entertainment provided on the premises.***
 - (iii) *If the acoustic consultant's recommendations are not implemented in accordance with this condition, the relevant element of trading (ie outdoor area access)/ public entertainment on the premises must cease until such time as the recommendations are implemented and verified.***

These modifications are included in **Attachment A**.

6(b) The Likely Impacts

The assessment of the Modification Application demonstrates that, subject to the recommended amended conditions, the proposal will have minimal impact on the locality. Notwithstanding, it is the recommendation of this report that Condition 30(b)(ii) requiring a security guard remain as part of the modified determination.

6(c) The suitability of the site for the development

The site is zoned B2 Local Centre under MLEP 2011. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the original assessment of the application.

6(d) Any submissions

The application was advertised, 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 Council's policy and no submissions were received.

6(e) 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.

It is considered that it would not be in the public interest, given the advice provided by Council's Development Compliance team and NSW Police to delete Condition 30(b)(ii) requiring a security guard.

Notwithstanding, the proposal to allow a continuation of extended trading hours and allow entertainment is recommended to be approved is not contrary to the public interest.

7. Section 4.55 of the Environmental Planning and Assessment Act

Under Section 4.55 of the Environmental Planning and Assessment Act, 1979, the consent authority, 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 quantitatively and qualitatively 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 and no submissions were received.

8. Referrals

8(a) Internal

The application was referred to the following internal sections/officers and issues raised in those referrals have been discussed throughout Section 5 of this report:

- Environmental Health
- Development Compliance

8(b) External

The application was referred to the Licencing Unit of the Inner West Local Area Command of the NSW Police and that referral is discussed throughout Section 5 of this report.

9. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in the MLEP 2011 and MDCP 2011. Subject to the imposition of appropriate conditions, the development will not result in any significant impacts on the amenity of the surrounding locality. Notwithstanding, it is the recommendation of this report that Condition 30(b)(ii) requiring a security guard remain as part of the modified determination. The modification application is suitable for approval subject to the imposition of appropriate modified conditions.

10. Recommendation

- A. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, modify the development consent Determination No. 201800108 dated 16 July 2018 under Section 4.55(2) of the Environmental Planning and Assessment Act to allow a continuation of extended trading hours and allow entertainment subject to the modified conditions listed in Attachment A.
- B. THAT NSW Police be advised of the determination of the application.
- C. THAT Council's Development Compliance Division be advised of the determination of the application.

Attachment A - Recommended modified conditions of consent

Attachment A – Recommended modified conditions of consent

THAT the application under Section 4.55 of the Environmental Planning and Assessment Act 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 be **APPROVED** and a modified Determination be issued with the determination being modified in the following manner:

- (i) That the unnumbered condition under Condition 30 be renumbered 30A and be modified in the following manner:
 - 30A. a) The hours of operation must be restricted to between the hours of 11.00am to Midnight Monday – Saturday and 11.00am to 10.00pm Sundays including public holidays.
 - b) For a period of not more than ~~12 months from the issue of any Occupation Certificate (Interim or Final) for the works approved in this consent~~ **2 years from the date of this Modified Determination**, the hours of operation must be restricted to between the hours of 11.00am to Midnight Monday to Thursdays including public holidays, 11.00am to 1.00am the following day Friday and Saturday and 11.00am to 10.00pm Sunday.
 - b) A minimum of 1 licensed security guard must be present patrolling the hotel from 10pm till half an hour after closing on Friday and Saturday nights.
 - c) A continuation of the extended hours will require Council's approval under the Environmental Planning and Assessment Act by way of a fresh application.
- (ii) That Condition 40 be amended to read as follows:
 - 40. No live music ~~or entertainment~~ is to be provided within the premises. ***There is to be no entertainment in the form of amplified music on any part of the outdoor area at any time.***
- (iii) That the following additional Condition be included in the Determination:
 - 69. ***During the first sixty (60) days of entertainment being provided at the premises, the following acoustic measures must be undertaken:***
 - a) ***A suitably qualified acoustic consultant must be appointed to:***
 - (i) ***measure and verify the noise emanating from the premises; and***
 - (ii) ***if necessary, make recommendations to ensure that the noise emanating from the premises complies with the noise criteria.***
 - b) ***The noise measurements must be:***
 - (i) ***undertaken without the knowledge of the applicant, manager or operator of the premises;***
 - (ii) ***taken on at least three (3) different occasions on three (3) different days of the week (excluding Monday, Tuesday and Wednesday) from 11pm until the end of the public entertainment or close of business, whichever occurs first, and***
 - (iii) ***Submitted to the Certifying Authority within four (4) weeks of testing.***
 - c) ***If the acoustic consultant recommends that additional treatment or works be undertaken those recommendations must be:***
 - (i) ***submitted to Certifying Authority with the noise measurements;***
 - (ii) ***implemented to the acoustic consultant's satisfaction before the end of the first sixty (60) days of public entertainment provided on the premises.***
 - (iii) ***If the acoustic consultant's recommendations are not implemented in accordance with this condition, the relevant element of trading (ie outdoor area access)/ public entertainment on the premises must cease until such time as the recommendations are implemented and verified.***

Attachment B – Consent Determination No. 201800108



DA201800108 CLEN1

DETERMINATION NO. 201800108

16 July 2018

DAVID JANK & MOMO ROMIC
Po Box 853
Fairfield West NSW 2165

Dear Sir/Madam

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 ("THE ACT")
NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION**

Pursuant to Section 4.18 of the Act, notice is hereby given of the determination by the Council of **Development Application No. 201800108** to fitout and use the premises as a licensed bar operating 11:00am to midnight Mondays to Thursdays, 11:00am to 1:00am Fridays and Saturdays and 11:00am to 10:00pm on Sundays relating to property situated at:

244-246 MARRICKVILLE ROAD MARRICKVILLE

In determining this application, the Council considered all matters listed under Section 4.15 of the Act that were relevant to the Development Application.

The Development Application was determined on 16 July 2018 by the granting of **CONSENT** subject to the following conditions:

GENERAL

1. The development must be carried out in accordance with plans and details listed below:

Plan, Revision and Issue No.	Plan Name	Date Issued	Prepared by	Date Submitted
DA01-DA14, Revision F	Architectural Plans	13 June 2018	Kreativ	14 June 2018
-	Plan of Management	13 June 2018		14 June 2018
2127067	Acoustic Assessment Report	February 2018	GHD	8 March 2018

and details submitted to Council on 8 March 2018, and 21 May, 4 and 14 June 2018 with the application for development consent and as amended by the following conditions.

P.O. Box 14 Petersham 2049 | P (02) 9392 5000 | E council@innerwest.nsw.gov.au

Customer Service Centres | Petersham 2-14 Fisher Street | Leichhardt 7-15 Wetherill Street | Ashfield 260 Liverpool Road

2. All waste associated with the use is to be accommodated wholly within the premises and collected from within the premises via the door on Marrickville Lane.
3. A full and current copy of all current development consents for the operation of the licensed premises and the Plan of Management must be kept on-site and made available to Police or Council Officers upon request.

The Plan of Management to be amended to include the following requirements:

The following conditions must be complied with at all times:

- a) No patrons are to be allowed entry or re-entry to the premises after 1am.
- b) No packaged liquor is to be sold after 10pm and no person is permitted to take open containers of liquor off the premises when leaving.
- c) CCTV systems to be maintained on premises under strict conditions.
- d) Details of late night transport options should be provided to patrons
- e) The licensee will ensure that the NSW Police Crime Scene Preservation guidelines are followed for any violent incident to increase the likelihood of successful prosecutions.

The manager/licensee must ensure that immediately after the licensee or a staff member becomes aware of any incident involving an act of violence causing an injury to a person on the premises, the following is adhered to:-

- a) The manager/licensee and/or staff take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police.
- b) The manager/licensee and/or staff make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident; and
- c) The manager/licensee and/or staff comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

The licensee must not permit any person to enter the premises, or to remain on the premises, if the person is wearing or carrying any clothing, jewellery or accessory displaying:

- a) The name of any of the following motorcycle-related and similar organisations: Bandidos, Black Uhlands, Brothers for Life, Comanchero, Finks, Fourth Reich, Gladiators, Gypsy Joker, Hells Angels, Highway 61, Iron Horsemen, Life and Death, Lone Wolf, Mobshitters, Mongrel Mob, Mongols, Nomads, No Surrender, Odin's Warriors, Outcasts, Outlaws, Phoenix, Rebels, Rock Machine, Satudarah, or
- b) the colours, club patch, insignia or logo of any such organisation, or
- c) the "1%" or "1%er" symbol, or
- d) any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, any of the organisations specified in paragraph (a).

4. The operation of the premises complying at all times with the 'The Marrickville Hotel – 244 Marrickville Road, Marrickville: Plan of Management_The Marrickville Hotel' and 'Acoustic Assessment No. 2127067, prepared by GHD, dated February 2018' submitted on 8 March 2018 to Council except as amended by Condition 3. The Plan of Management as approved shall not be amended without the prior written approval of the Inner West Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.
5. The operation of the premises complying at all times with the operation requirements of Part 4.1.3 of the 'Acoustic Assessment No. 2127067, prepared by GHD, dated February 2018' submitted on 8 March 2018 to Council.
6. The Licensee must maintain a closed-circuit television system on the premises in accordance with the following requirements:
 - a) The system must record continuously from opening time until one hour after the last person (including employees/contractors) have left the premises.
 - b) Recording must be in digital format and a minimum of 15 frames per second
 - c) Any recorded image must specify the time and date of the recorded image; and the system's camera must cover the following areas
 - (i) All entry and exit points on the premises,
 - (ii) The footpath immediately adjacent to the premises, and
 - (iii) All publicly accessible areas (other than the toilets) on the premises.

