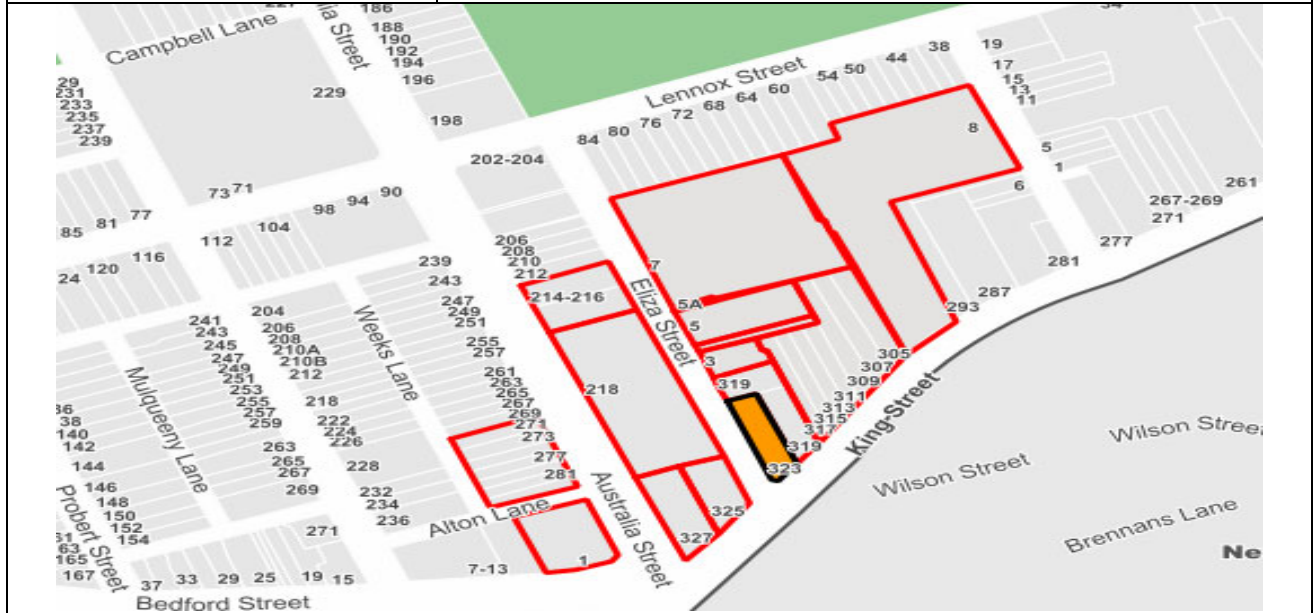








DEVELOPMENT ASSESSMENT REPORT

<b>Application No.</b>	DA/2020/0839
<b>Address</b>	323 King Street NEWTOWN NSW 2042
<b>Proposal</b>	Alterations and additions to a pub and change in hours of operation and increase in patron numbers.
<b>Date of Lodgement</b>	7 October 2020
<b>Applicant</b>	Kathryn Young (c/o Black Line Studio)
<b>Owner</b>	Ms Kathryn A Young
<b>Number of Submissions</b>	Nil
<b>Value of works</b>	\$508,750.00
<b>Reason for determination at Planning Panel</b>	Clause 4.6 variation exceeds 10%
<b>Main Issues</b>	FSR Variation, Heritage Conservation, Acoustic Amenity, Plan of Management and Site History.
<b>Recommendation</b>	Refusal
<b>Attachment A</b>	Without Prejudice Draft Conditions of Consent (if not refused)
<b>Attachment B</b>	Plans of proposed development
<b>Attachment C</b>	Acoustic Assessment
<b>Attachment D</b>	Plan of Management
<b>Attachment E</b>	Statement of Heritage Significance
<b>Attachment F</b>	Notice of Determination issued under DA200200553.09



LOCALITY MAP

Subject Site		Objectors		N ↑
Notified Area		Supporters		

## 1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to a pub and change in hours of operation and increase in patron numbers at 323 King Street, Newtown (known as 'Websters Bar').

The original and revised application were notified in accordance with Council's notification policy. In response, no submissions were received.

The main issues that have arisen from the application include:

- The development exceeds the maximum floor space ratio (FSR) permitted under Clause 4.4 of *Marrickville Local Environmental Plan 2011 (MLEP 2011)* by approximately 59.8% or 254.3sqm;
- The application was not accompanied by a variation request in accordance with the provisions under Clause 4.6 of *MLEP 2011*;
- The development results in adverse impacts on the heritage significance of the site and the surrounding King Street and Enmore Road Heritage Conservation Area (HCA) (C2);
- The development fails to demonstrate that it will have an acceptable impact on the acoustic amenity of nearby residential properties;
- The Plan of Management (POM) submitted omits key details to demonstrate that the development can be effectively managed; and
- The development undermines the pub's complex site history and existing operative consents.

Considering the above issues, it is considered the application is unsupportable and as a result, is recommended for refusal.

## 2. Proposal

The proposal (as revised) seeks consent for alterations and additions to a pub and change in hours of operation and increase in patron numbers.

The proposal in detail is as follows:

### Alterations & additions

#### **Ground Floor:**

- Removal of existing kitchen;
- Alterations to create reconfigured female wash closet (WC), new male WC and provision of an accessible WC;
- Removal of rear stairwell;
- Provision of a lift;
- Widening of internal stairs adjacent to King Street entry;
- Reduction in extent of the existing gaming room;
- Alterations to create smoking room adjacent to gaming room serviced by expanded louvred openings;
- Alterations and expansion or repair of openings on the western elevation (Eliza Street);
- Alterations to provide new double and fixed panel doors servicing King Street entry;
- Security shutter provided to external opening adjacent to lift; and
- Provision of new booth seating and bench seating.

**First Floor:**

- Alterations to existing female WCs to create unisex WCs, a male WC and accessible WC;
- Removal of rear stairwell;
- Provision of a lift;
- Widening of front internal stairs;
- Relocation of kitchen pass;
- Provision of new booth seating;
- Adjustment of existing fixed seating to accommodate widened stairs; and
- Obscure glazing provided to window adjacent to lift.

**Second Floor:**

- Alterations to existing unisex WC to create male and female ambulant toilets and accessible toilet;
- Removal of rear stairwell;
- Provision of a lift;
- Widening of central stairwell;
- Relocation of ductwork;
- Minor raising of floor of terrace;
- Minor extension of wall on the north-western boundary;
- Provision of sliding glazed windows servicing rooftop terrace;
- Fixed glazing added to corner of rooftop terrace; and
- Provision of storage area.

**Roof:**

- Addition of retractable vergola roof over the existing rooftop terrace;
- Lift overrun; and
- New metal screen and raised masonry wall to screen lift over run and relocated ventilation duct.

Hours of operation & patron numbers**Second floor/rooftop bar and terrace:**

- Monday to Saturday: 10:00AM to 3:00AM; and
- Sundays: 10:00AM to 12:00 midnight.

**Patrons:**

- Increase in patron numbers to 471 patrons in total as follows:
  - Ground floor: 151 patrons;
  - First floor: 170 patrons; and
  - Second floor/roof terrace: 150 patrons.

### 3. Site Description

The subject site is known as 323 King Street, Newtown and contains the premises known as the 'Websters Bar' (formerly known as 'Oxford Hotel' and 'Zanzibar'). The legal description of the site is Lot 1 Deposited Plan 177710. The subject property is situated on the north eastern corner of King Street and Eliza Street, Newtown, has a frontage to King Street of approximately 8m and a frontage to Eliza Street of approximately 35m, with a site area of 283.1sqm.

The site is occupied by a two (2) part three (3) storey building constructed on a zero lot line to all boundaries. The ground floor of the hotel contains a public bar and gaming area together with a garbage room and sanitary facilities for males, females and persons with a disability. The first floor contains another bar, dining area with a kitchen and sanitary facilities

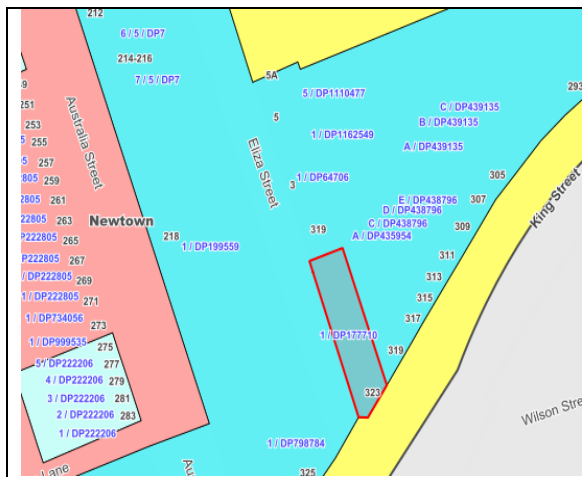
at the rear. The second floor contains a plant room, storage area, sanitary facilities and a rooftop bar and terrace.

The ground and first floor of the hotel premises have approval to trade continuously (24 hours) Mondays to Saturdays and 10:00AM to 12:00 midnight on Sundays. The rooftop bar and terrace have approval to trade between the hours of 10.00AM to 10.00PM Mondays to Sundays and Public Holidays. The maximum number of patrons permitted within the premises at any one time is 270, including 75 within the rooftop bar area.

The site is located within the King Street and Enmore Road Heritage Conservation Area (HCA) (C2) under *MLEP 2011*. The portion of the site fronting King Street is adjoined to the immediate northeast by a row of two (2) and three (3) storey attached commercial buildings with a continuous awning over the footpath. Those buildings are generally occupied by retail uses at the ground floor level, with commercial/residential uses above.

To the south west, on the opposite side of Eliza Street, is a large two storey commercial building which is listed as a heritage item under *MLEP 2011*. The rear of the Newtown Courthouse fronts Eliza Street at the rear of that building. To the north (rear) of the site and fronting Eliza Street is a building containing two garages which are attached to a premises fronting King Street.

Further to the north at 3 Eliza Street is a two-storey dwelling house, and across a right of way, is a large two storey building occupied by the Newtown School of Arts, which is also a heritage item under *MLEP 2011*. On the opposite side of King Street is a row of two (2) and three (3) storey attached commercial buildings with a continuous awning over the footpath. Those buildings are generally occupied by retail uses at the ground floor level, with commercial/residential uses above.



**Figure 1:** Zoning Map of the subject site (highlighted red).



**Figure 2:** Site photo of existing building taken from King Street.

## 4. Background

### 4(a) Site history

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

Application	Proposal	Decision & Date
NSW Land & Environment Court (NSW LEC) Appeal. No. 10771	To extend the hours of operation of the Oxford Hotel to 24 hours Mondays to Saturdays and 10.00am to 12.00 midnight Sundays.	Appeal upheld on 24/03/1999
DA200000178	Staged deferred commencement consent	Deferred commencement



	to an application to carry out alterations and additions to the Oxford Hotel and an application under Section 68 of the Local Government Act to use the premises as a place of public entertainment approving some of the building alterations and additions and a deferred commencement consent for the use of the premises as a place of public entertainment.	issued 06/12/2000
DA200200553	Application to carry out alterations to the premises and use the roof of the Oxford Hotel as a beer garden.	Appeal upheld by NSW LEC on 28/10/2003
DA200200553.07	Application under Section 96 of the Environmental Planning and Assessment Act to modify Modified Land and Environment Court Order No. 10631 of 2003, dated 7 March 2007, to allow the provision of amplified music on the rooftop area of the Zanzibar Hotel, increase the patron capacity of the roof top area to 130 persons, increase the overall patron capacity of the hotel premises to 500 persons (inclusive of rooftop patron numbers when the rooftop is in use) and continue the use of the rooftop area of the hotel premises between the hours of 10.00am to 10.00pm Mondays to Wednesdays, Sundays and Public Holidays and 10.00am to 12.00 midnight Thursdays, Fridays and Saturdays for a further four (4) year trial period.	Appeal upheld in part by NSW LEC on 24/08/2011  <u>Note:</u> The applicant subsequently appealed Council's deemed refusal of the application in the Land and Environment Court and the application was approved, in part, by Court Order No. 10147 of 2011, dated 24 August 2011, with the application approved with a patron capacity of up to 360 patrons subject to conditions including additional management measures and subject to a 1 year trial period which expired on 24 August 2012.
DA200200553.08	Application under Section 96 of the Environmental Planning and Assessment Act to modify Land and Environment Court Order relating to Land and Environment Court appeal numbers 10895 of 2010, 10896 of 2010 and 10147 of 2011, dated 24 August 2011, to extend the trial period for extended trading hours of the roof top area of the hotel for a further period of two years, modify the acoustic screen on the roof top terrace and modify condition 5B relating to patron numbers.	Part approval/part refusal by Council on 12/12/2012  <u>Note:</u> A consolidated consent was issued incorporating the modifications contained in previous NSW LEC Court Orders and Council approvals under this consent.