The Licensee must also keep all recordings made by the CCTV system for at least 30 days and ensure that at least one member of staff is on the premises at all times the system is operating who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage and provide any recordings made by the system to a police officer or inspector within 24 hours of any request by a Police officer or Inspector to provide such recording
7. The proprietor of the hotel being responsible at all times to ensure the orderly dispersal of patrons from the premises.
8. The proprietor of the hotel is responsible for ensuring that the staff give appropriate directions to and take reasonable steps to control noisy or offensive behaviour of patrons entering or leaving the premises.
9. Condition Deleted 10 July 2018
10. Not more than 150 patrons and 8 staff to be present within the premises at any one time without the prior approval of Council.
11. Condition Deleted 10 July 2018
12. Signs are to be installed within the pub at each exit from the building which state that:
 - a) There are dwellings within close proximity of the premises;
 - b) Patrons are requested to enter and leave in a quiet and orderly manner;

- c) No entry or exit is permitted from the rear lane except in the event of an emergency; and
 - d) No glass or bottles are to be taken from the premises.
13. Condition Deleted 10 July 2018
14. The shop window display area must be maintained at all times with no roller shutters being installed across the shopfront.
15. The use of the premises as a hotel is limited to the ground floor with patrons not permitted to utilise the first floor with the exception of the toilet facilities.
16. No alcohol is to be sold or consumed on the footpath or paved area adjacent to the site.
17. No injury must be 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.
18. The signage must be erected substantially in accordance with the Plan No/s. DA11, Revision A– Proposed Elevations dated 13 June 2018 and details submitted to Council with the application for development consent as amended by the following conditions.
19. A separate application must be submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures other than the signage approved in this consent. The shop windows must not be painted with advertisements and no flashing lights must be installed on the premises.
20. The advertising structure(s) and associated advertisement(s) must be properly and safely maintained at all times.
21. The illuminated vertical projecting sign approved under this consent is to be turned off between the hours of 10:00pm to 7:00am.
22. Any advertisement to be displayed must be only to identify the premises, the occupier of the site, the activity conducted thereon or the goods and services available on the premises associated with the use approved in this development consent.
23. The signage must:
- a) not flash, move, be animated, or be decorated with rotating or flashing lights;
 - b) not have any apparatus attached to it which will provide sound of any description whether associated with the sign or other object or activity;
 - c) be neatly affixed to the building and any damage to the building caused to the exterior of the building by the erection of the advertising structure must be promptly repaired with materials to match those of the existing building;
 - d) comply with the Advertising Code of Ethics; and
 - e) comply with the requirements of the Roads and Maritime Services Authority.
24. No storage of goods or equipment external to any building on the site being permitted.

25. No signs or goods must be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.
26. The required fee under Council adopted fees and charges for "Signs and Advertising Structures Projecting onto or Over Public Space" must be paid to Council. The advertisement/advertising structures must only remain in place when the annual licensing fee for that year has been paid.
Note: The fee needs to be paid annually.
27. Certification by a Structural Engineer as to the adequacy of the method of affixing the sign must be submitted to Council prior to the erection of the sign.
28. All loading and unloading in connection with the use must be carried out from Marrickville Lane, between 11.00am and 4.00pm Monday to Sunday and in such a manner as not to cause inconvenience to the public.
29. All loading and unloading of kegs for the hotel are to be via a truck with a maximum size of 8 tonnes – Medium Rigid, with all other deliveries to be restricted to a utility or small van and in such a manner as not to cause inconvenience to the public.
30. All machinery must be installed in accordance with the manufacturer's specifications and being maintained at all times if in use.
 - a) The hours of operation must be restricted to between the hours of 11.00am to Midnight Monday – Saturday and 11.00am to 10.00pm Sundays including public holidays.
 - b)
 - (i) For a period of not more than 12 months from the issue of any Occupation Certificate (Interim or Final) for the works approved in this consent, the hours of operation must be restricted to between the hours of 11.00am to Midnight Monday to Thursdays including public holidays, 11.00am to 1.00am the following day Friday and Saturday and 11.00am to 10.00pm Sunday.
 - (ii) A minimum of 1 licensed security guard must be present patrolling the hotel from 10pm till half an hour after closing on Friday and Saturday nights.
 - c) A continuation of the extended hours will require Council's approval under the Environmental Planning and Assessment Act by way of a fresh application.
31. The developer must liaise with the Sydney Water Corporation, Ausgrid, AGL and Telstra concerning the provision of water and sewerage, electricity, natural gas and telephones respectively to the property.
32. All trade waste must be stored within the site boundaries and must be contained in such a manner so as not to cause a nuisance.
33. The construction, fitout and finishes of the food premises must comply with the Food Act 2003, the Australian and New Zealand Food Standards Code and Australian Standard 4674 - Design, Construction and Fitout of Food Premises.
34. All waste and waste receptacles associated with the usage of the premises are to be stored within the site boundaries of the subject premises and are to be contained in such a manner so as to comply with the requirements of the Food Act 2003 and Australian Standard 4674 - Design, Construction and Fitout of Food Premises.

35. The LA10 noise level emitted from the licensed premises shall not exceed 5dB above the background (LA90) noise level in any Octave Band Centre Frequency (31.5Hz to 8KHz inclusive) between the hours of 7.00am to 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.

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 8KHz inclusive) between the hours of 12.00 midnight to 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.

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 12.00 midnight to 7.00am.

NOTE: Where this condition is inconsistent with the requirements imposed by the Liquor Administration Board or Liquor Licensing Court, the more stringent condition shall prevail.

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

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

37. The use of the premises shall not give rise to an environmental health nuisance to the adjoining or nearby premises and environment. There are to be no emissions or discharges from the premises, which will give rise to a public nuisance or result in an offence under the Protection of the Environment Operations Act 1997 and Regulations. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage other premises.
38. The use of the premises and the operation of plant and equipment shall not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the Environment Protection Authority's Technical Guidelines for Assessing Vibration.
39. Signs being appropriately located within the hotel advising patrons of the nearby residences and seeking quiet and orderly ingress and egress from the premises and the proprietors of the hotel ensuring that staff give appropriate directions to and take reasonable steps to control noisy or offensive behaviour of patrons entering or leaving the hotel.
40. No live music or entertainment to be provided within the premises.

41. A complaints register must be maintained and available for the Council's inspection at all times and must detail the following:
 - a) All complaints made to the Hotel are to be recorded in an incident book and note the: date and time of incident, nature of complaint, address and contact details, and any actions proposed to deal with the complaint, and whether it has been or needs to be followed up; and
 - b) The incident register is to be reviewed by the licensee to ensure that complaints are being dealt with.
42. All new building work shall be carried out in accordance with the provisions of the National Construction Code (Building Code of Australia).

BEFORE COMMENCING DEMOLITION, EXCAVATION AND/OR BUILDING WORK

For the purpose of interpreting this consent, a Principal Certifying Authority (PCA) means a principal certifying authority appointed under Section 109E(1) of the Environmental Planning and Assessment Act 1979. Pursuant to Section 109E(3) of the Act, the PCA is principally responsible for ensuring that the works are carried out in accordance with the approved plans, conditions of consent and the provisions of the National Construction Code (Building Code of Australia).

43. No work must commence until:
 - a) A PCA has been appointed. Where an Accredited Certifier is the appointed, Council must be notified within 2 days of the appointment; and
 - b) A minimum of 2 days written notice given to Council of the intention to commence work.
44. A Construction Certificate must be obtained before commencing building work. Building work means any physical activity involved in the construction of a building. This definition includes the installation of fire safety measures.
45. Sanitary facilities must be provided at or in the vicinity of the work site in accordance with the WorkCover Authority of NSW, Code of Practice 'Amenities for Construction'. Each toilet must be connected to the sewer, septic or portable chemical toilet before work commences. Facilities must be located so that they will not cause a nuisance.
46. All demolition work must:
 - a) Be carried out in accordance with the requirements of Australian Standard AS 2601 'The demolition of structures' and the Occupational Health and Safety Act and Regulations; and
 - b) Where asbestos is to be removed it must be done in accordance with the requirements of the WorkCover Authority of NSW and disposed of in accordance with requirements of the Department of Environment, Climate Change and Water.

47. Where any loading, unloading or construction is to occur from a public place, Council's Infrastructure Services Division must be contacted to determine if any permits or traffic management plans are required to be obtained from Council before work commences.
48. The site must be enclosed with suitable fencing to prohibit unauthorised access. The fencing must be erected as a barrier between the public place and any neighbouring property, before work commences.
- Enquiries for site fencing and hoardings in a public place, including the need for Council approval, can be made by contacting Council's Infrastructure Services Division.
49. A rigid and durable sign must be erected in a prominent position on the site, before work commences. The sign must be maintained at all times until all work has been completed. The sign must include:
- a) The name, address and telephone number of the PCA;
 - b) A telephone number on which Principal Contractor (if any) can be contacted outside working hours; and
 - c) A statement advising: 'Unauthorised Entry To The Work Site Is Prohibited'.
50. The person acting on this consent must be responsible for arranging and meeting the cost of dilapidation reports prepared by a suitably qualified person. The reports are to include colour photographs and are to be submitted to the Certifying Authority's satisfaction, with a colour copy being provided to Council and the respective property owner(s) of the identified properties, before work commences, on the buildings on the adjoining properties at 248 Marrickville Road and 242 Marrickville Road, if the consent of the adjoining property owner(s) can be obtained. In the event that the consent of the adjoining property owner(s) cannot be obtained copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the PCA before work commences.

BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE

For the purpose of interpreting this consent the Certifying Authority (Council or an Accredited Certifier) is that person appointed to issue the Construction Certificate.

51. A levy of \$750.00 has been assessed as the contribution for the development under Section 7.12 of the Environmental Planning and Assessment Act 1979 and Marrickville Section 94/94A Contributions Plan 2014 (a copy of which may be inspected at the offices of the Council).

The Section 7.12 Levy referred to above is based on the estimated cost of the proposed development at time of lodgement of the application indexed quarterly in accordance with Marrickville Section 94/94A Contributions Plan 2014.

The Section 7.12 levy (as adjusted) must be paid to the Council **in cash or by unendorsed bank cheque (from an Australian Bank only) or EFTPOS (Debit only) or credit card* before the issue of a Construction Certificate**. Under Marrickville Section 94/94A Contributions Plan 2014 payment of Section 7.12 levies **CANNOT** be made by Personal Cheque or Company Cheque.