4(b) Application history

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

Date	Discussion
07/10/2020	Application lodged.
20/10/2020 to 10/11/2020	Application notified.
8/12/2020	Request for information (RFI) letter issued to the applicant requiring the following amendments/information: <ul style="list-style-type: none"> <li>• Confirmation of details of the proposal, including any increases in patron numbers;</li> <li>• Provision of revised documentation to correspond with confirmation</li> </ul>

	<p>of any new details of the proposal;</p> <ul style="list-style-type: none"> <li>• Identification of consents and plan of management/s (POM/s) the premises currently operates under and seeks to operate under into the future, notwithstanding any consent issued under the subject application;</li> <li>• Clarification and further information with respect to acoustic amenity impacts;</li> <li>• Provision of a revised and separate Heritage Impact Statement (HIS) prepared by a heritage specialist in accordance with the guidance of Heritage NSW;</li> <li>• Design revisions to the enclosed rooftop terrace structure to lessen its heritage conservation impact;</li> <li>• Provision of gross floor area (GFA) plans calculated in accordance with Clause (Cl.) 4.5 <i>Calculation of floor space ratio</i> and site area under <i>MLEP 2011</i> demonstrating the existing and proposed floor space ratio (FSR); and</li> <li>• Provision of a Cl. 4.6 request undertaken in accordance with the provisions under Cl. 4.6 <i>Exceptions to development standards of MLEP 2011</i>.</li> </ul>
11/01/2021	The applicant submitted amended plans and additional information to address the above requests made by Council on 08/12/2020.
19/01/2021 to 09/02/2021	Revised application notified.

(i) Discussion

As discussed above, the application as originally submitted appeared to propose alterations and additions to the premises, including access and Building Code of Australia (BCA) upgrades, in addition the enclosure of the existing rooftop terrace to allow for trade within it until 3:00AM on Mondays to Saturdays and until 12:00 midnight on Sundays. However, upon review of the documentation submitted, it became apparent that the proposal also sought an increase in patron numbers within the whole premises, which was not made explicitly clear within the Statement of Environmental Effects (SEE). As such, the applicant was requested to clarify this matter within the RFI request, which was undertaken and is detailed under Section 2 of this report.

The premises is currently operating under several consents previously issued by Council and the NSW Land & Environment Court (NSW LEC), including DA200200553.09. DA200200553.09 includes conditions relating to, but not limited to, patron number limits, hours of operation for the rooftop terrace, plan of management compliance, operational requirements, and security staff details. Therefore, to ensure any consent granted under this application did not undermine or contradict these conditions, the applicant was requested as part of the RFI to undertake the following:

- *Identify which consents and plan/s of management (POM/s) the premises currently operates under and seeks to operate under into the future, notwithstanding any consent issued under the subject application.*

The applicant failed to undertake the above request and instead requested that a new consent be issued for the whole premises that would supersede the previous consents. However, this approach is not considered appropriate, due to the extensive and complex site history as previously discussed; which resulted in the imposition of specific conditions to ensure the appropriate management of the premises, the protection of community safety and acceptable amenity impacts on the surrounds. It is considered the disregarding of these conditions poses a risk with respect to these matters, in addition to potentially resulting in unforeseen adverse impacts on the locality.

A more suitable approach would be for the proponent to modify DA200200553.09 under Section 4.55 of the *Environmental Planning and Assessment Act 1979 (EP&A Act 1979)* for

the increase in patron numbers and increased hours of operation for the rooftop terrace; which would require the conditions previously imposed with respect to this matter to be considered in sufficient detail by the applicant to address the previously mentioned held concerns. Further, a concurrent development application (DA) could be lodged for alterations and additions to the premises that includes the proposed upgrades to support the increase in patron numbers and increased hours of operation for the rooftop terrace.

In any case, as detailed further within this report, the subject application is not supported; principally on heritage conservation, acoustic amenity and *MLEP 2011* FSR variation grounds and therefore, a recommendation for refusal has been made. Notwithstanding, Attachment A includes 'Without Prejudice Draft Conditions of Consent' if the IWLPP wishes to approve the application, which includes a recommended 'capture all' condition requiring compliance with any existing operative consents issued for the premises, including DA200200553.09.

## 5. Assessment

The following is a summary of the assessment of the application in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A 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*; and
- *Marrickville Local Environmental Plan 2011*.

The following provides further discussion of the relevant issues:

#### 5(a)(i) *State Environmental Planning Policy No 55—Remediation of Land*

*State Environmental Planning Policy No. 55 - Remediation of Land* (SEPP 55) provides planning guidelines for remediation of contaminated land and Marrickville Development Control Plan 2011 (MDCP 2011) provides controls and guidelines for remediation works. SEPP 55 requires the consent authority to be satisfied that "the site is, or can be made, suitable for the proposed use" prior to the granting of consent.

The site has not been used in the past for activities which could have potentially contaminated the site. It is considered that the site will not require remediation in accordance with SEPP 55.

#### 5(a)(ii) *State Environmental Planning Policy (Infrastructure) 2007*

##### *Development with frontage to classified road (Clause 101)*

The site has a frontage to King Street, which is a classified road. Under Clause 101(2) of *SEPP Infrastructure 2007*, 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 existing premises does not include a vehicle access point from King Street, nor is one proposed under the application. As such, the application is considered acceptable with regard to Clause 101 of *SEPP Infrastructure 2007*.

**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 (MLEP 2011)*:

Control	Proposed	Compliance
Clause 1.2 Aims of Plan	The proposal is considered consistent with the relevant aims of the plan, except for the following: <ul style="list-style-type: none"> <li>• Clause (Cl.) 2(g) – As demonstrated further within this report, the proposal does not satisfactorily conserve the cultural heritage of the site or surrounds.</li> </ul>	No
Clause 1.8A Savings provision relating to development applications	During the assessment of the application <i>MLEP 2011</i> was amended. The amendments are not relevant to this application.	Yes
Clause 2.3 Zone objectives and Land Use Table  <i>B2 Local Centre</i>	The proposal satisfies this clause as follows: <ul style="list-style-type: none"> <li>• The property is zoned B2 Local Centre under the provisions of <i>MLEP 2011</i>.</li> <li>• The proposal is for alterations and additions to and the intensification of the use of a <b>pub</b>.</li> <li>• A <b>pub</b> is permissible with consent under the zoning provisions applying to the land; and</li> <li>• The proposal is considered acceptable with respect to the relevant objectives of the B2 Local Centre zone.</li> </ul>	Yes
Clause 2.7 Demolition requires development consent	The proposal satisfies the clause as follows: <ul style="list-style-type: none"> <li>• Demolition works are proposed, which are permissible with consent; and</li> <li>• If the application is to be supported, standard conditions are recommended in Attachment A to manage impacts which may arise during demolition.</li> </ul>	Yes, subject to conditions
Clause 4.3 Height of building (max. 14m)	The development complies with the 14m height limit prescribed for the site.	Yes
Clause 4.4 Floor space ratio (max. 1.5:1 (424.65sqm))	Refer to discussion further under 5(a)(iii)(i) below this table.	No
Clause 4.5 Calculation of floor space ratio and site area	The FSR for the proposal has not been calculated in accordance with the clause, as the enclosed rooftop terrace has been excluded from the calculations.  This matter is discussed further under 5(a)(iii)(i) below this table.	No
Clause 4.6 Exceptions to development standards	A Clause 4.6 variation request was not submitted with the application.  This matter is discussed further under 5(a)(iii)(ii) below this table.	No
Clause 5.10 Heritage conservation	This matter is discussed further under 5(a)(iii)(iii) below this table.	No

(i) Clause 4.4 – Floor Space Ratio (FSR)

The maximum FSR permitted on the site is 1.5:1 or 424.65sqm. The existing building on site, which was constructed and in use before the commencement of *MLEP 2011*, does not comply with the maximum permitted FSR, as it contains an FSR of 2.07:1 or 585.2sqm. This equates to an existing variation to the standard of 37.8% or 160.55sqm.

The proposal includes new works and built elements to enclose the existing rooftop terrace, to assist with acoustic impact mitigation. Such built elements include the provision of sliding windows and a vergola roof. These elements would allow for the near complete enclosure of the rooftop terrace and it to become an extension of the existing second floor.

As established in the findings under *Haralambis Management Pty Ltd v Council of the City of Sydney [2013] NSWLEC 1009*, it is considered the sliding windows would form an “outer wall” and as such, the enclosed rooftop terrace cannot be excluded from GFA calculations, notwithstanding for the occasional ability of its windows and roof to be open.

The applicant contends that the enclosure of the rooftop terrace does not constitute additional GFA and the alterations and additions do not result in the building’s FSR being increased. As such, a Cl. 4.6 request to vary the standard was not submitted.

Overall, with the inclusion of the enclosed rooftop terrace (approximately 96.6sqm), the proposal has a total FSR of or 2.4:1 or 679.3sqm. This equates to a proposed variation to the standard of 59.8% or 254.3sqm. As it stands, the proposal does satisfy Cl. 4.4(2) of *MLEP 2011*, as the maximum FSR permitted for the site is exceeded and therefore, refusal of the application is recommended.

(ii) Clause 4.6 – Exceptions to Development Standards

As discussed above, the proposal seeks to vary the maximum FSR permitted on the site (1.5:1 or 424.65sqm) by a maximum of 59.8% or 254.3sqm. Clause 4.6 of *MLEP 2011* allows the varying of development standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

Cl. 4.6(3) outlines that development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The applicant was requested to submit a written request addressing the requirements of Cl. 4.6 during the assessment of the application. The applicant did not provide a written request and instead, contended that the proposal resulted in a reduction of FSR due to internal alterations and by contending that the rooftop terrace is unenclosed.

However, as discussed previously, the rooftop terrace is deemed GFA, given that it can be effectively enclosed by the proposed sliding windows and operable roof. Further, the applicant does not acknowledge the significant FSR breach that the existing development currently entails.

As a written request addressing the requirements of Cl. 4.6 has not been submitted, development consent must not be granted as per the provisions under Cl. 4.6(4), as the consent authority cannot be satisfied that:



- (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out...*

Overall, as a written request satisfying the relevant provisions under Clause 4.6 of *MLEP 2011* has not been submitted, consent for the application cannot be granted. As such, the application is recommended for refusal.

(iii) Clause 5.10 – Heritage Conservation

The site is located within the King Street and Enmore Road Heritage Conservation Area (HCA) (C2) under *MLEP 2011*. The building on the site is considered a prominent corner and contributory building; located at the intersection of King Street and Eliza Street. The building on the site is considered to make a positive contribution aesthetically, culturally and architecturally to the streetscape and locality.