*NB A 1% credit card transaction fee applies to all credit card transactions.

(LEVY PAYMENT REFERENCE NO. DC002317)

NOTE: Under Marrickville Section 94/94A Contributions Plan 2014, the proposed cost of carrying out development is adjusted quarterly at time of payment of the levy in line with the *Consumer Price Index: All Groups Index Number for Sydney* provided by the Australian Bureau of Statistics.

- 52. Before the issue of a Construction Certificate amended plans shall be submitted to the Certifying Authority's satisfaction addressing the applicable requirements The Disability (Access to Premises – buildings) Standards 2010 (the Premises Standards).
- 53. Evidence of payment of the building and construction industry Long Service Leave Scheme, must be submitted to the Certifying Authority's satisfaction before the issue of a Construction Certificate. (The required payment can be made at the Council Offices).

NOTE: The required payment is based on the estimated cost of building and construction works and the long service levy rate, set by the Long Service Payments Corporation. The rate set by the Long Service Payments Corporation is currently of 0.35% of the cost of the building and construction work.

For more information on how to calculate the amount payable and where payments can be made contact the Long Services Payments Corporation.

http://www.lspc.nsw.gov.au/levy_information/?levy_information/levy_calculator.stm

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

Security Deposit (FOOT)	\$2100.00
Inspection fee (FOOTI)	\$225.00

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

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

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

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

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

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

55. The premises are to be designed, constructed and operated in accordance with the:

- Food Act 2003
- Food Regulation 2010
- Australia and New Zealand Food Standards Code
- Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises)
- Australian Standard AS 1668 Part 1 – 1998
- Australian Standard AS 1668 Part 2 – 2012; and
- Building Code of Australia

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

56. Waste water arising from the use must be directed to the sewers of the Sydney Water under a Trade Waste License Agreement. The pre-treatment of wastewater may be a requirement of Sydney Water prior to discharge to the sewer. Details of the requirements of the Trade Waste Agreement must be obtained prior to the issue of a Construction Certificate. Plans detailing how compliance will be achieved must be prepared and submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

SITE WORKS

57. All excavation, demolition, construction, and deliveries to the site necessary for the carrying out of the development, must be restricted to between 7.00am to 5.30pm Mondays to Saturdays, excluding Public Holidays. Notwithstanding the above no work must be carried out on any Saturday that falls adjacent to a Public Holiday.

58. The area surrounding the building work must be reinstated to Council's satisfaction upon completion of the work.
59. All demolition work must be carried out in accordance with the following:
- a) compliance with the requirements of Australian Standard AS 2601 'The demolition of structures' with specific reference to health and safety of the public, health and safety of the site personnel, protection of adjoining buildings and protection of the immediate environment;
 - b) all works involving the demolition, removal, transport and disposal of asbestos cement must be carried out in accordance with the 'Worksafe Code of Practice for Removal of Asbestos' and the requirements of the WorkCover Authority of NSW and the Department of Environment, Climate Change and Water;
 - c) all building materials arising from the demolition must be disposed of in an approved manner in accordance with Part 2.21 of Marrickville Development Control Plan 2011 – Site Facilities and Waste Management and any applicable requirements of the Department of Environment, Climate Change and Water;
 - d) sanitary drainage, stormwater drainage, water, electricity and telecommunications must be disconnected in accordance with the requirements of the responsible authorities;
 - e) the generation of dust and noise on the site must be controlled;
 - f) the site must be secured to prohibit unauthorised entry;
 - g) suitable provision must be made to clean the wheels and bodies of all vehicles leaving the site to prevent the tracking of debris and soil onto the public way;
 - h) all trucks and vehicles associated with the demolition, including those delivering to or removing material from the site, must only have access to the site during work hours nominated by Council and all loads must be covered;
 - i) all vehicles taking materials from the site must be loaded wholly within the property unless otherwise permitted by Council;
 - j) no waste collection skips, spoil, excavation or demolition material from the site must be deposited on the public road, footpath, public place or Council owned property without the approval of Council; and
 - k) the person acting on this consent must ensure that all contractors and sub-contractors associated with the demolition are fully aware of these requirements.
60. The works must be inspected at critical stages of construction, by the PCA or if the PCA agrees, by another certifying authority. The last inspection can only be carried out by the PCA. The critical stages of construction are:
- a) At the commencement of the building work;
 - b) For Class 2, 3 and 4 buildings, prior to covering waterproofing in any wet areas (a minimum of 10% of wet areas within a building);
 - c) Prior to covering any stormwater drainage connections, and after the building work has been completed and prior to any occupation certificate being issued in relation to the building; and
 - d) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

You are advised to liaise with your PCA to establish if any additional inspections are required.

61. A clear unobstructed path of travel of not less than 1,000mm must be provided to all exits and paths of travel to exits.

BEFORE OCCUPATION OF THE BUILDING

62. You must obtain an Occupation Certificate from your PCA before you occupy or use the building. The PCA must notify the Council of the determination of the Occupation Certificate and forward the following documents to Council within 2 days of the date of the Certificate being determined:
- a) A copy of the determination;
 - b) Copies of any documents that were lodged with the Occupation Certificate application;
 - c) A copy of Occupation Certificate, if it was issued;
 - d) A copy of the record of all critical stage inspections and any other inspection required by the PCA;
 - e) A copy of any missed inspections; and
 - f) A copy of any compliance certificate and any other documentary evidence relied upon in issuing the Occupation Certificate.
63. Occupation of the building must not be permitted until such time as:
- a) All preconditions to the issue of an Occupation Certificate specified in this development consent have been met;
 - b) The building owner obtains a Final Fire Safety Certificate certifying that the fire safety measures have been installed in the building and perform to the performance standards listed in the Fire Safety Schedule; and
 - c) An Occupation Certificate has been issued.
64. The owner of the premises, as soon as practicable after the Final Fire Safety Certificate is issued, must:
- a) Forward a copy of the Final Safety Certificate and the current Fire Safety Schedule to the Commissioner of Fire and Rescue New South Wales and the Council; and
 - b) Display a copy of the Final Safety Certificate and Fire Safety Schedule in a prominent position in the building (i.e. adjacent the entry or any fire indicator panel).
- Every 12 months after the Final Fire Safety Certificate is issued the owner must obtain an Annual Fire Safety Certificate for each of the Fire Safety Measures listed in the Schedule.
The Annual Fire Safety Certificate must be forwarded to the Commissioner and the Council and displayed in a prominent position in the building.
65. Before the issue of an Occupation Certificate, Council's Environmental Health Unit must be notified that the premises are being used for the preparation, manufacture or storage of food for sale so that the premises can be registered on Council's food premises database.

66. The existing whiteway lighting scheme must be maintained and incorporated into the design of the development. Any defects must be repaired at no cost to Council and before occupation of the site.
67. (i) Upon completion of the required noise attenuation measures referred to in the "Acoustic Assessment" prepared by GHD dated February 2018 and prior to commencing trading a report being prepared and submitted to Council's satisfaction by an accredited Acoustics Consultant, certifying that the final construction meets the requirements as set down in the Acoustic Assessment report. Such report shall include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum levels that may occur at this development; and
- (ii) Where it is found that internal noise levels are greater than the required dB(A) rating due to faulty workmanship or the like, necessary corrective measures shall be carried out and a further certificate being prepared and submitted to Council in accordance with the requirements as set down in Part (i) of this condition.
68. Attached to the Development Consent is a Fire Safety Schedule which has been issued in accordance with clause 168(1)(a) of the Environmental Planning & Assessment Regulation 2000. The Principal Certifying Authority shall ensure the existing and proposed fire safety measures are installed and certified to be operating in accordance with the BCA and Australian Standards. A Fire Safety Certificate shall be submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate.

ADVISORY NOTES

- The Disability Discrimination Act 1992 (Commonwealth) and the Anti-Discrimination Act 1977 (NSW) impose obligations on persons relating to disability discrimination. Council's determination of the application does not relieve persons who have obligations under those Acts of the necessity to comply with those Acts.
- A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out.
- The approved plans must be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work to ensure that the proposed work meets the requirements of Sydney Water. Failure to submit those plans before commencing work may result in the demolition of the structure if found not to comply with the requirements of Sydney Water.
- The property lies within the 20-25 Australian Noise Exposure Forecast (ANEF) Contour (2033), as advised by the Commonwealth Department of Aviation, and it would be advisable to noise attenuate the development in accordance with Australian Standard AS 2021 'Acoustics - Aircraft noise intrusion - Building siting and construction'.
- Contact "Dial Before You Dig" before commencing any building activity on the site.

- Council's determination of the application does not relieve those persons who have obligations under the Smoke-Free Environment Act and Smoke-Free Environment Regulation to comply with those provisions of the Act and Regulation. A copy of the guidelines produced by the NSW Department of Health is attached to this consent for further assistance in this matter.
- Useful Contacts

BASIX Information	☎ 1300 650 908 weekdays 2:00pm - 5:00pm www.basix.nsw.gov.au
Department of Fair Trading	☎ 13 32 20 www.fairtrading.nsw.gov.au Enquiries relating to Owner Builder Permits and Home Warranty Insurance.
Dial Before You Dig	☎ 1100 www.dialbeforeyoudig.com.au
Landcom	☎ 9841 8660 To purchase copies of Volume One of "Soils and Construction"
Long Service Payments Corporation	☎ 131441 www.lspc.nsw.gov.au
NSW Food Authority	☎ 1300 552 406 www.foodnotify.nsw.gov.au
NSW Government	www.nsw.gov.au/fibro www.diySAFE.nsw.gov.au Information on asbestos and safe work practices.
NSW Office of Environment and Heritage	☎ 131 555 www.environment.nsw.gov.au
Sydney Water	☎ 13 20 92 www.sydneywater.com.au
Waste Service - SITA Environmental Solutions	☎ 1300 651 116 www.wasteservice.nsw.gov.au
Water Efficiency Labelling and Standards (WELS)	www.waterrating.gov.au
WorkCover Authority of NSW	☎ 13 10 50 www.workcover.nsw.gov.au Enquiries relating to work safety and asbestos removal and disposal.

This consent is effective and operates from 16 July 2018. The consent will lapse unless the proposed development is commenced in accordance with Section 4.53 of the Act.

Under Section 8.2 of the Act you may, within six (6) months of receipt of this notice, request Council to review this determination. A review request of this determination may be made under Section 8.2 of the Act. That review request must be made and determined by Council within six (6) months of the date hereon.

Under Section 8.7 of the Act you may, within six (6) 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




Rachel Josey
Acting Development Assessment Manager

Enquiries: Kaitlin Zieme on 93925379.

Ref: **D1** TRIM No: 58695.18


Attachment C – IWLPP Report Determination No. 201800108



INNER WEST COUNCIL

DEVELOPMENT ASSESSMENT REPORT

Application No.	«Application_Number»201800108
Address	244-246 Marrickville Road Marrickville
Proposal	To fit-out and use the premises as a licensed bar operating 11:00am to Midnight Mondays to Thursdays, 11:00am to 1:00am Fridays and Saturdays and 11:00am to 10:00pm on Sundays
Date of Lodgement	8 March 2018
Applicant	David Jank & Momo Romic
Owner	Tu Phuong Quach
Number of Submissions	1
Value of works	\$150,000.00
Reason for determination at Planning Panel	New Licensed Premises
Main Issues	Parking, Operating Hours
Recommendation	Approval




Subject Site: 	Objectors: 
Notified Area: 	

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1. Executive Summary

This report is an assessment of an application submitted to Council to fit-out and use the premises as a licensed bar operating 11:00am to midnight Mondays to Thursdays, 11:00am to 1:00am Fridays and Saturdays and 11:00am to 10:00pm on Sundays. The application was notified to surrounding properties and 1 submission was received.

During the assessment of the application, the applicant was required to provide further information regarding the service of food on the premise which was a concern raised by the NSW Police. Amended plans were also submitted to Council to modify the proposed waste and storage rooms and to show where the storage of food will occur. Council also requested the Plan of Management be updated to reflect the recommendations of the acoustic report and service of food.

The proposal generally complies with aims, objectives and design parameters of Marrickville Local Environment Plan 2011 (MLEP 2011). The development generally complies with the provisions of Marrickville Development Control Plan 2011 (MDCP 2011). It is considered that the proposal will not result in any significant impacts on the streetscape or amenity of adjoining properties.

The potential impacts to the surrounding environment have been considered as part of the assessment process. Any potential impacts from the development are considered to be acceptable given the context of the site and therefore the application is recommended for approval.

2. Proposal

Approval is sought for alterations and additions to an existing commercial premises to fit-out and use the premises as a licensed bar operating 11:00am to midnight Mondays to Thursdays, 11:00am to 1:00am Fridays and Saturdays and 11:00am to 10:00pm on Sundays.

The bar component of the development is proposed to be located on the ground floor with a bar area within the front portion of the site containing seating for 80 patrons. The rear portion contains an atrium roof through to the first floor with bench style seating for 70 patrons. A waste storage room, lift and furniture storage room are located at the rear. The first floor of the development is to contain an office/storage room at the northern end, toilets in the centre, with a catwalk style access way around a void to the ground floor with lift access and the keg/beer storage room at the southern end of the site. Patron access to the first floor will be limited to the use of the toilets only.

The premises seek to employ a maximum of 8 staff on site at any one time. No live or amplified music is proposed, with background music to be played through speakers.

4 signs are proposed as follows:

- 1 X existing Under Awning Sign to be replaced with the wording "Marrickville Hotel" (1.9 metres by 500 millimetres)
- 1 X Fascia Sign with the words "Marrickville Hotel" and the "VB logo" (700 millimetres by 6.85 metres)
- 1X Vertical projecting sign with the words "Marrickville Hotel" with the "Hotel" portion in neon which is to be lit at night (3500 millimetres by 590 millimetres)

- 1 X Parapet Sign with the words “Marrickville Hotel” laser cut (1500 millimetres by 3300 millimetres)

No on-site parking is proposed.

3. Site Description

The subject site is located on the southern side of Marrickville Road, between Gladstone Street and Victoria Road, Marrickville. The site consists of 2 allotments, with the proposed use to occupy the existing shop on the eastern side of the site and is generally rectangular in shape with a total area of 188sqm and is legally described as Lot 4 Section 3 in Deposited Plan 2620 with a portion of the existing building also built over Lot 2 in Deposited Plan 1085166.

The site has a frontage to Marrickville Road of 6.6 metres, with a secondary (rear) frontage to Marrickville Lane. No on-site car parking is currently provided on-site.

The site currently contains a 2 storey brick building which is vacant. The adjoining properties support single and 2 storey commercial buildings. The surrounding context of the site is commercial premises with shop top housing along Marrickville Road and low scale residential development on the opposite side of Marrickville Lane.

4. Background

4(a) Site history

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

Subject Site

Application	Proposal	Decision & Date
CDC201700056	Complying Development Certificate Issued for fit-out of food premises 'Decolata Café' at No.246 Marrickville Road (western side)	22 May 2017 – Private Building Certifiers (NSW) Pty Ltd - Approved

Surrounding properties

Application	Proposal	Decision & Date
DA201300018	To carry out alterations and additions to the premises to create a medical centre on part of the ground floor and use the remainder of the ground floor as a pharmacy and to convert part of the first floor level into two commercial suites	6 May 2013- Approved.
DA200800186	To carry out alterations and additions and use the ground floor shop as a clothing shop and to erect associated signage	3 October 2008 – Approved

4(b) Application history

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

Date	Discussion / Letter/ Additional Information
Meeting held 10 January 2018 & letter sent 28 January 2018	Pre-DA (PDA201700209) to change use of ground and first floor to be used as licensed bar. - Advice Issued
8 March 2018	DA201800108 (the subject application) lodged
21 May 2018	The applicant submitted an email copy of correspondence with NSW Police with regard to their submission.
28 May 2018	Letter sent to applicant requesting additional information regarding service of food in relation to NSW police concerns, waste management, storage area proposed and the request for an updated plan of management.
4 June 2018	Amended Floor Plans were submitted and additional information regarding Council's request.
14 June 2018	Rear Elevation Plan, Site and Context Analysis Plan, and additional supporting documentation provided.

5. Assessment

The following is a summary of the assessment of the application in accordance with Section 79C of the Environmental Planning and Assessment Act 1979.

5(a) Environmental Planning Instruments

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

- State Environmental Planning Policy No 55—Remediation of Land
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 64 – Advertising and Signage; and
- Marrickville Local Environment Plan 2011

The following provides further discussion of the relevant issues:

5(a)(i) State Environmental Planning Policy (Infrastructure) 2007

The site has a frontage to Marrickville Road, a classified road. Under Clause 101 (2) of State Environmental Planning Policy (Infrastructure) 2007, (Infrastructure SEPP) the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that the efficiency and operation of the classified road will not be adversely affected by the development.

The development does not propose any on-site parking facilities, despite this the site maintains (utilised by the other tenancy) an existing vehicular crossing to the property from Marrickville Lane and as such is provided by a road other than the classified road. It is considered that the development would not affect the safety, efficiency and on-going operation of the classified road.

The development is a type of development that is not sensitive to traffic noise or vehicle emissions.

5(a)(ii) State Environmental Planning Policy No. 64 - Advertising and Signage–

The following is an assessment of the proposed development under the relevant controls contained in State Environmental Planning Policy No. 64 - Advertising and Signage (SEPP 64).

SEPP 64 specifies aims and objectives and assessment criteria for signage as addressed below. Schedule 1 of SEPP 64 specifies assessment criteria for signage relating to character of the area, special areas, views and vistas, streetscape, setting or landscaping, site and building, illumination and safety. The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64.

Signs and Advertising Structures

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

- 1 X existing under awning sign to be replaced with the wording "Marrickville Hotel"
- 1 X painted awning sign with the words "Marrickville Hotel" and the VB logo"
- 1X Vertical projecting sign 3500 millimetres by 590 millimetres with the words "Marrickville Hotel" with the "Hotel" portion in neon which is to be lit at night.
- 1 X Parapet Sign with the words "Marrickville Hotel" laser cut 1500 millimetres by 3300 millimetres

The proposed signage is considered satisfactory having regard to the assessment criteria contained in Schedule 1 of SEPP 64 and is discussed in greater detail in the context of local planning controls under the provisions of Part 2.20 of Marrickville Development Control Plan 2011 under Heading 5(c)(viii).

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

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

- (i) Clause 2.3 - Land Use Table and Zone Objectives
- (ii) Clause 2.7 - Demolition
- (iii) Clause 4.3 - Height of Buildings
- (iv) Clause 4.4 - Floor Space Ratio

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

<u>Height of Buildings</u>			<u>Floor Space Ratio</u>		
Permitted	Proposed	Complies	Permitted	Proposed	Complies
20 metres	9.9 metres	Yes	2.5:1	1.77:1	Yes

The following provides further discussion of the relevant issues:

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

The property is zoned B2 – Local Centre under the provisions of MLEP 2011. A 'pub' is permissible with Council's consent under the zoning provisions applying to the land.

The development is acceptable having regard to the objectives of the B2 – Local Centre Zone.

(ii) Demolition (Clause 2.7)

Clause 2.7 of MLEP 2011 states that the demolition of a building or work may be carried out only with development consent. The application seeks consent for internal demolition works. Council's standard conditions relating to demolition works are included in the recommendation.

(iii) Acid Sulfate Soils (Clause 6.1)

The land is identified as land being affected by Class 5 acid sulfate soils on the MLEP 2011 Acid Sulfate Soils Map. The proposed development involves the fit-out of the existing premises and would not result in any excavation and is therefore acceptable with regard to the provisions of Clause 6.1 of MLEP 2011 and Part 2.23 of MDCP 2011.