Further, the site is located within close proximity to the following locally listed heritage items under *MLEP 2011*:

- 323 King Street, Newtown: 'Former CBC Bank, including interiors' – item no. I153;
- 327 King Street, Newtown: 'Former ANZ Bank, including interiors' – item no. I154; and
- 218 Australia Street, Newtown: 'Courthouse and former Police Station, including interiors' – item no. I135.

The key and relevant objectives of Cl. 5.10 are to conserve the environmental and cultural heritage of the former Marrickville Local Government Area, including the heritage significance of items and HCAs and their associated fabric, settings and views.

Concern was raised with respect to following aspects of the original proposal from a heritage conservation perspective:

- As sufficient information was not submitted with the application, including a detailed HIS, the overall impact of the proposal on the heritage significance of the building and its surrounds could not be determined, including impacts to any significant internal fabric; and
- As can be seen from the submitted street view representations, the proposal will impact upon views of and to the building, and how it sits within the streetscape. It is considered the corner tower element will be reduced in prominence by the vergola surrounding it. The proposed structure will obscure the parapet line of the building and its corroboration of that line through its relationship with neighbouring buildings. Seen from below, the proposed structure – which includes an upward extension of the eastern wall of the building appears to adversely impact the appearance of the building by imposing an unsympathetic "lid", uncharacteristic of the skyline and roof tops of buildings nearby.

The applicant was requested to address the above concerns through compiling a suitable HIS to better understand the significance of the site and the locality, which would better inform the redesign of the proposal to ensure its impacts were acceptable. In addition, the applicant was requested to considerably reduce the extent and scale of the enclosed rooftop terrace structure, whereby it was not visible from the public domain and streetscape and ultimately had an acceptable impact on the heritage significance of the site, nearby heritage items and the HCA.

The revised proposal submitted attempted to address the above concerns, particularly with respect to the rooftop terrace structure related impacts. Some of the design revisions included the following:

- Reduction in the height of the vergola by 550mm;
- Reduction in the pergola perimeter beam depth;
- Materiality changes including the provision of grey louvres/window frames and a galvanised steel structure;
- Setting back of the columns from inside the parapet by 500mm;
- Provision of planter boxes to the foot of columns to assist with concealing the structure;
- Removal of the extending vergola eaves; and
- Reduction of vergola structure to line with adjacent roof.

Notwithstanding the above revisions, it is considered the proposed vergola rooftop structure will have an adverse impact on the heritage significance of the site and surrounding HCA, as previously described.

The parapets and comprehensive skyline of King Street are central to its aesthetic and historic values. The proposal would adversely impact these elements and would appear as incongruous anomaly within the streetscape, given the provision of an unsympathetic “lid” uncharacteristic of the skyline and roof tops of buildings nearby; which remains a significant feature of the revised proposal. Further, insufficient information has been provided to determine whether the proposed internal alterations are acceptable from a heritage conservation standpoint, as an analysis of the existing internal fabric of the building has not been comprehensively carried out.

Overall, given the above impacts resultant from the proposal and the insufficient information provided, the proposal does not satisfy Cl. 5.10(a) and (b) of *MLEP 2011* and Part 8 *Heritage* of MDCP 2011, as it fails to conserve the environmental heritage of Marrickville or the heritage significance of the HCA, including its associated fabric, settings and views. As such, the application is recommended for refusal.

## 5(b) Draft Environmental Planning Instruments

The Draft IWLEP 2020 was placed on public exhibition commencing on 16 March 2020 and accordingly is a matter for consideration in the assessment of the application under Section 4.15(1)(a)(ii) of the *EP&A Act 1979*.

The proposal generally satisfies the objectives of Draft IWLEP 2020, except for the following provisions:

- Draft Clause 1.2(2)(h) Aims of Plan: The proposal does not protect and conserve the environmental and cultural heritage of the site and its surrounds;
- Draft Zone B2 Local Centre (1) Objectives: The proposal does not conserve and enhance the unique sense of place of local centres by ensuring that its design integrates with the cultural heritage of the surrounds;
- Draft Clause 4.4 Floor Space Ratio: As described previously within this report, the proposal does not satisfy certain provisions under this Clause;
- Draft Clause 4.6 Exception to development standards: As described previously within this report, the proposal does not satisfy certain provisions under this Clause;
- Draft Clause 5.10 Heritage Conservation: As described previously within this report, the proposal does not satisfy certain provisions under this Clause; and
- Draft Clause 6.19(e)(iii) and (viii) Design Excellence: Given the external alterations proposed to a building on a site which has a minimum 14m height limit under Draft IWLEP 2020, this Clause is applicable to the application. In addition, given the proposal’s heritage conservation impacts, and as described further below within this

report, its potential amenity impacts on the surrounds, the proposal does not satisfy certain provisions under this Clause with respect to these matters.

As outlined above, the proposal does not satisfy certain draft under Draft IWLEP 2020 and as such, is recommended for refusal

### 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 (MDCP 2011)

Part of MDCP 2011	Compliance
Part 2.3 – Site and Context Analysis	Yes
Part 2.5 – Equity of Access and Mobility	Yes, subject to conditions if supported and to be satisfied at Construction Certificate (CC) stage
Part 2.6 – Acoustic and Visual Privacy	No – see discussion under 5(c)(i) below
Part 2.8 – Social Impact	Yes
Part 2.10 – Parking	Yes
Part 2.16 – Energy Efficiency	Yes, subject to conditions if supported and to be satisfied at Construction Certificate (CC) stage
Part 2.21 – Site Facilities and Waste Management	Yes, subject to conditions if supported.
Part 2.24 – Contaminated Land	Yes – see discussion under 5(a)(i) further above.
Part 2.25 – Stormwater Management	Yes, subject to conditions if supported.
Part 5 – Commercial and Mixed Use Development	No – see discussion under 5(c)(ii) below
Part 8 – Heritage	No – see discussion further above under 5(a)(iii)(iii)
Part 9 – Strategic Context (Part 9.37 King Street and Enmore Road Commercial) (Commercial Precinct 37)	No – given heritage conservation impacts as discussed further above under 5(a)(iii)(iii).

The following provides discussion of the relevant issues:

#### (i) Part 2.6 Acoustic and Visual Privacy

Part 2.6 of MDCP 2011 contains objectives and controls relating to acoustic and visual privacy and requires specific types of development to satisfy relevant noise criteria. The proposed extension of hours for the rooftop terrace, in addition to an increase in patron numbers at the premises, has the potential to cause adverse acoustic amenity impacts on the surrounds. As such, the proposal is required to demonstrate that it can satisfy the relevant noise criteria and provisions under Part 2.6 of MDCP 2011.

The subject premises is located within primarily a commercial precinct. However, under current planning controls, surrounding sites located along King Street have the potential to be redeveloped for the purposes of shop top housing development.

The closest residential property at 3 Eliza Street, Newtown, is located approximately 10m to the north of the site. Further, there are additional residential properties that are located to the west and north west, varying between approximately 50m to 100m from the site.

Specific provisions under Part 2.6 require consideration of potential impacts in terms of noise or the loss of amenity resulting from commercial development. In this regard, an Acoustic Assessment undertaken by Koikas Acoustic was submitted with the application. Upon review of this assessment, concern was raised with respect to its comprehensiveness and validity and as such, a revised Acoustic Assessment was requested. The concerns raised related to the following key matters:

- Clarification of the maximum amount of patrons within the whole premises, in addition to the rooftop terrace;
- Confirmation of the number of patrons within the premises when the measurements were undertaken;
- Provision of a revised noise assessment with Transport for NSW (TfNSW) (formerly Roads & Maritime Services (RMS)) noise limiter installed in the premises. The dB(A) settings of the noise limiter at the time of measurement were requested and noise loggers were required to be placed at the nearest residential premises to measure actual receiving sound pressure level;
- Confirmation of how the speakers used within the rooftop terrace area will be limited;
- Consideration of existing acoustic mitigation conditions under operational consent/s;
- Confirmation of collective acoustical assessment/impact of all noise emissions, including but not limited to noise from patrons on the rooftop, background music, internal noise levels and patrons entering and leaving the premises with doors opened and closed etc.; and
- Consideration for the potential for sleep disturbance from maximum noise level events from the premises during the night time period.

In response to the above, a revised Acoustic Assessment by Koikas Acoustic was submitted, which is included in Attachment C. It concluded that the proposal can satisfy the relevant noise criteria and Part 2.6 of MDCP 2011, subject to the following recommendations:

- Up until midnight, the outdoor rooftop vergola awning may be open. The roof must be completely closed and sealed between the hours of midnight and 7:00AM, except for a small section adjacent to King Street;
- Windows and doors fronting Eliza Street should remain closed during the entire early night and night-time periods;
- Windows behind the bar storage areas on the ground and first floors (facing Eliza Street) should be sheeted up with a minimum 13mm standard plasterboard;
- Windows and doors fronting King Street may remain open until midnight, however, between the hours of midnight and 7:00AM must be kept closed in-between use as entry/exit for patrons;
- Balustrades of the rooftop area should be at least 1.2m high and be of a sealed construction (minimal air gaps);
- The western wall of the rooftop area must be constructed of a minimum 6.38mm laminated glass sliding windows. Glazing should extend completely to the underside of the awning so that it is completely sealed when the windows are closed. These windows may be open during the daytime and evening periods, but must be closed between 10:00PM and 7:00AM. All fixed sections around the sliding windows should be constructed of the same thickness glazing and sealed completely from ground to ceiling;
- The eastern party wall of the rooftop area under the awning should be treated with absorptive materials that possess an NRC of not less than 0.6. Coverage should be at least 75% of this surface;

- Speakers in the rooftop area should be limited to a specific sound pressure level and be only located under the awning area; and
- Signs are to be posted within the roof top area requesting patrons to lower their voices during the night-time period.

Notwithstanding the above, upon review of the revised Acoustic Assessment, concerns were still held with respect to its comprehensiveness. In this regard, the following items were not included with the revised Acoustic Assessment as follows:

- A representative worst case scenario for patron noise, including background noise for the proposed increased in patron numbers within the early morning hours, was not provided;
- The noise criteria provided did not read or was not assessed in-line with the current hotel license for the premises (Liquor Licence No. LIQH400104464);
- Assessment of noise from external sources and how they will be managed to ensure there is no disturbance to nearby residential receives, including from but not limited to vehicle parking/loading noise and noise generated from patrons (congregated, shouting etc.) in Eliza Street; and
- Assessment of noise from waste management was not undertaken. Further, it was not demonstrated how noise from this source will be appropriately managed.

In addition, concerns were raised that the revised POM submitted did not appropriately correspond with certain recommendations made within the Acoustic Assessment. This matter is discussed further below within this report.

Given the above, it is considered the proposal does not satisfy the relevant provisions of Part 2.6, including objective (O) O3, as it has not been adequately demonstrated that the development will not unreasonably impact on the amenity of nearby residential land uses by way of noise. In addition, it is considered the proposal has not satisfied control (C) C7, as it has not been confirmed that the development complies with the relevant noise criteria.

(ii) Part 5 Commercial and Mixed Use Development

*Part 5.3.1.1 Plan of Management:*

Part 5.3.1.1 includes objectives and controls relating to the adoption of comprehensive POMs for commercial uses to control their impacts on the amenity of nearby residential properties.

A revised POM was submitted with the application. Upon review of this POM, the following concerns are raised with respect to its veracity as follows:

- The POM does not reference the most recent iteration of the Acoustic Assessment, including but not limited to measures relating to the management of the rooftop terrace;
- The POM does not mention how noise from waste management will be appropriately managed, including the disposal of refuse such as bottles, glassware and food packaging; and
- The POM does not outline provision for at least 1 one security personnel to remain on the rooftop terrace to manage patrons to ensure minimal disturbance to locality between 10:00PM and 3:00AM.