5(b) Draft Environmental Planning Instruments

5(b)(i) Draft Marrickville Local Environmental Plan 2011 (Amendment 4)

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(b)(ii) State Environmental Planning Policy (Environment)

The NSW government has been working towards developing a new State Environmental Planning Policy (SEPP) for the protection and management of our natural environment. The Explanation of Intended Effect (EIE) for the Environment SEPP was on exhibition from 31 October 2017 until the 31 January 2018. The EIE outlines changes to occur, implementation details, and the intended outcome. It considers the existing SEPPs proposed to be repealed and explains why certain provisions will be transferred directly to the new SEPP, amended and transferred, or repealed due to overlaps with other areas of the NSW planning system.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland and Willandra Lakes World Heritage Property. Changes proposed include consolidating the seven existing SEPPs including Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. The proposed development would be consistent with the intended requirements within the Draft Environment SEPP.

5(c) Development Control Plans

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

Part	Compliance
Part 2.1 Urban Design	Yes
Part 2.3 Site and Context Analysis	Yes

Part 3.5 Equity of Access and Mobility	Yes
Part 2.6 Acoustic and Visual Privacy	Yes
Part 2.7 Solar Access and Overshadowing	Yes
Part 2.8 Social Impact Assessment	Yes
Part 2.9 Community Safety	Yes
Part 2.10 Parking	Yes
Part 2.12 Signs and Advertising Structures	Yes
Part 2.16 Energy Efficiency	Yes
Part 2.21 Site Facilities and Waste Management	Yes
Part 2.23 Acid Sulfate Soils	Yes
Part 5.1 Commercial and Mixed Use Development	Yes
Part 5.3.1.2 Plan of Management	Yes
Part 5.3.1.4 Hours of Operation	Yes
Part 9 Strategic Context	Yes

The following provides discussion of the relevant issues:

PART 2 - GENERIC PROVISIONS

(i) Urban Design (Part 2.1)

Part 2.1 of MDCP 2011 contains controls relating to urban design. The works proposed as part of the subject development application are mainly internal. Improvements are proposed to the front façade which includes new double hung timber framed windows on the ground floor of the premises and a new front entry door which replaces the existing roller shutter. The existing windows on the first floor are to be maintained. New signage and a general improvement to the front façade including lighting, paintwork and tiling are proposed. It is noted that the rear façade will remain largely unchanged with the exception of bricking up some window openings.

The improvements proposed to the façade will provide a traditional hotel design complementing the existing streetscape. The introduction of new windows to the ground floor will encourage passive surveillance of Marrickville Road, with a bench and bar seating located against the front elevation wall to allow overlooking of Marrickville Road. The development is considered acceptable having regard to the relevant aspects of the 12 urban design principles.

(ii) Acoustic and Visual Privacy (Part 2.6)

Part 2.6 of MDCP 2011 contains the objectives and controls relating to acoustic and visual privacy.

It is considered that the layout and design of the development would ensure that the visual and acoustic privacy currently enjoyed by residents of residential properties in the immediate vicinity of the site and users of surrounding properties would be protected. As previously mentioned, the surrounding area is characterised by the Marrickville Road retail and commercial shopping strip with shop top housing and low density residential development to the south on the opposite side of Marrickville Lane.

It is considered that the development would maintain a high level of visual privacy for the surrounding properties, as the proposal does not have any new openings overlooking the adjoining properties at the rear of the site. The new windows on the front façade would overlook Marrickville Road and would not have any visual privacy impacts.

No live or amplified music is proposed at the premises, with background music from a playlist proposed as the only source of music.

The proposal does include an atrium style opening through the roof from the ground floor through to the first floor with 5 metre by 3 metre louvers enabling this to be opened and closed at the operator's discretion.

The acoustic report submitted with the application outlines several recommendations for reducing potential noise impacts to the adjacent properties including closure of the louvered atrium roof from 10:00pm. NSW Police also reviewed the proposal in relation to acoustic privacy, both assessments are discussed further under Part 5 MDCP 2011 of this report under the heading "*Hours of Operation*". The acoustic report was also referred internally to Council's Environmental Health Officer who raised no objections to the proposed development subject to conditions to be imposed on any consent granted which are included in the recommendation of this report.

(iii) Social Impact Assessment (Part 2.8)

Part 2.8 of MDCP 2011 contains objectives relating to Social Impact Assessment.

A Social Impact Statement (SIS) is required for developments such as hotels, nightclubs and registered clubs where it is proposed for a new or extended premises and/or extension of trading hours. The DCP control states 'pub' or "registered club" as requiring a SIS. The applicant has contended that whilst the proposed use is a bar and not a traditional 'pub' or registered club with the following extracted from their submission:

"The proposal is not listed as requiring an SIA in the Generic Provisions of Part 2.8 of the MDCP 2011 in that it is neither a Pub, nor a Registered Club.

The presumption must be that Council have taken the position that the name of the proposal including the word "Hotel" defines it as a pub. This problem of nomenclature has arisen from the proprietor's choice of name to reflect:

- *The type of license that has been applied for with Liquor and Gaming: Hotel License General Bar.*
- *It is important to note that this type of license was brought into existence in order to facilitate the establishment of the first small bars in the State.*
- *This type of license was until very recently widely referred to as a 'small bar license'.*
- *The Marrickville Hotel is a bar in all respects. The name offers poetic reference to an aesthetic and to a hospitality ethos that has been damaged by a focus on poker machines, particularly in the local area.*
- *It is a statement to the effect that if traditional pubs choose to pursue revenue from socially debilitating means such as gambling, that small venues will provide that hospitality at the expense of pubs. This reference does not make the proposed a pub, as would having called "The Marrickville Club" would not make it a registered club.*
- *There has been no question of behalf of Liquor and Gaming NSW as to acceptability of the name for the relevant 'small bar license.'*

However the definition of a pub under MLEP 2011 means a “*licensed premises under the Liquor Act 2007 the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.*” Therefore for all accounts the proposed use can be defined as a pub.

Given the applicant’s contentions and the intended use of the business being not strictly conforming to a typical pub in the sense with gaming machines or a registered club, yet still involving the consumption of alcohol in accordance with the definition, the submission from the applicant in the form of a Social Impact Comment (SIC) is accepted.

A SIC was prepared and submitted by Momclio Romic, the project Town Planner which outlines that it would be unlikely that the development would have a negative social impact on the local community and that the ongoing use of the premises would be in accordance with the plan of management. Furthermore the proposed whilst including the service of alcohol would not have any poker machines and would be served under a general bar license and not a club license.

Subject to the implementation of the acoustic measures outlined in the acoustic report submitted with the application and Plan of Management the proposal is considered acceptable with regard to Part 2.8 of MDCP 2011.

(iv) Community Safety (Part 2.9)

The development is reasonable having regard to community safety for the following reasons:

- The principal entrance to the premises is visible from Marrickville Road;
- No solid roller shutters are proposed on the shopfront;
- The development has been designed to overlook Marrickville Road; and
- CCTV cameras are proposed within the premises and at all entries.

A Plan of Management (PoM) was submitted with the application outlining the safety measures to be implemented by the premises. The PoM is discussed in more detail in further in this report. A condition is included in the recommendation requiring the subject use to operate at all times in accordance with the approved PoM.

In accordance with Part 2.94 of MDCP 2011, the application was referred to the NSW Police, which is discussed in further detail under *Plan of Management (POM) (Part 5.3.1.1)* in this report.

The proposal is acceptable with regards to Part 2.94 of MDCP 2011.

(v) Parking (Part 2.10)

Car and Bicycle Parking Spaces

The site is located in Parking Area 1 under Part 2.10 of MDCP 2011. The following table summarises the car and bicycle parking requirements for the development:

Component	Control	Required	Proposed	Complies?
Car Parking				
Car Parking	1 space per 6 staff for patrons and staff	8 staff = 1.3 spaces	0 spaces	No
Bicycle Parking				

Component	Control	Required	Proposed	Complies?
Bicycle Parking - Staff	1 bicycle parking space per 25sqm GFA bar area	25sqm GFA = 1 space	0 spaces	No
Bicycle Parking - Customers	1 bicycle parking space per 100sqm GFA other areas for patrons	169sqm GFA = 2 spaces		

Table 1: Car and Bicycle Parking Control Compliance Table

The development does not propose to provide parking for any vehicles or bicycles on site and therefore does not comply with the requirements of Part 2.10. The variation is considered acceptable for the following reasons:

- Peak use is in the evening, when centre related parking demand is lowest;
- There are public car parking areas for example on Frampton Avenue which is 240 metres from the site;
- Additional parking cannot reasonably be provided in the building;
- The site enjoys high levels of public transport accessibility;
- Having regard to the nature of the use, it is pertinent to encourage patrons to utilise public transport; and
- The proposed parking is otherwise consistent with the objectives set out in Part 2.10.1.

The existing building does not have vehicular access to the site, with one parking space connected to and utilised by the other building, being a café tenancy on the site. No area for bicycle parking has been accommodated on site. This is considered acceptable as the site has limited ability to provide any car parking spaces/bicycle spaces for the proposed use as the subject building is constructed boundary to boundary.

The existing construction of the building does not appear to have afforded any car parking to the subject tenancy, the proposed development maintains this. The proposed development is also considered reasonable as the use is unlikely to generate any additional demand for off street car parking/bicycle spaces.

Notwithstanding the above, the site is located within walking distance from public transport such as Sydenham and Marrickville Railway Stations and buses along Marrickville Road and Illawarra Road. Some on street car parking exists in the immediate area and the site is located within the vicinity of public car parks on Frampton Avenue and Garners Avenue. In light of the above, the proposed variation to car parking and bicycles is considered acceptable.

Vehicle Service & Deliveries

The development is required to provide 1 on-site vehicle service or delivery area. The Plan of Management states that arrangements for service and delivery are that these would take place from either the front of the site utilising the existing loading zones on Marrickville Road or the rear of the site, whichever Council stipulates as most appropriate. Given that directly in front of the site on Marrickville Road is a bus zone, it seems most appropriate that deliveries occur from the rear.

It is proposed that the following deliveries will occur:

- 15-20 kegs per week by 3 suppliers;
- Packaged alcohol, spirits, wines and soft drinks;

- It is envisaged that some limited food products may be delivered.

All deliveries are proposed to occur between 11.00am and 4.00pm. The proposed delivery types and hours are considered acceptable, with a condition requiring that unloading and loading to take place from the rear and to be carried out in such a manner that does not inconvenience the public to be included in the recommendation. Due to the positioning of garages on the opposite side of the laneway to the site and the narrowness of the laneway a condition is included in the recommendation restricting all deliveries of kegs to be via a maximum sized Medium Rigid (MR) – 8 tonne truck with all other deliveries to be via a utility or small van.

(vi) Signage and Advertising Structures (Part 2.12)

Part 2.12 of MDCP 2011 specifies Council's objectives and requirements for the erection and display of advertising signs. Those provisions are intended to protect the significant characteristics of retail/commercial strips, neighbourhoods, buildings, streetscapes, vistas and the skyline. The provisions include general controls for signage, prohibitions, and preferred options for signage and size restrictions for signage.

The application seeks consent for the erection of the following business identification signs:

- 1 X existing Under Awning light box sign to be replaced with the wording "Marrickville Hotel" (1.9 metres by 500 millimetres)
- 1 X Fascia Sign with the words "Marrickville Hotel" and the VB logo" (700 millimetres by 6.85 metres) painted onto the existing awning fascia
- 1X Vertical projecting sign with the words "Marrickville Hotel" with the "Hotel" portion in neon which is to be lit at night (3500 millimetres by 590 millimetres)
- 1 X Parapet Sign with the words "Marrickville Hotel" laser cut (1500 millimetres by 3300 millimetres)

Part 2.12.4.2 of MDCP 2011 states that the total permissible area of all signs must not exceed 1sqm of advertising per 1.5 metre of street frontage excluding a permissible under awning sign. The property has a 6.4 metre frontage to Marrickville Road, thus allowing 4.27sqm of signage.

The fascia sign is 4.7m² in area and the vertical projecting sign is 2.06m² in area and the wall sign is 4.95m² in area, the 2 signs in total would have an area of 11.71m² which exceeds the maximum permissible by 7.44sqm. The existing awning sign is not required to be included in the total and the application will replace the content of the existing under awning light box which is considered acceptable.

Although the signs exceed the maximum area of signage, given the character of the street being a commercial shopping strip with comparable signage, the proposed signs would not be out of character and would be an improvement on the existing signage on the front façade of the building. As such, the proposal is consistent with the objectives of this control. No signage is proposed on the rear facade of the building.

The proposed signage is also required to be considered against the provisions of Part 2.12.3 which contains controls based on the type of sign. The under awning sign is existing and its replacement is considered acceptable despite it being 500 millimetres high instead of the maximum 400 millimetres prescribed. The proposed projecting wall sign also exceeds the maximum projection distance from the wall of 750 millimetres, as it is proposed to extend 900 millimetres from the wall. The proposed vertical projecting sign is considered to be in

keeping with the use of the premises and style and character of the building and proposed façade improvements.

A condition is included in the recommendation requiring that the illuminated signage above the awning be switched off beyond 10:00pm to protect the residential amenity of the nearby residences.

Subject to compliance with the above the signage is considered acceptable having regard to the objectives and controls contained in Part 2.12 of MDCP 2011.

(vii) Site Facilities and Waste Management (Part 2.21)

A Recycling and Waste Management Plan (RWMP) in accordance with Council's requirements was submitted with the application for demolition and construction waste and also for the ongoing operation of the premises.

Part 2.21.2.6 of MDCP 2011 prescribes a minimum of 50 litres per 100sqm of floor area per day be provide for general waste and the same for recycling.

During the assessment of the application, concern was raised that the proposed waste storage area on site was inadequate in size and required the staff to exit the building to the laneway to access the door to the bin room. Amended plans were received increasing the size of the bin storage room to cater for the required bin sizes providing internal access to the room from the bar. The Waste Management Plan submitted with the application outlines that the bins would be collected twice weekly by a private contractor.

Based on the floor area of 331.6sqm and the provision of waste being collected twice weekly as outlined in the Waste Management Plan, a total of 6 X240 Litre bins are required to be accommodated in the waste storage room. The amended plans indicate are for 2 x 660Litre bins and 3 X slim jim type bins which hold 60 Litres. The total capacity meeting the requirements under Part 2.21.2.6 of MDCP 2011 which is considered acceptable.

As discussed earlier in the report a condition is included in the recommendation requiring that all deliveries and loading/unloading be done from Marrickville Lane. The external waste storage room door will facilitate this with regards to waste collection.

The proposal is considered acceptable with regard to Part 2.21.2.6 of MDCP 2011 and is supported.

PART 5 - COMMERCIAL AND MIXED USE DEVELOPMENT

(i) General Commercial and Mixed Use Development Controls (Part 5.1)

The application seeks approval to carry out alterations to the premises and use the premises as a bar for 150 patrons. The works proposed as part of the application are mainly internal. The carrying out of the development would include improvements to the front façade facing Marrickville Road through use of new materials, front entry door, windows and signage. The modifications to the front façade would provide a facelift to the shopfront and inclusion of windows and a bench with bar stools facing the street will increase surveillance of the street from front of the premises. The alterations and additions are acceptable with regard to Part 5.1.4 of MDCP 2011.

The building envelope and streetscape presentation to Marrickville Lane would remain. As such the development is considered to be consistent with the aims, objectives and design parameters of Part 5.1 under MDCP 2011.

(ii) Plan of Management (PoM) (Part 5.3.1.1)

A Plan of Management (PoM) was submitted with the development application. The PoM sets out general regulations and rules and guidelines associated with the on-going use of the premises as a licensed bar.

The POM submitted outlined the following as the aims of the Plan:

- *The safe and functional operation of the venue, including staff guidelines.*
- *Minimisation of alcohol related harm.*
- *Crime prevention.*
- *Noise minimisation and preservation of the local amenity.*
- *Complaints handling and resolution.*

The Plan of Management has appropriately addressed the following matters referred to in Part A.2.6 of MDCP 2011:

- Operational Details;
- Hours of operation;
- Staffing Details;
- Security Guard Details;
- Guidelines for Staff;
- Reference to operation in accordance with Acoustic Report;
- Waste Management (expanded further in WMP);
- Deliveries and loading/unloading;
- Customer & Patron Details/Procedures;
- Security Details including CCTV, cash handling;
- Complaint Handling;
- Review Process of POM;

The Plan of Management is considered to outline the appropriate measures to ensure the safe and orderly management of the hotel. The PoM was reviewed by all relevant referral officers with regard to their particular area of expertise.

NSW Police raised concern with regard to the addition of another licensed premises in the Marrickville locality with recent statistics demonstrating an increase in alcohol related violence in the immediate vicinity of the site. Despite these concerns, conditions were provided to be imposed on any consent granted. The applicant met with the Police and provided a response to the concerns raised in the NSW Police referral received by Council. The three main areas of concerns as outlined in the referral relate to the inadequate provision of food, security proposed and hours of operation which are discussed below;

Service of Food

The floor plan for the premises does not include a commercial kitchen of any kind. The Statement of Environment Effects outlined that "substantial toasted sandwiches" would be offered until last drinks are called. It also suggested that antipasto plates would be available to purchase. The operator of the proposed bar states that they have an existing bar in Redfern that operates in the same manner with the same level of food offering without

incidence which complies with their obligations under their liquor license. Council raised similar concerns with the applicant and subsequently amended floor plans and further written details demonstrating where the storage of food and toasted sandwich makers would be provided in the bar area was submitted. The amended floor plans and commentary regarding the service of food was referred back to NSW Police who considered the further details acceptable subject to the Plan of Management being updated to reflect the provision of food so that in any event that the premise changed hands that the future owner/operator would be aware of their obligations to provide the level of food offering proposed. A condition is included in the recommendation requiring the premises to operate in accordance with the PoM which requires the service of food be provided.

Security

Concern was also raised by NSW Police regarding the inadequate provision of security guards for the proposed use. The PoM states that 1 security guard would be employed on Friday and Saturday evenings from 10pm-1am. The NSW Police referral requests that a minimum of 1 licensed security guard be provided from 7pm on Friday and Saturday nights until half an hour after the last patron has left the venue. If trade is permitted until 1am then 2 licensed guards are required from 10pm till half an hour after the last patrons has left the venue. It is recommended that provision of security in line with NSW Police recommendation is adopted and imposed on any consent granted.

Concerns regarding Hours of Operation are discussed in detail later in this report.

Overall it is considered that the PoM submitted in relation to the proposed development outlines appropriate measures to mitigate any potential negative impacts that could arise from the operation of the premise, combined with Council's recommended conditions and that of the NSW Police. A condition is included in the recommendation to ensure that the PoM is implemented and abided by to ensure the ongoing operation of the premises complies with the plan in accordance with Part 5.3.1.1 of MDCP 2011.

(iii) Hours of Operation (Part 5.3.1.4)

The application seeks approval to use the premises as a licensed bar/hotel with the operating hours of 11.00am to 12.00 midnight Mondays to Thursdays, 11.00am to 1.00am (the following day) Friday and Saturdays and 11.00am to 10.00pm on Sundays.

As previously mentioned, the surrounding area is characterised by the Marrickville Road retail and commercial shopping strip with shop top housing and low density residential development to the south. It is noted that the operating hours of the surrounding commercial/retail premises within the area are generally between 7.00am to 10.00pm Mondays to Sundays, including Public Holidays.

The operating hours of licensed premises in the vicinity of the site are as follows:

The Marrickville Tavern located at 296 Marrickville Road

4 year trial period from 29 July 2016 – 29 July 2020
10.00am to 3.00am the following day Mondays to Saturdays
10.00am to 10.00pm on Sundays

The Lazy Bones licensed restaurant at 294 Marrickville Road

12 month trial period hours (Lapsed 14 February 2015):

10.00am to 12.00 midnight Mondays to Wednesdays and Public Holidays and
10.00am to 3.00am the following day Thursdays to Saturdays
10.00am to 10.00pm Sundays

No live entertainment being permitted within the premises between the hours of 12.00 midnight and 3.00am the following day Thursdays to Saturdays.