Given the above critical omissions, it has not been demonstrated that the proposal will operate in an efficient way without unreasonable amenity impacts on nearby residential uses. As such, O64 of Part 5.3.1.1 of MDCP 2011 has not been satisfied.



*Part 5.3.1.2 Noise and vibration generation*

Part 5.3.1.2 includes objectives and controls relating to acoustic mitigation measures to avoid adverse noise impacts on nearby residential development.

As discussed earlier within this report, concerns are held with respect to the revised Acoustic Assessment. As such, it is considered the proposal does not satisfy certain provisions of this Part of MDCP 2011, including:

- O66 – The proposal has not demonstrated that it satisfactorily minimises the impact of noise on surrounding residential development; and
- C75 – It has not been demonstrated that the development complies with the relevant noise control guidelines.

*Part 5.3.1.4 Hours of operation:*

Part 5.3.1.4 of MDCP 2011 contains objectives and controls relating to appropriate hours of operation for commercial uses. Provisions within the aforementioned part outline proposed hours, which extend beyond traditional hours, are not to unreasonably affect the amenity of nearby residential properties, particularly acoustic amenity.

As discussed previously within this report, the ground and first floor of the hotel premises have approval to trade continuously (24 hours) Mondays to Saturdays and 10:00AM to 12:00 midnight on Sundays. The rooftop bar and terrace have approval to trade between the hours of 10.00AM to 10.00PM Mondays to Sundays and Public Holidays.

The following hours of operation are proposed for the rooftop bar and terrace:

Day	Proposed Hours of Operation
Mondays to Saturdays	10.00AM to 3.00AM
Sundays	10.00AM to 12:00 Midnight

A review of the operational hours of external rooftop levels or terrace/deck uses within pubs on King Street was undertaken and is detailed in the table below:

Address	Determination No.	Date of Approval	Approved Use	Proposal
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Address	Determination No.	Date of Approval	Approved Use	Proposal
324 King Street, Newtown	D/2005/2097 (City of Sydney)	29 September 2020	Level 1 Terrace at The Bank Hotel	S4.55(2) Modification of consent to continue the trial trading hours for a further 5 years, of the terrace located at level 1 of the licensed premises known as the Bank Hotel. The terrace currently has consent to operate 24 hours a day Monday to Sunday inclusive. The hours of 8.00am – 12.00 midnight, Monday to Sunday inclusive, are approved on a permanent basis. The terrace area at level 1 of the hotel has a capacity of 50 patrons until 12.00 midnight. After 12.00 midnight the capacity of the terrace is limited to 25 patrons.
221 King Street, Newtown	D/2006/392/F (City of Sydney)	15 January 2021	Level 1 Terrace at Coopers Hotel	S4.55 (2) Modification of consent to continue the trial trading hours for Coopers Hotel for the first floor terrace from 10.00pm to 12.00am (midnight), Monday to Saturday and ground floor courtyard from 10.00pm to 11.00pm, Monday to Saturday.
631 King Street, Newtown	DA201900186.01 (Inner West Council)	21 April 2020 by IWLPP	Covered deck on rooftop at Sydney Park Hotel	<p>Section 8.2 Application to DA201900186. Review seeks approval for new raised and covered deck on the rooftop level of the hotel including new toilets to be used in conjunction with the existing hotel.</p> <p><u>Note:</u> Trial hours for a period of 12 months for the use of the covered deck on the rooftop were approved under this application as follows:</p> <ul style="list-style-type: none"> <li>• 6:00pm to 10:00pm (Thursday to Saturday); and</li> <li>• 6:00pm to 9:00pm (Sundays).</li> </ul>

As demonstrated above, the approved uses of nearby rooftop terraces/decks are generally modest in their respective operational hours compared to the subject proposal, in addition to containing capacities that are generally lower.

The later use of the rooftop terrace is reliant upon the proposed structure, including a vergola roof, to assist with mitigating adverse acoustic impacts. As detailed within this report, the structure proposed has an adverse impact on the heritage significance of the site and wider HCA and is therefore not supported.

Further, the revised Acoustic Assessment omits key assessment criteria and has not unequivocally demonstrated that the proposal will meet the relevant noise criteria and ultimately have an acceptable impact on nearby residential receivers. Further, the revised POM omits key details and operational measures to manage the late night and early morning use of the rooftop terrace.

Considering the above, it is considered the proposal does not satisfy certain provisions of this Part of MDCP 2011, including:

- O69 – It has not been demonstrated that the proposed extended hours within the rooftop bar and terrace will not cause nuisance to nearby residents;
- C86 – The application has not satisfactorily demonstrated that the proposed development will not unreasonably affect the amenity of nearby residential land uses; and
- C87 – It has not been demonstrated that the use of the rooftop bar and terrace will not negatively impact on nearby residential receivers by way of noise, including but not limited to from patrons.

#### 5(d) The Likely Impacts

The assessment of the application demonstrates that the proposal will have an adverse impact on the locality, particularly from a heritage conservation and acoustic amenity perspective.

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

The site is zoned B2 Local Centre under *MLEP 2011*. It is considered that the proposal is not suitable for the site, given the uncertainty with respect to acoustic and patron management impacts on nearby residential properties. Further, the proposal is considered to result in adverse impacts with respect to the heritage significance of the site and HCA. As a result, it is considered the site is unsuitable to accommodate the proposed development.

#### 5(f) Any submissions

The original and revised applications were notified in accordance with Council's Community Engagement Framework. In response, no submissions were received.

#### 5(g) The Public Interest

The public interest is best served by the consistent application of the requirements of the relevant Environmental Planning Instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are appropriately managed. The proposal was accompanied by inadequate information to demonstrate this, and hence, the approval of the application would be contrary to the public interest.

## 6 Referrals

### 6(a) Internal

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

- Building Certification
- Building Regulation
- Development Engineering
- Environmental Health
- Heritage & Urban Design
- Resource Recovery

### 6(b) External

The application was referred to the following external body and issues raised in this referral have been discussed in section 5 above.

- NSW Police: No objection raised, subject to conditions which have been included in Attachment A if the proposal is approved.

## 7. Section 7.11 Contributions/7.12 Levy

Section 7.12 levies are payable for the proposal.

A contribution of \$5,087.50 would be required for the development under Marrickville Section 94/94A Contributions Plan 2014. A condition requiring that contribution to be paid is included within Attachment A if the application is approved.

## 8. Conclusion

The application has been assessed in accordance with Section 4.15 of the *EP&A Act 1979* and is considered to be unsatisfactory.

The proposal does not comply with the key aims, objectives and design parameters contained in *Marrickville Local Environmental Plan 2011* and Marrickville Development Control Plan 2011.

It has not been demonstrated that the development would not result in significant impacts on the amenity of nearby residential properties and the streetscape and is not considered to be in the public interest.

The application is considered unsupportable and in view of the circumstances, refusal of the application is recommended.

## 9. Recommendation

- A. The applicant has not made a written request pursuant to Clause 4.6 of the *Marrickville Local Environmental Plan 2011* to vary the Floor Space Ratio development standard, despite the design including a gross floor area in excess of the maximum permissible Floor Space Ratio. The Panel is not able to approve the application, regardless of the planning merits.

- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, refuse Development Application No. DA/2020/0839 for alterations and additions to a pub and change in hours of operation and increase in patron numbers at 323 King Street, Newtown for the following reasons:
1. The applicant has not made a written request pursuant to Clause 4.6 of the *Marrickville Local Environmental Plan 2011* to vary the Floor Space Ratio development standard, despite the design including a gross floor area in excess of the maximum permissible Floor Space Ratio.
  2. The proposed development is inconsistent and has not demonstrated compliance with the *Marrickville Local Environmental Plan 2011*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:
    - a) Clause 1.2– Aims of Plan;
    - b) Clause 4.4 – Floor Space Ratio;
    - c) Clause 4.5 - Calculation of floor space ratio and site area;
    - d) Clause 4.6 - Exception to development standards; and
    - e) Clause 5.10 – Heritage Conservation.
  3. The proposed development is inconsistent and has not demonstrated compliance with the Marrickville Development Control Plan 2011, pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*:
    - a) Part 2.6 – Acoustic and Visual Privacy;
    - b) Part 5 – Commercial and Mixed Use Development;
    - c) Part 8 – Heritage; and
    - d) Part 9.37 – King Street and Enmore Road (Commercial Precinct 37).
  4. The proposed development is inconsistent and has not demonstrated compliance with the Draft Inner West Local Environmental Plan 2020, pursuant to Section 4.15 (1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*:
    - a) Draft Clause 1.2 – Aims of Plan;
    - b) Draft Clause 2.3 - Zoning Objectives and Land Use Table;
    - c) Draft Clause 4.4 – Floor Space Ratio;
    - d) Draft Clause 4.6 – Exception to development standards;
    - e) Draft Clause 5.10 – Heritage Conservation; and
    - f) Draft Clause 6.19 – Design Excellence.
  5. The proposal will result in adverse environmental impacts in the locality, pursuant to Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979*.
  6. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the *Environmental Planning and Assessment Act 1979*.
  7. The proposal by virtue of its various inconsistencies with the relevant planning documents is considered contrary to the public interest, pursuant to Section 4.15 (1)(d) and (e) of the *Environmental Planning and Assessment Act 1979*.



**Attachment A – Without Prejudice Draft Conditions of Consent (if not refused)**

**Attachment A - Without Prejudice Draft Conditions of Consent (if not refused)**

**DOCUMENTS RELATED TO THE CONSENT**

**1. Documents related to the consent**

The development must be carried out in accordance with plans and documents listed below:

Plan, Drawing No. and Issue	Plan Name	Date Issued	Prepared by
Site Plan, DA 006, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Ground Floor Plan, DA 110, Issue B	Architectural Plans	06/01/2021	Black Line Studio
First Floor Plan, DA 111, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Second Floor Plan, DA 112, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Roof Plan, DA 113, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Second Floor Stormwater Concept Plan, DA 114, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Roof Stormwater Concept Plan, DA 115, Issue A	Architectural Plans	25/09/2020	Black Line Studio
SW Elevation (Eliza St), DA 120, Issue B	Architectural Plans	06/01/2021	Black Line Studio
SE Elevation (King St), DA 121, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Long Section, DA 130, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Short Section, DA 131, Issue B	Architectural Plans	06/01/2021	Black Line Studio
Schedule of Materials and Finishes, DA 300, Issue B	Architectural Plans	06/01/2021	Black Line Studio
File Reference: 4297R20200818pd323KingStNewtown_DA_V6	Acoustical Report	11/01/2021	Koikas Acoustics Pty Ltd
Part 4-4(i) revised, Revision B	Plan of Management	January 2020	-

As amended by the conditions of consent.

**FEES**

**2. Security Deposit - Custom**

Prior to the commencement of demolition works or prior to the issue of a Construction Certificate, the Certifying Authority must be provided with written evidence that a security deposit and inspection fee has been 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.

<b>Security Deposit:</b>	\$2,209.00
<b>Inspection Fee:</b>	\$236.70

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 the 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 initial 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.

**3. Section 7.12 (formerly section 94A) Development Contribution Payments**

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that a monetary contribution to the Inner West Council has been paid, towards the provision of infrastructure, required to address increased demand for local services generated by additional development within the Local Government Area (LGA). This condition is imposed in accordance with Section 7.12 of the *Environmental Planning and Assessment Act 1979* and in accordance with *Marrickville Section 94/94A Contributions Plan 2014*.