Ongoing Hours:

10.00am to 12.00 midnight Mondays to Saturdays including Public Holidays
10.00am to 10.00pm Sundays

No live entertainment being permitted within the premises between the hours of 12.00 midnight and 3.00am the following day Thursdays to Saturdays.

Gasoline Pony located at 115 Marrickville Road

Ongoing Hours

Internal Areas

10.00am to 11.30pm Mondays to Saturdays
10.00am to 9.30pm Sundays and Public Holidays

Rear Courtyard and footpath seating

10.00am to 10.00pm Monday to Saturdays
10.00am to 9.00pm Sundays and Public Holidays

Royal Exchange Hotel at 203-205 Marrickville Road

4 year trial period from 7 November 2007 to 7 November 2011 (Lapsed 7 November 2011)

Hotel excluding beer garden

10.00am to 3.00am the following day Monday to Saturdays and Public Holidays
11.00am to 10.00pm Sundays

Beer garden hours

10.00am to 10.30pm Mondays to Thursdays and Sundays
10.00am to 12.00 midnight Fridays, Saturdays and Public Holidays

Outdoor Terrace

10.00am to 10.30pm Mondays to Thursdays and Sundays
10.00am to 12.00 midnight Fridays, Saturdays and Public Holidays

Town & Country Hotel at 220 Marrickville Road

1 year trial period commencing from operation – not yet commenced (13 April 2016)

9.00am – 12.00 midnight Monday to Wednesday
9.00am – 2.00am the following day Thursday to Saturday
10.00am – 12.00pm Sunday

Ongoing Hours

9.00am – 12.00 midnight Monday to Saturday
10.00am – 12.00 midnight Sunday including public holidays.

The hours of operation proposed are consistent and compatible with the operating hours of the licensed premises within the surrounding vicinity of the site.

An Acoustic Report, prepared by GHD, dated February 2018 was submitted with the application. The Acoustic Report was referred to Council's Environmental Health Officer who raised no objections to the proposal subject to the imposition of conditions. The Acoustic Report carried out an assessment of the acoustic impact of the proposed premises with regard to mechanical plant noise and operational noise emission including background music. Noise prediction testing was undertaken with regard to the residential receivers surrounding the site. The testing indicates significant exceedances of the night-time octave band noise criteria for residential receivers to the rear of the premises. The report recommended that to reduce the noise emission, the front door remain in the closed position from 6:00pm and the rear louvered atrium roof be closed from 10:00pm. Further testing was undertaken with these parameters in place which demonstrated that the operation of the premises would then comply with the maximum night time octave band noise criteria.

The above submission accompanying the application has been considered and all recommendations within the report should be complied with as part of any development consent. A Plan of Management (PoM) and Social Impact Comment (SIC) were also provided as part of the application. The PoM sets out general regulations and rules associated with the on-going use of the premises as a bar. The PoM also includes safety provisions and makes reference to the acoustic report to reduce any potential amenity impacts arising from the development. It is considered that compliance with the recommendations of the Acoustic Impact Report and the rules and regulations outlined by the Plan of Management should alleviate any potential amenity impacts that may arise from the development.

To further reduce any potential amenity impacts on the surrounding area, a condition is included in the recommendation requiring the use of the premises not give rise to a sound pressure level that exceeds the background noise level by more than 5dB(A) in neighbouring residential properties. And that future testing be undertaken after commencing operation to ensure the development is operating in accordance with the maximum noise emission criteria.

The application was referred to NSW Police for comment. The following comments with regards to trading hours were provided:

- *Trading hours Monday to Saturday 11am to midnight, and Sundays 11am to 10pm. If the council deems it suitable to grant the applicant trading hours past the standard trading hours as governed by the Liquor Act, police respectfully request that trade until 1am on Friday and Saturday Nights be on a trial basis only.*
- Liquor sales are to cease 15 minutes before close.
- From 9pm, all windows and doors are to remain closed except to allow patrons to enter and egress.

Further conditions were provided by the NSW Police to ensure the development has minimal social, environmental and acoustic impacts on the street and surrounding residents. The comments provided by NSW Police have been included in the recommendation. A condition was provided recommending the provision of a kitchen for service of food, but for reasons discussed earlier in this report, this condition is no longer required.

It is noted that the former Marrickville Council has an adopted Hotel Trading Hours Policy, extracts of which have been reproduced below:

“Council adopted a merit based approach for the assessment of applications in relation to extended trading hours of hotels on 6 September, 2005. 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 as follows:

(i) Initial Application

An application for extended trading hours of a hotel considered suitable for approval would be subject to an initial one (1) year trial period.

(ii) Second Application

Subject to the satisfactory conduct of the hotel premises during that initial trial period, an application for a continuation of the extended trading hours approved in the initial trial period may be granted for a trial period of two (2) years.

(iii) Third and Subsequent Applications

Subject to the satisfactory conduct of the hotel premises during that second (or subsequent) trial period, an application for a continuation of the extended trading hours approved in the second (or subsequent) trial period may be granted for a trial period of four (4) years.”

Council Officers have consistently applied the trial period approach for licensed premises throughout the local government area seeking approval with extended trading hours beyond 12.00 midnight. The proposed 12 month trial period for the extended trading hours of the subject use is considered to be consistent with the requirements of this ‘Hotel Trading Hours Policy’. A trial period would give Council the opportunity to review the performance and operation of the hotel with extended trading hours. In this instance the trial period will apply to trade from 12 midnight to 1am on Fridays and Saturdays.

The restricted trading hours included in the recommendation are consistent with surrounding licensed premises and aim to balance reasonable operation of the hotel with protection of the acoustic privacy and amenity for the surrounding residents.

(iv) Part 9 - Strategic Context

The site is located in the Marrickville Town Centre Planning Precinct (Precinct 40) under Part 9.40 of MDCP 2011..

The visual surveillance of the street will be enhanced and the proposal will provide a contemporary design complimenting the existing streetscape. The rear façade on Marrickville Lane will be retained reasonably intact with the exception of the bricking up of some existing windows.

The proposal meets the desired future character of the Marrickville Town Centre Planning Precinct and is considered acceptable.

5(d) [The Likely Impacts](#)

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

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

The site is zoned B2 Local Centre under MLEP 2011. Provided that any adverse effects on adjoining properties are minimised, this site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

5(f) Any submissions

The application was advertised, 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 Council's Notification Policy. A total of 1 submission was received.

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

- Car Parking – see Section 5 (c) – Part 2.10 MDCP 2011
- Acoustic and Visual Privacy – see Section 5 (c) – Part 2.6 MDCP 2011
- NSW Police objections – see Section 5 (c) - Part 5.3.1.2 MDCP 2011

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

<u>Issue:</u>	There are too many licensed premises in the area
<u>Comment:</u>	The use as a pub is permissible in accordance with the B2 land zone applying to the site. Council does not have clustering controls for licensed premises and as the proposal meets the objectives and controls of the Marrickville Local Environment Plan 2011 and Development Control Plan the proposal is supported.
<u>Issue:</u>	The use is not compatible with the residential and commercial nature of the street and will detract from the nature of the area.
<u>Comment:</u>	The objective of the B2 – Local Centre zone applying to the site is to provide a range of business, retail, entertainment and community uses, the provision of a pub would provide a business use. The development would be acceptable subject to compliance with the recommendations of the acoustic report having regard to amenity for adjoining land uses and is supported.

Other Matters

The section plan submitted as part of the application indicates that the office/storage area will open as a bar in the 3rd year. This is not outlined on any of the other plans or supporting documents. Based on the information submitted with the application, consent is not sought nor given to use the first floor of the premises as a bar or for any patrons, with the exception of the use of the lift and toilets. A condition is included in the recommendation reaffirming this. A future application would need to be lodged if consent was sought to utilise the first floor for anything other than storage/office space.

5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed.

The development is consistent with the aims, and design parameters contained in Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011 and other relevant Environmental Planning Instruments. As discussed throughout this report, the development will not result in any significant impacts on the amenity of adjoining premises and the streetscape and thus the development is considered to be in the public interest.

6 Referrals

6(a) Internal

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

- Building
- Health

6(b) External

The application was referred to the following external bodies and issues raised in those referrals have been discussed in section 5 above.

- NSW Police

7. Section 7.11 Contributions

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$750.00 would be required for the development under Marrickville Section 94A Contributions Plan 2014. A condition requiring that contribution to be paid is included in the recommendation.

8. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in Marrickville Local Environmental Plan 2011 (MLEP 2011). The proposal is generally consistent Marrickville Development Control Plan 2011. The development will not result in any significant impacts on the amenity of adjoining premises and the streetscape. The application is suitable for the issue of consent subject to appropriate terms and conditions.

9. Recommendation

- A. That the Panel, as the consent authority pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, grant consent to Development Application No. 201800108 to fit-out and use the premises as a licensed bar operating 11:00am to Midnight Mondays to Thursdays, 11:00am to 1:00am Fridays and Saturdays and 11:00am to 10:00pm on Sundays. Subject to the conditions listed in Attachment A below.
- B. That the NSW Police be notified of the determination of the application.

Attachment D – Applicant’s Response to NSW Police referral

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12 November 2019

The General Manager
Inner West Council



To Whom It May Concern,

Application Number: DA201800108.01

Venue Details: Marrickville Hotel
244-246 Marrickville Road, Marrickville

LGNSW Licence Particulars: Hotel – General bar

DA Application: S4.55 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: Mr D Jank

Case Officer: Senior Constable Damen JONES
Inner West Police Area Command

The document provided by NSW Police serves as an expression of opinion and lacks the support of facts or statistical evidence. The submission, whilst respected, is in many instances based on an incorrect interpretation of the application, the premises license type, and the venue itself.

It appears to be the sole advisory document in the draft determination to refuse a trial period without security guards. Where council lacks guidelines in planning instruments, an expression of opinion should not form the primary deciding factor.

The document ignores the vast management experience of the applicant, who as an owner/operator has a clear understanding of the current requirements for security at the venue.

There appears the assumption on behalf of police that the owner/operators are not capable of comprehensive venue management, of which security is one factor, and would be willing to take risks in regards to the safety of staff and the general public.

An application has been received from Mr Jank regarding the Marrickville Hotel at 244-246 Marrickville Road, Marrickville at 1 Addison Rd, Marrickville. The applicant is seeking a

Inner West Police Area Command
222 Australia St

Telephone 02 9550 8199 Facsimile 02 9550 8148 ENet 50199 EFax 50148 TTY 9211 3776 (Hearing/Speech impaired)
ABN 43 408 613 180

1

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continuation of extended trading hours between 12am and 1am on Friday and Saturday nights, delete condition requiring a security guard, and allow entertainment.

Police have no objection to the continued trading hours between 12am and 1am on Friday and Saturday nights, and the removal of the term 'Entertainment' from condition 40.

However, Police do not support the removal of the condition 30b) (ii) "A minimum of 1 licensed security guard must be present patrolling the hotel from 10pm till half an hour after closing on Friday and after closing time and all patrons have left the premises, on Saturday nights."

Friday and Saturday nights are traditionally the peak trading times for hotels and with these trading hours comes a risk of alcohol related violence. **This statement is conjecture and is not supported by any facts or statistics. Anecdotally, the peak times for venues in general is not during the hours for security guard requirements. The venue, as established below, should also not be considered a hotel.**

Police believe the presence of this guard, as required, has deterred any alcohol related violence that may have occurred within the hotel or its vicinity. **There is simply no evidence for this. The evidence is that there has been no alcohol related violence or other incidents. This supports the removal of security guard requirements under a trial period.**

Further, leaving the responsibility of excluding intoxicated persons solely to staff during these busy trading periods will increase the risk to both the safety of patrons and staff by not having this overt presence. **This causal link is not supported. Police have chosen to ignore the submission, in that staff are trained in RSA and during the 91% of time that a security guard is not present, they professionally remove patrons from the venue if necessary. Furthermore, the applicant has applied security willingly when relevant whilst not being required by council, for example during the Marrickville Festival. This is an indicator that the operators show a good understanding of the business requirements and a commitment to public safety.**

The applicant is not opposed to the employment of security guards if/when necessary and will continue to employ security for any events/times that the operators deem necessary from their daily experience at the venue. Public and staff safety is of utmost importance and will never be compromised.

The submission made by the applicant mentioned several small bar licenses. The applicant fails to compare itself to the two closest hotels of the same liquor license including;

Firstly, this point is based on an incorrect interpretation of the submission.

The applicant merely established the inconsistency of approach of Inner West Council in regards to security guard conditions in the LGA, and in doing so establishes that such conditions, not being informed by any planning policy, are arbitrary and flexible. However, it is important to note that the applicants liquor license is not the same as the 'two closest hotels' and they are hardly worthy as closest comparison.

The General Bar License* which operates at the premises was established to allow the development of Sydney's first small bars and is one reason that the applicant *is more relevantly* compared to other bars in the area. (*The 'Small Bar License' specifically evolved from this license and recently had its capacity expanded from 60 to 100 patrons maximum, returning it in line with the original General Bar License.)

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Police fail to note the definitive difference between a Hotel License and the Hotel License, General Bar. The difference between the two licenses are the operation of gaming machines and takeaway liquor. These inclusions have notable and established antisocial impacts. Both the Royal Exchange and the Crown and Emperor derive their principal income from the operation of gaming facilities and TAB. The Marrickville Hotel (name chosen as an historical acknowledgement for a style of hospitality), is not a hotel and is by definition, a bar. This is a fact established by the Inner West Planning Panel as a significant point of importance. (Please refer to section of IHAP meeting describing nomenclature: were the venue named The Marrickville Club it would not make the venue a registered club, nor a nightclub)

It is also of note that the venue in question does not wish to ever introduce such anti-social element as gaming and takeaway sales. It is also not possible under The Act: The designation of a hotel licence as a general bar licence cannot be changed. (Liquor Act Division 2 Hotel License, part 16, (2))

Police's insistence in comparing the venue with the Royal Exchange Hotel and the Crown and Emperor shows a considerable misunderstanding of the venue and the applicant believes this is central to the difference of opinion over security guard requirements.

Irrespective of the above, undoubtedly the most relevant licensed premises in the area was cited by the applicant: Gasoline Pony, Hotel License-General Bar, patron capacity 120. This venue has operated since 2013 without security and without incident and is very much in line with the applicant's venue.

-Royal Exchange Hotel, 203 Marrickville Road, Marrickville, which is required to have a licensed security guard from 9pm until half hour the last patron has left on Thursday, Friday and Saturday Nights A heavily gaming focussed venue with take away liquor sales, with a patron capacity unknown but in the vicinity of 300.

- The Crown & Emperor Hotel Marrickville, 220 Marrickville Road, Marrickville, which has a requirement for a minimum of two (2) Licensed Security/Crowd Controller is to patrol the premises from 9.00pm to 30 minutes after close on Thursday, Friday and Saturday nights, or when live entertainment is being held. This venue was established primarily for the purposes of gambling, as established by the ILGA decision to impose the \$1,780,200 contribution to the Responsible Gambling Fund over the next five years.

The venue is the holder of a Hotel Liquor Licence with a capacity of 150 patrons and does not classify as a small venue under the Liquor Act. There is no classification of venue size in the Liquor Act and neither has the applicant attempted to compare with the patron capacity of small bars in the LGA.

This security guard condition is in line with the conditions with other hotels within the area. Further, the applicant has failed to consider the much smaller patron capacities of these venues which are considered when reviewing the risks and safety of patrons.

Police have reviewed the original submission made by Police and believe that the omission of the request for a guard on Saturday nights was an oversight. Police still believe a guard should be a requirement on Saturday nights along with Friday nights. This does not explain the fact that police originally requested 2 guards per night (presumed in relation to the oversight) which has been proven to be excessive and unnecessary. The recommendation for 2 security guards on one or both nights can also be seen as an oversight on Police's behalf.

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These conditions are sought to ensure that the business is operating in accordance with the community expectations, specifically to minimise harm associated with the misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour). Further, the provision of a security guard will act as a deterrent to criminal activities within the premises. This condition is one of several methods utilised to mitigate and reduce the risk to patrons and the public, without being overly onerous on the business.

Security guards are an onerous and unwelcome presence at the business and establish a combative atmosphere that does not reflect the dedication and commitment that the operators have to the venue. The applicant is in part responding to queries from clientele about why the venue employs security as it seems entirely out of place and unsuitable to the venue type. The applicant invites NSW Police to explain which criminal activities are purported to, or could occur at the licensed venue, given the venue type and commitment to management.

If there are any further questions regarding the submission, please do not hesitate to contact this office via email at INNERWESTLIC@police.nsw.gov.au or on (02) 9550 8199.

Regards



Damen JONES
Senior Constable
Inner West Police Area Command



Sgt Nerida Pillay – Licensing Supervisor, Inner West Pac

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Response to Development Compliance Officer Below.

Hi Ash,

A review of Council records revealed there have been no complaints/concerns raised in relation to the operations of the subject premises.

The premises have been consistently complying with the conditions as stated on their development consent. There have been no Warnings, Notices, Orders and or PINS issued from when the Hotel commencing operations.

Based on the above, it would be my recommendation to approve the application for extended trading hours and to allow on-entertainment.

I would not recommend deleting the requirement for a security guard as it's a licensed premises and safety of all patrons would need to be maintained at all times.

Based on the above record of excellent business performance a trial period is requested for the removal of security guards. The safety of all patrons is maintained at all times, including the currently 90% of trading hours in which security is not employed. The reasoning that the venue is a licensed premises is not valid justification for this statement.

Kind regards

Engela

Engela Lironis | Development Compliance Officer
Inner West Council

P: +61 2 9335 2201 | E: engela.lironis@innerwest.nsw.gov.au

Ashfield Service Centre: 260 Liverpool Road, Ashfield NSW 2131

Leichhardt Service Centre: 7-15 Wetherill Street, Leichhardt NSW 2040

Petersham Service Centre: 2-14 Fisher Street, Petersham NSW 2049 PO Box 14,
Petersham NSW 2049



INNER WEST COUNCIL



Council acknowledges the Traditional Custodians of these lands, the Gadigal-Wangal people of the Eora Nation.

From: Jeff Norman **Sent:** Thursday, 14 November 2019 12:32 PM **To:** Engela Lironis **Cc:** Asher Richardson **Subject:** Fwd: Referral - DA201800108.01 - 244-246 Marrickville Road MARRICKVILLE

Engela

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Please find attached a referral by Asher and can you please review this site and provide any appropriate feedback to him regarding compliance activities for this site.

Thank you

Jeff
Sent from my iPhone

Jeff Norman | Team Leader, Development Compliance
Inner West Council

P: +61 2 9335 2262 | **E:** Jeff.Norman@innerwest.nsw.gov.au

Ashfield Service Centre: 260 Liverpool Road, Ashfield NSW 2131

Leichhardt Service Centre: 7-15 Wetherill Street, Leichhardt NSW 2040

Petersham Service Centre: 2-14 Fisher Street, Petersham NSW 2049 PO Box 14,

Petersham NSW 2049



Council acknowledges the Traditional Custodians of these lands, the Gadigal-Wangal people of the Eora Nation.



Begin forwarded message:

From: Asher Richardson <Asher.Richardson@innerwest.nsw.gov.au>

Date: 14 November 2019 at 12:27:07 pm AEDT

To: Jeff Norman <Jeff.Norman@innerwest.nsw.gov.au>

Subject: RE: Referral - DA201800108.01 - 244-246 Marrickville Road MARRICKVILLE

Thanks Jeff

Asher Richardson | Senior Planner
Inner West Council

P: +61 2 9392 5315 | **E:** asher.richardson@innerwest.nsw.gov.au

Ashfield Service Centre: 260 Liverpool Road, Ashfield NSW 2131

Leichhardt Service Centre: 7-15 Wetherill Street, Leichhardt NSW 2040

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