Note:

Copies of these contribution plans can be inspected at any of the Inner West Council Service Centres or viewed online at <https://www.innerwest.nsw.gov.au/develop/planning-controls/section-94-contributions>

**Payment amount\*:**  
**\$5,087.50**

\*Indexing of the Section 7.12 contribution payment:

The contribution amount to be paid to the Council is to be adjusted at the time of the actual payment in accordance with the provisions of the relevant contributions plan. In this regard, you are recommended to make contact with Inner West Council *prior to arranging your payment method* to confirm the correct current payment amount (at the expected time of payment).

Payment methods:

The required contribution must be paid either *by BPAY (to a maximum of \$500,000); unendorsed bank cheque (from an Australian Bank only); EFTPOS (Debit only); credit card (Note: A 1% credit card transaction fee applies to all credit card transactions; cash (to a maximum of \$10,000))*. It should be noted that personal cheques or bank guarantees cannot be accepted for the payment of these contributions. Prior to payment contact Council's Planning Team to review charges to current indexed quarter, please allow a minimum of 2 business days for the invoice to be issued before payment can be accepted.

**4. Long Service Levy**

Prior to the issue of a Construction Certificate, written evidence must be provided to the Certifying Authority that the long service levy in accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* has been paid at the prescribed rate of 0.35% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$25,000 or more.

**GENERAL CONDITIONS**

**5. Noise – Consultant's Recommendations**

All recommendations contained in the acoustic report prepared by Koikas Acoustics Pty Ltd, reference 4297R20200818pd323KingStNewtown\_DA\_v6 dated 11 January 2021 must be implemented.

**6. Stormwater Drainage System – Simple**

Stormwater runoff from all roof and paved areas within the property must be collected in a system of gutters, down pipe, pits and pipelines discharged by gravity to the kerb and gutter of a public road.

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

If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.

**7. Waste Management Plan**

Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a Recycling and Waste Management Plan (RWMP) in accordance with the relevant Development Control Plan.

**8. Works Outside the Property Boundary**

This development consent does not authorise works outside the property boundaries on adjoining lands.

**PRIOR TO ANY DEMOLITION****9. Hoardings**

The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public roads or Council controlled lands to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.

Separate approval is required from the Council under the *Roads Act 1993* to erect a hoarding or temporary fence or awning on public property.

**10. Recording of Significant or Contributory Buildings**

Prior to any demolition on the site or the issue of a Construction Certificate, the Certifying Authority must be provided with evidence that Council has received a full archival record of the building and landscape elements to be altered.

The archival record is to be completed by a heritage consultant listed on the Consultants Directory by the NSW Office of Environment & Heritage (Heritage Branch) or by a suitably qualified consultant who must demonstrate a working knowledge of archival principles.

Photographic archival records must be taken of the building, landscape or item in accordance with the guidelines 'Heritage Information Series, Photographic Recording of Heritage Items Using Film or Digital Capture 2006' published by the former NSW Department of Planning Heritage Branch and available online at: <http://www.environment.nsw.gov.au/resources/heritagebranch/heritage/infophotographicrecording2006.pdf>

The photographic archival recording is to be submitted in digital format only. It is to include the following:

- a. Development Application number.
- b. Site plan at a scale of 1:200 (or 1:500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties and directional details of photographs taken.
- c. Floorplans of the internal layout and directional details of photographs taken.
- d. Coloured photographs of:
  - i. Each elevation;
  - ii. Each structure and landscape feature;
  - iii. Internal images of each room and significant architectural detailing; and
  - iv. Views to the subject property from each street and laneway or public space.

The report must include written confirmation, issued with the authority of both the applicant and the photographer that the Inner West Council is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of both the applicant and the photographer must be included.

The electronic images are to be taken with a minimum 8 megapixel camera, saved as JPEG TIFF or PDF files with a size of approximately 4-6MB, and cross referenced to the digital catalogue sheets and base plans. Choose only images that are necessary to document the process, and avoid duplicate images. The report must be submitted on a USB in PDF/A format

(created directly from the digital original), with a digital catalogue of images with the following data for each: title, image subject/description and date photograph taken.

#### **11. Dilapidation Report**

Prior to any works commencing (including demolition), the Certifying Authority and owners of identified properties, must be provided with a colour copy of a dilapidation report prepared by a suitably qualified person. The report is required to include colour photographs of the adjoining property (319 King Street, Newtown) to the Certifying Authority's satisfaction. In the event that the consent of the adjoining property owner cannot be obtained to undertake the report, copies of the letter/s that have been sent via registered mail and any responses received must be forwarded to the Certifying Authority before work commences.

#### **12. Construction Fencing**

Prior to the commencement of any works (including demolition), 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.

### **PRIOR TO CONSTRUCTION CERTIFICATE**

#### **13. Noise General – Acoustic Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an acoustic report demonstrating that noise and vibration from the operation of the premises will satisfy the relevant provisions of the *Protection of the Environment Operations Act 1997* and Regulations and relevant state and local policies and guidelines. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

#### **14. Dilapidation Report – Pre-Development – Minor**

Prior to the issue of a Construction Certificate or any demolition, the Certifying Authority must be provided with a dilapidation report including colour photos showing the existing condition of the footpath and roadway adjacent to the site.

#### **15. Structural Certificate for retained elements of the building**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to be provided with a Structural Certificate prepared by a practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate must also include all details of the methodology to be employed in construction phases to achieve the above requirements without result in demolition of elements marked on the approved plans for retention.

#### **16. Sydney Water – Tap In**

Prior to the issue of a Construction Certificate, the Certifying Authority is required to ensure approval has been granted through Sydney Water's online 'Tap In' program to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

*Note: Please refer to the web site <http://www.sydneywater.com.au/tapin/index.htm> for details on the process or telephone 13 20 92*

#### **17. Access Report**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with an Access Management Plan prepared by an Accredited Access Consultant. The Access Management Plan must address:

- a. Confirmation whether the Disability (Access to Premises – Buildings) Standards 2010 is applicable to the development, in particular whether the Standards apply to the affected part;
- b. Proposed requirements for access to the building or part of building for people with a disability in accordance with Part D3 of Building Code of Australia;
- c. Assessment and identification of non-compliances with the Disability Standards 2010 and/or the BCA where applicable and provide recommendations to achieve compliance with the relevant performance requirements;
- d. Accessible car parking spaces should be provided, where applicable, in accordance with Part D3.5 of BCA Vol; and
- e. Any exemptions, alternative solutions or deemed-to-satisfy provisions affecting access.

#### **18. Fire Safety Upgrade**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report and plans detailing how the buildings, which are subject to the consent, will be brought into full or partial conformity with the Building Code of Australia. The report must include:

- a. A fire safety audit which shall cover Sections C, D and E of Building Code of Australia and to identify general areas of non-compliance against the deemed to satisfy fire safety provisions, and address the performance requirements of the BCA where relevant. The recommendations for the fire safety upgrade shall be indicated on amended plans;
- b. Review the current on site fire safety measures including their relevant standard of performance; and
- c. The report shall include an updated Fire safety schedule stipulating the existing and proposed essential fire safety measures, including their relevant standards of performance.

#### **19. Structural Certification for Existing Building – Alterations and Additions**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a structural certification prepared by a qualified practising certified structural engineer verifying that the existing structure can adequately support the proposed new loads and the structural design complies with the Structural Provisions of Part B1 (Vol 1) and Part 2.1 (Vol 2) of the Building Code of Australia.

A Certificate prepared by an appropriately qualified and practising structural engineer, certifying the structural adequacy of the property and its ability to withstand the proposed additional, or altered structural loads during all stages of construction. The certificate shall also include all details of the methodology to be employed in construction phases to achieve the above requirements without resulting in demolition of elements marked on the approved plans for retention.

#### **20. Heritage Architect Supervision**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with the details of a suitably qualified Heritage Architect who will be commissioned to assist and to provide advice to the consultant team throughout the design development, contract documentation and construction stages of the project.

The Heritage Architect is to be involved in the resolution of all matters where existing significant fabric and spaces are subject to preservation, restoration, reconstruction, adaptive reuse, recording and demolition. The heritage architect is to be provided with full access to the site on a regular basis and authorised by the applicant to respond directly to Council where

information or clarification is required regarding the resolution of heritage issues throughout the project.

#### **21. Protection of Significant Fabric**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a protection plan certified by a suitably qualified Heritage Architect detailing how Significant original fabric of the existing building is to be protected during site preparation and construction works from potential damage. Equipment laydown areas and contractor vehicles must be located away from the heritage structures and areas of heritage significance to minimise any potential impact to the external or internal fabric. Protection measures are to be specified in the construction management plan.

#### **22. Structural Integrity of Retained Building Elements**

Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a report on the structural integrity of the retained building elements certified by a professional engineer (Structural Engineer) and a suitably qualified Heritage Architect. The report recommendations must explain how the retained building elements, such as building facades/chimneys are to be retained and supported. Documentation must include certification that adequate internally sited supporting structures must be incorporated into conserving the external chimney/building façade.

#### **23. National Construction Code Compliance**

Prior to the issue of a Construction Certificate, the Certifying Authority is to be provided with a detailed report undertaken by a suitably qualified person confirming that the development will comply with the relevant provisions of the National Construction Code, which includes the Building Code of Australia. In this regard, any recommendations outlined within this report to achieve compliance are to be detailed on the drawings submitted for Construction Certificate approval

### **DURING DEMOLITION AND CONSTRUCTION**

#### **24. Documentation of Demolition and Construction Waste**

All waste dockets from the recycling and/or disposal of any demolition and construction waste generated from the works must be retained on site.

#### **25. Construction Hours – Class 2-9**

Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:

- a. 7:00am to 6.00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm);
- b. 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and
- c. at no time on Sundays or public holidays.

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

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

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

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

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

The person acting on this consent must not undertake such activities for more than three continuous hours and must provide a minimum of one 2 hour respite period between any two periods of such works.

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

### **PRIOR TO OCCUPATION CERTIFICATE**

#### **26. Noise – Acoustic Report**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with an acoustic report prepared by suitably qualified acoustic consultant which demonstrates and certifies that noise and vibration emissions from the development comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*, NSW Environment Protection Authority's Noise Policy for Industry and Noise Control Manual and conditions of Council's approval, including any recommendations of the acoustic report referenced in the conditions of the approval. The acoustic report is to be prepared by a suitably qualified and experienced acoustic consultant and any recommendations must be consistent with the approved plans.

#### **27. Licensed Premises – Plan of Management**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a revised Plan of Management for the operation of the licensed premises that addresses the following:

- a. Compliance with the relevant conditions of approval;
- b. Adoption of the 'Recommended Noise Controls' outlined within acoustic report prepared by Koikas Acoustics Pty Ltd, reference 4297R20200818pd323KingStNewtown\_DA\_v6 dated 11 January 2021;
- c. Minimise the potential impact of the operation of the premises on nearby residents;
- d. Effectively minimise and manage anti-social behaviour;
- e. Minimise noise emissions and associated nuisances;
- f. Effectively manage and respond to resident complaints;
- g. Ensure responsible service of alcohol and harm minimisation; and
- h. Patron conductivity and security.

#### **28. No Encroachments**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any encroachments on to Council road or footpath resulting from the building works have been removed, including opening doors, gates and garage doors with the exception of any awnings or balconies approved by Council.



**29. Protect Stone Kerb**

Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any damaged stone kerb has been replaced.

**30. Section 73 Certificate**

Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with a Section 73 Certificate under the *Sydney Water Act 1994*.

**31. Non-combustible Cladding – Class 2-9 Buildings**

Prior to the issue of an Occupation Certificate the Principal Certifier must be provided with suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the National Construction Code (NCC).

**32. Products Banned Under the Building Products (Safety) Act 2017**

Prior to the issue of any Occupation Certificate, the Principal Certifier is to confirm that none of the building products used on the building are subject to a building product use ban under the *Building Products (Safety) Act 2017* or, if a product is only subject to a ban if used in a particular way that it is not used in any way contrary to the *Building Products (Safety) Act 2017*.

**33. Heritage Architect Certification**

Prior to the issue of an Occupation Certificate, the Certifying Authority must be provided with certification from the Heritage Architect that the works have been carried out in accordance with the Heritage Architect Supervision.

**ON-GOING****34. Bin and Other Item Storage**

All bins and other items such as kegs are to be stored within the site.

**35. Documentation of Businesses Waste Services**

All businesses must have written evidence of all valid and current contracts and/ or tip dockets for the disposal and/ or processing of all waste streams generated from the site.

**36. Noise General**

The proposed use of the premises and the operation of all plant and equipment must not give rise to an 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and Regulations, NSW EPA Noise Policy for Industry and NSW EPA Noise Guide for Local Government.

**37. Noise – Licensed Premises (7am – 12midnight)**

The LA10 noise level emitted from the premises, measured between the hours of 7am and 12 midnight, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive) by more than 5 dB, when measured at the boundary of any adjoining residence.

**38. Noise – Licensed Premises (12midnight – 7am)**

The LA10 noise level emitted from the premises, measured between the hours of midnight and 7am, is not to exceed the background noise level in any octave band frequency (centred on 31.5Hz to 8 kHz inclusive), when measured at the boundary of any adjoining residence.

**39. Noise – Licensed Premises/Entertainment Venues – Acoustic Report**

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; and
  - 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.

**40. Trial Hours**

- a. The hours of operation of the roof top area must not exceed the following:

Day	Hours
Mondays to Sundays	10:00AM to 10:00PM

- b. For a period of not more than 12 months from the issue of the Final Occupation Certificate for the rooftop area approved in this consent, the hours of operation of the rooftop area must not exceed the following:

Day	Hours
Mondays to Saturdays	10:00AM to 3:00AM
Sundays	10:00AM to 12:00 midnight

- c. A continuation of the extended hours will require a further application under the *Environmental Planning and Assessment Act 1979*.

**41. Plan of Management (NSW Police)**

The venue will comply with all sections of the most current Plan of Management which must be kept on the premises and made available for inspection on the request of a Police Officer, Council Officer, Liquor & Gaming Inspector, or any other person authorised by the Independent Liquor & Gaming Authority.

**42. Neighbourhood Amenity (NSW Police)**

- a. Staff shall ensure patrons do not crowd or loiter near the vicinity of the premises in such a manner that pedestrian movement is obstructed or hindered.

- b. Staff shall ensure the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations.
- c. Staff shall record in an Incident Register full details of any disturbance complaints made by a person to management or staff in respect to the manner in which the business on the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
- d. Staff shall respond to any disturbance complaints in a timely and effective manner. All action undertaken by management/staff to resolve such complaints shall be recorded in the register.

**43. Development Consent/s (NSW Police)**

A copy of the relevant Development Consent/s is to be kept on the premises and made available for inspection on the request of a Police Officer, Council Officer, Liquor & Gaming Inspector, or any other person authorised by the Independent Liquor & Gaming Authority.

**44. Security Personnel Rooftop Area**

At least one (1) licensed security personnel must remain within the roof top area at all times between 10:00PM and 3:00AM to ensure noise disturbance to the surrounding neighbourhood is minimised. This security personnel requirement is in addition to any other security requirement mandated by other valid and current development consents for the whole premises.

**45. Existing consents relating to the premises**

The conditions of this consent do not preclude the conditions of any other valid and current development consent/s relating to this property in relation to the operations of the venue.

**46. Trial Patron Numbers**

- a. The maximum number of persons within the premises at any one time is 270.
- b. For a period of not more than 12 months from the issue of the Final Occupation Certificate for the operations approved in this consent, the maximum number of persons within the premises must not exceed 471 persons as follows :
  - 151 persons (ground floor);
  - 170 persons (first floor); and
  - 150 persons (second floor and rooftop terrace).
- c. A continuation of the increase in person numbers will require a further application under the *Environmental Planning and Assessment Act 1979*.

**ADVISORY NOTES****Permits**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;

- d. Skip Bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street veranda over the footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

If required contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. Applications for such Permits must be submitted and approved by Council prior to the commencement of the works associated with such activity.

#### **Insurances**

Any person acting on this consent or any contractors carrying out works on public roads or Council controlled lands is required to take out Public Liability Insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within those lands. The Policy is to note, and provide protection for Inner West Council, as an interested party and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property.

#### **Prescribed Conditions**

This consent is subject to the prescribed conditions of consent within clause 98-98E of the *Environmental Planning and Assessment Regulations 2000*.

#### **Notification of commencement of works**

At least 7 days before any demolition work commences:

- a. the Council must be notified of the following particulars:
  - i. the name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - ii. the date the work is due to commence and the expected completion date; and
- b. a written notice must be placed in the letter box of each directly adjoining property identified advising of the date the work is due to commence.

#### **Storage of Materials on public property**

The placing of any materials on Council's footpath or roadway is prohibited, without the prior consent of Council.

#### **Toilet Facilities**

The following facilities must be provided on the site:

- a. Toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees; and
- b. A garbage receptacle for food scraps and papers, with a tight fitting lid.

Facilities must be located so that they will not cause a nuisance.

#### **Infrastructure**

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. Any adjustment or augmentation of any public utility services including Gas, Water, Sewer, Electricity, Street lighting and Telecommunications required as a result of the development must be undertaken before occupation of the site.

**Other Approvals may be needed**

Approvals under other acts and regulations may be required to carry out the development. It is the responsibility of property owners to ensure that they comply with all relevant legislation. Council takes no responsibility for informing applicants of any separate approvals required.

**Failure to comply with conditions**

Failure to comply with the relevant provisions of the *Environmental Planning and Assessment Act 1979* and/or the conditions of this consent may result in the serving of penalty notices or legal action.

**Other works**

Works or activities other than those approved by this Development Consent will require the submission of a new Development Application or an application to modify the consent under Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

**Obtaining Relevant Certification**

This development consent does not remove the need to obtain any other statutory consent or approval necessary under any other Act, such as (if necessary):

- a. Application for any activity under that Act, including any erection of a hoarding;
- b. Application for a Construction Certificate under the *Environmental Planning and Assessment Act 1979*;
- c. Application for an Occupation Certificate under the *Environmental Planning and Assessment Act 1979*;
- d. Application for a Subdivision Certificate under the *Environmental Planning and Assessment Act 1979* if land (including stratum) subdivision of the development site is proposed;
- e. Application for Strata Title Subdivision if strata title subdivision of the development is proposed;
- f. Development Application for demolition if demolition is not approved by this consent;  
or
- g. Development Application for subdivision if consent for subdivision is not granted by this consent.

**Disability Discrimination Access to Premises Code**

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.

**National Construction Code (Building Code of Australia)**

A complete assessment of the application under the provisions of the National Construction Code (Building Code of Australia) has not been carried out. All building works approved by this consent must be carried out in accordance with the requirements of the National Construction Code.

**Notification of commencement of works**

Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the PCA (not being the council) has given the Council written notice of the following information:

- a. In the case of work for which a principal contractor is required to be appointed:
  - i. The name and licence number of the principal contractor; and
  - ii. The name of the insurer by which the work is insured under Part 6 of that Act.

- b. In the case of work to be done by an owner-builder:
  - i. The name of the owner-builder; and
  - ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

#### **Permits from Council under Other Acts**

Where it is proposed to occupy or carry out works on public roads or Council controlled lands, the person acting on this consent must obtain all applicable Permits from Council in accordance with Section 68 (Approvals) of the *Local Government Act 1993* and/or Section 138 of the *Roads Act 1993*. Permits are required for the following activities:

- a. Work zone (designated parking for construction vehicles). Note that a minimum of 2 months should be allowed for the processing of a Work Zone application;
- b. A concrete pump across the roadway/footpath;
- c. Mobile crane or any standing plant;
- d. Skip bins;
- e. Scaffolding/Hoardings (fencing on public land);
- f. Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.;
- g. Awning or street verandah over footpath;
- h. Partial or full road closure; and
- i. Installation or replacement of private stormwater drain, utility service or water supply.

Contact Council's Road Access team to ensure the correct Permit applications are made for the various activities. A lease fee is payable for all occupations.

#### **Noise**

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

#### **Amenity Impacts General**

The use of the premises must 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 must not give rise to the transmission of a vibration nuisance or damage other premises.

#### **Lead-based Paint**

Buildings built or painted prior to the 1970's may have surfaces coated with lead-based paints. Recent evidence indicates that lead is harmful to people at levels previously thought safe. Children particularly have been found to be susceptible to lead poisoning and cases of acute child lead poisonings in Sydney have been attributed to home renovation activities involving the removal of lead based paints. Precautions should therefore be taken if painted surfaces are to be removed or sanded as part of the proposed building alterations, particularly where children or pregnant women may be exposed, and work areas should be thoroughly cleaned prior to occupation of the room or building.

#### **Dial before you dig**

Contact "Dial Prior to You Dig" prior to commencing any building activity on the site.

**Asbestos Removal**

A demolition or asbestos removal contractor licensed under the Work Health and Safety Regulations 2011 must undertake removal of more than 10m<sup>2</sup> of bonded asbestos (or otherwise specified by WorkCover or relevant legislation).

Removal of friable asbestos material must only be undertaken by a contractor that holds a current Class A Friable Asbestos Removal Licence.

Demolition sites that involve the removal of asbestos must display a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos has been removed from the site to an approved waste facility.

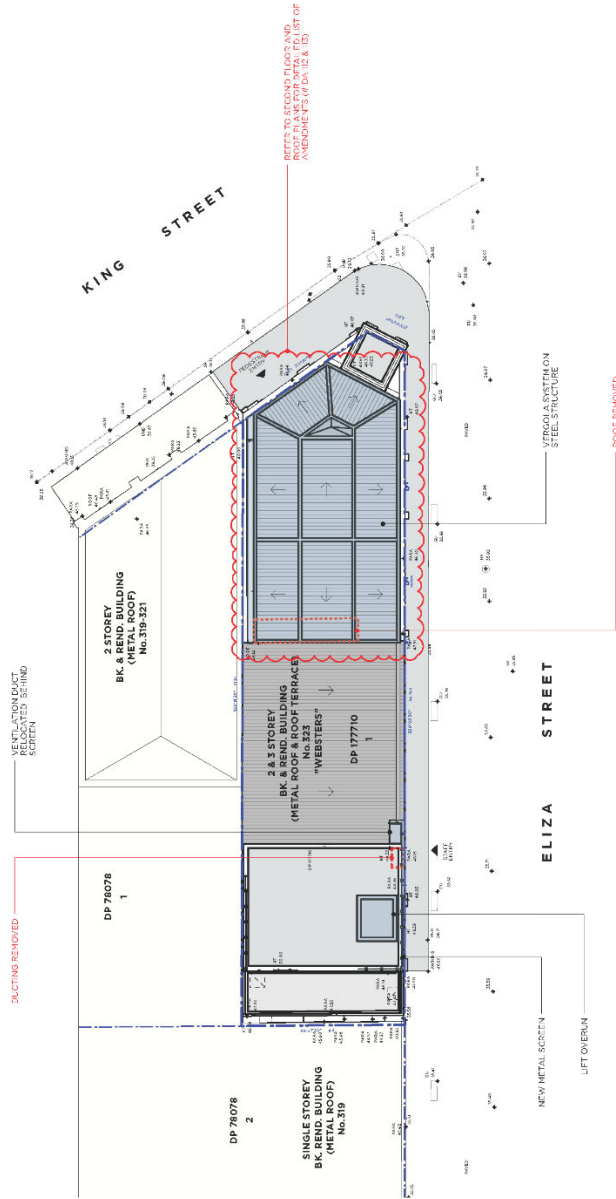
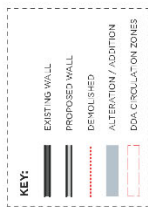
All asbestos waste must be stored, transported and disposed of in compliance with the Protection of the Environment Operations (Waste) Regulation 2014. All receipts detailing method and location of disposal must be submitted to Council as evidence of correct disposal.

**Useful Contacts**

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







**DRAWING TITLE:**  
SITE PLAN

**PROJECT REFERENCE:**  
2006

**SCALE:**  
1:200 @ A3

**DRAWN:**  
RB

**ISSUED:**  
B

**SIZE:**  
A3

**DWG. #: DA 006**

**ISSUE DATE:**  
A 26/9/20  
B 6/7/21

**DESCRIPTION:**  
ISSUED FOR DA APPROVED TO ADDRESS COUNCIL INT.

**PROJECT:**  
ALTERATIONS AND ADDITIONS @  
323 KING STREET  
NEWTOWN NSW 2042

**C.E.N.T.:**  
MS. KATHRYN YOUNG

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CHECK ALL DIMENSIONS AND PRIOR TO CONSTRUCTION, CHECK ALL DIMENSIONS AND PRIOR TO CONSTRUCTION, CHECK ALL DIMENSIONS AND PRIOR TO CONSTRUCTION, CHECK ALL DIMENSIONS AND PRIOR TO CONSTRUCTION.

THESE DRAWINGS, CONTRACT AND VENDOR AGREEMENTS, CONTRACT AND VENDOR AGREEMENTS, CONTRACT AND VENDOR AGREEMENTS, CONTRACT AND VENDOR AGREEMENTS.

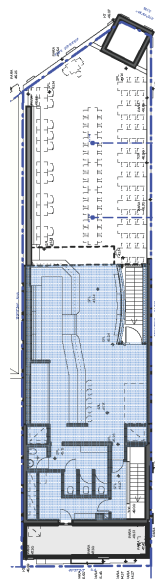
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+61 452 185 765

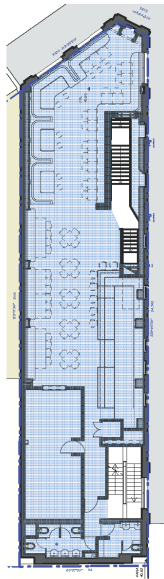
35 Richards Avenue, Sydney Hills NSW 2010  
Newmarket Architect Robert James Bowler #1166

**BLACK LINE STUDIO**

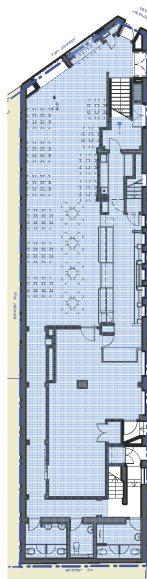
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SITE AREA (SQM)	283.1	283.1	-
GFA (SQM)	595.2	592.7	-
FSR	2.07 : 1	2.06 : 1	1.5 : 1 max   NO



SECOND FLOOR

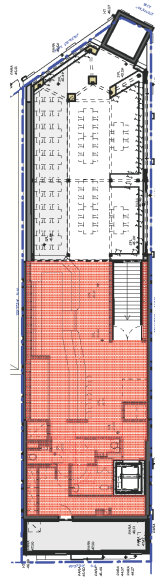


FIRST FLOOR

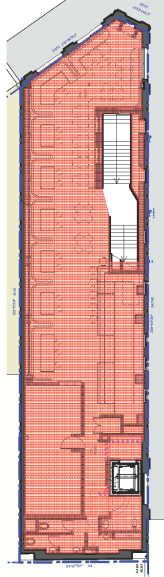


GROUND FLOOR

1 EXISTING FLOOR PLANS



SECOND FLOOR



FIRST FLOOR



GROUND FLOOR

2 PROPOSED FLOOR PLANS

**BLACK**

[blacklinestudio.com.au](http://blacklinestudio.com.au)

**LINE**

[rob@blacklinestudio.com.au](mailto:rob@blacklinestudio.com.au)  
+61 422 183 395

**STUDIO**

35 Richard Avenue SURRY HILLS NSW 2010  
Nominated Architect: Robert James (Partner) W195

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PROJECT:  
**ALTERATIONS AND ADDITIONS @  
323 KING STREET  
NEWTOWN NSW 2042**

CLIENT:  
**MS. KATHRYN YOUNG**

ISSUE: **A** DATE: **6/1/21** DESCRIPTION: **REF. APPLIED TO ADDRESS COUNCIL**

DRAWING TITLE:  
**FSR CALCULATIONS**

PROJECT REFERENCE:  
**2006**

SCALE:  
**1:100 @ A3**

DRAWN:  
**RB**

ISSUE:  
**A**

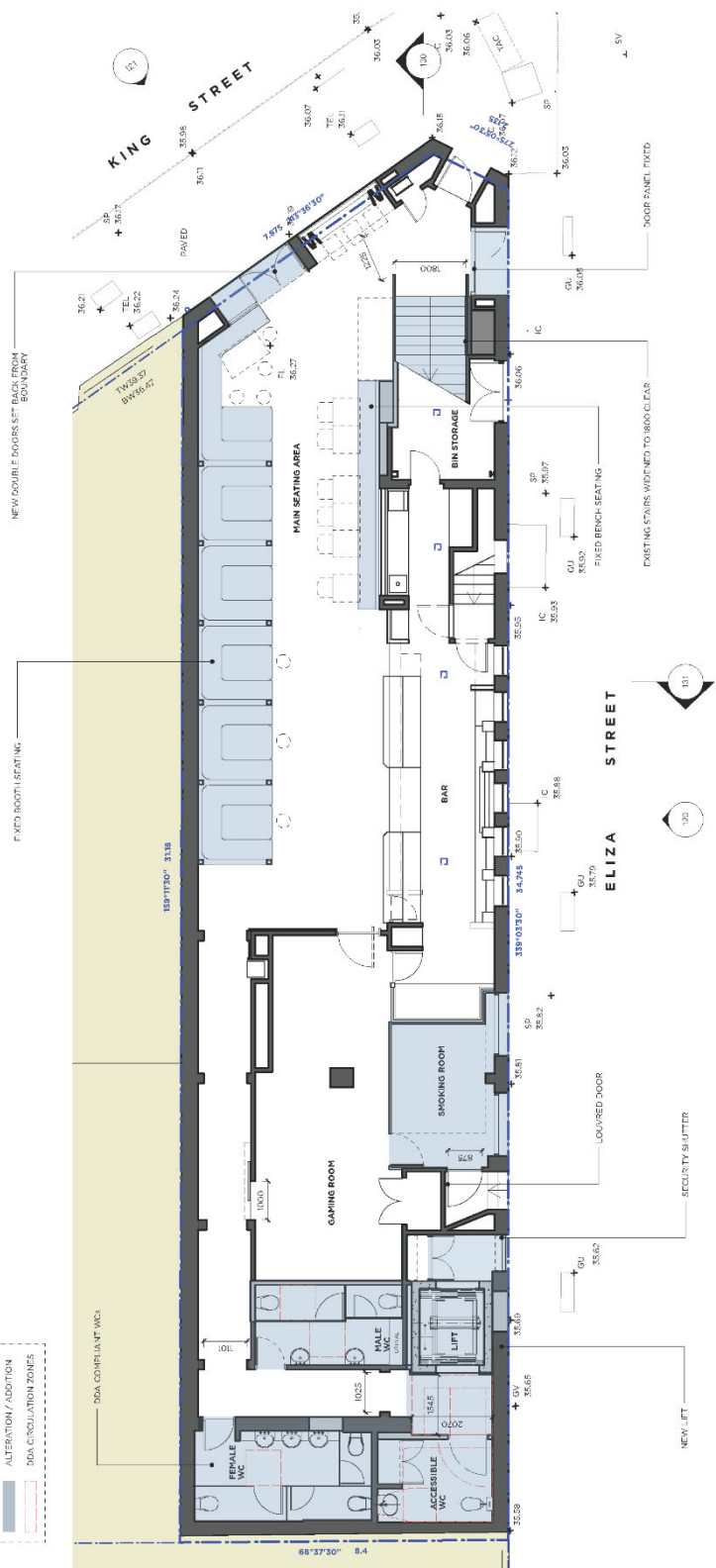
SIZE:  
**A3**

DWG #: **DA 008**

**GROUND FLOOR MAXIMUM PERSONS = 151**

**KEY:**

- EXISTING WALL
- PROPOSED WALL
- DEMOLITION
- ALTERATION / ADDITION
- DATA CIRCULATION ZONES



**PROPOSED GROUND FLOOR PLAN**

DRAWING TITLE: **PROPOSED GROUND FLOOR PLAN**

PROJECT REFERENCE: **2006**

SCALE: **1:100 @ A3**

DATE: **DA 110**

DRAWN: **RB**

ISSUE: **B**

ISSUE	DATE	DESCRIPTION
A	23/09/20	ISSUED FOR DA
B	6/1/21	APPROVED TO ADDRESS COUNCIL FEEDBACK

**ALTERATIONS AND ADDITIONS @ 323 KING STREET NEWTOWN NSW 2042**

CLIENT: **MS. KATHRYN YOUNG**

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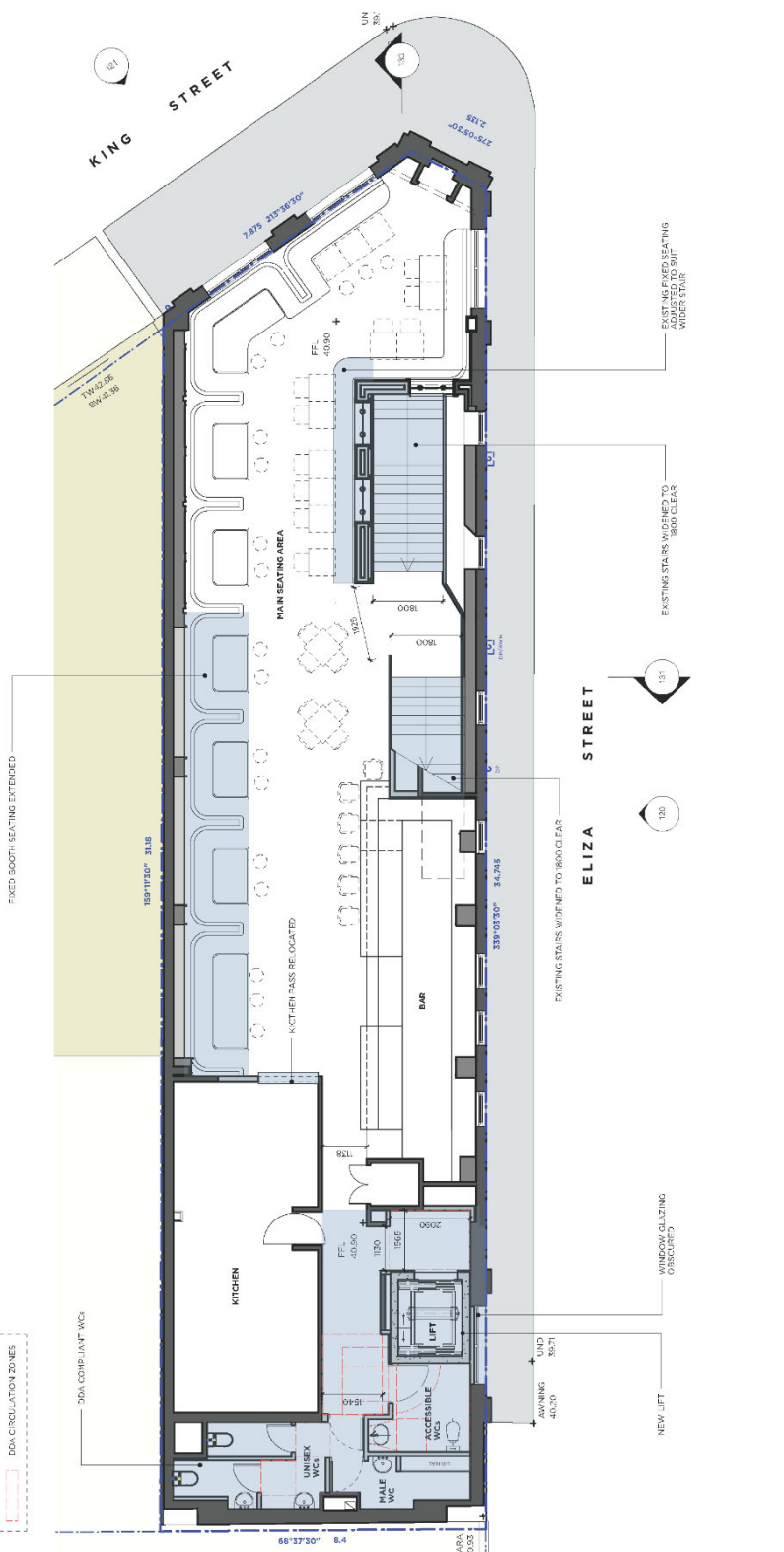
enquiries@blacklinestudio.com.au  
16 452 185 265

35 Rensvale Avenue SURRY HILLS NSW 2000  
Nominated Architect: Robert James Burwell (1118)

**FIRST FLOOR MAXIMUM PERSONS = 170**

**KEY:**

- EXISTING WALL
- PROPOSED WALL
- DEMOLISHED
- ALTERATION / ADDITION
- DDA CIRCULATION ZONES



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rob@blacklinestudio.com.au  
+61 452 192 395

**STUDIO**  
35 Redfern Avenue, SHIPPY HILLS NSW 2010  
Nominated Architect: Robert James Burwell #1185

**PROJECT:**  
ALTERATIONS AND ADDITIONS @  
323 KING STREET  
NEWTOWN NSW 2042

**CLIENT:**  
MS. KATHRYN YOUNG

**DRAWING TITLE:**  
PROPOSED FIRST FLOOR PLAN

**ISSUE:**  
A 25/9/20 ISSUED FOR DA  
B 6/7/21 AMENDED TO ADDRESS COUNCIL RFI

**PROJECT REFERENCE:**  
2006

**SCALE:**  
1:100 @ A3

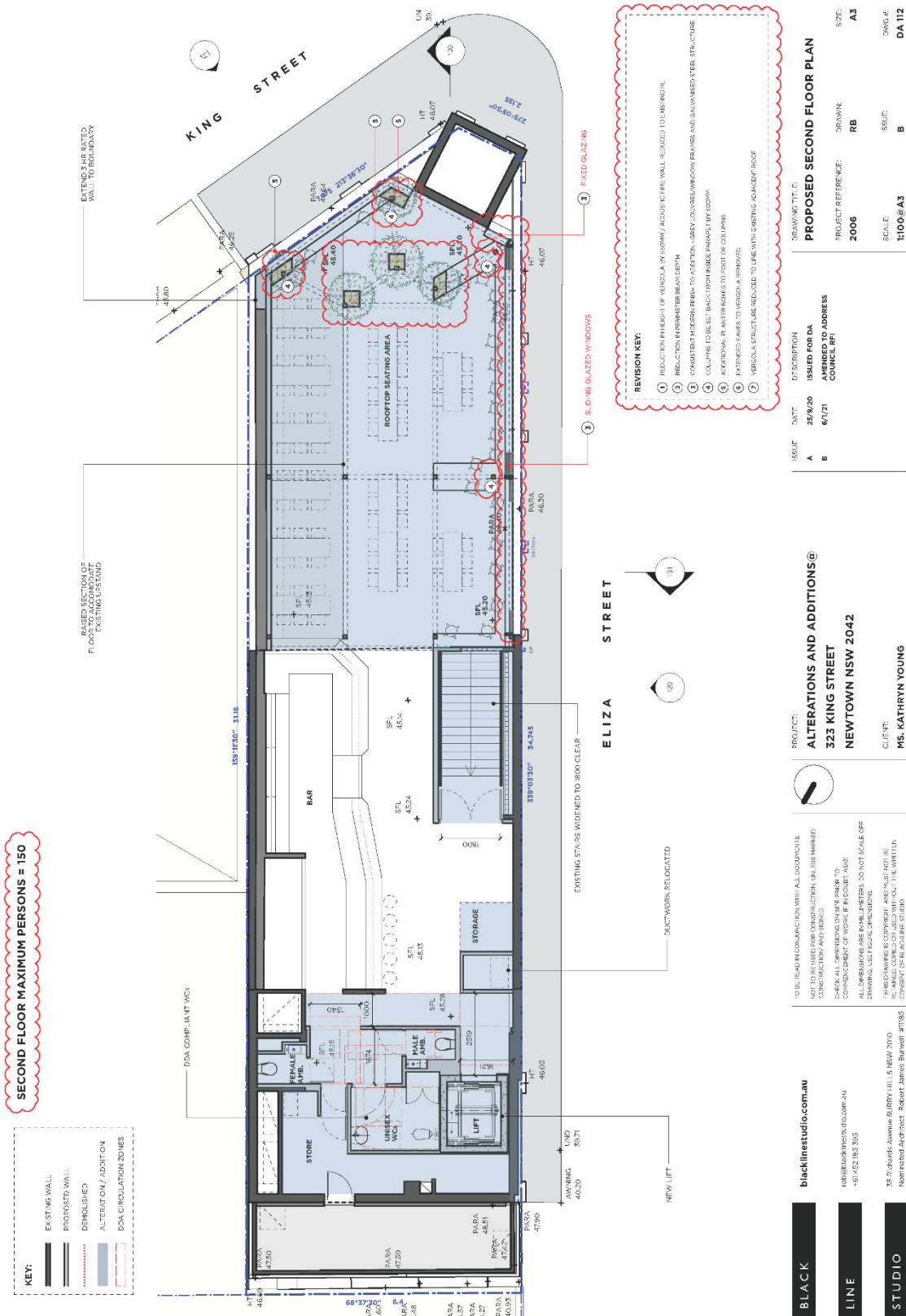
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**DRAWN BY:**  
RB

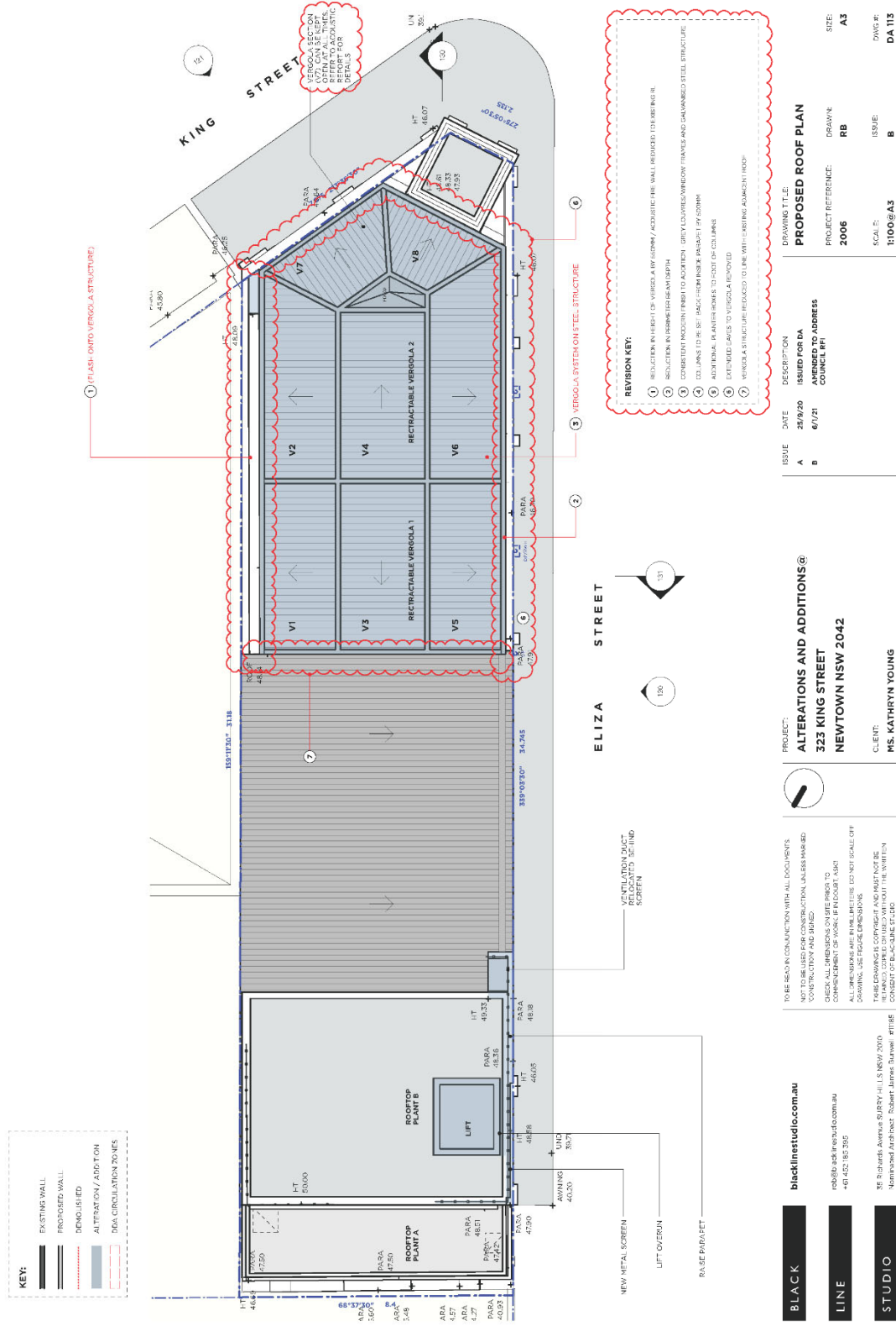
**ISSUED BY:**  
B

**DWG. NO.:**  
DA 111

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**KEY:**

- EXISTING WALL
- PROPOSED WALL
- DEMOLISHED
- ALTERATION / ADDITION
- DATA CIRCULATION ZONES

**REVISION KEY:**

- REDUCTION IN HEIGHT OF VERGOLA BY 650MM / ADJUSTING THE WALL PROFILES TO BE 100MM HL
- REDUCTION IN PITCH OF VERGOLA FROM 14° TO 12°
- COMBINED PRODUCTION FROM TO ADDITION OF GREY EQUILIBRIUM TYPHOON TRAVEL AND GALVANNEED STEEL STRUCTURE
- CEILING LINES TO BE 30' BALCONY FROM INSIDE PARAPET BY 650MM
- ADDITIONAL IN WATER WORKS TO FOOT OF COLUNNE
- EXTENDED GABLE TO VERGOLA REMOVED
- VERGOLA STRUCTURE REMOVED TO LINE WITH EXISTING ADJACENT ROOF

**DRAWING TITLE:**  
**PROPOSED ROOF PLAN**

**ISSUE DATE:** 25/9/20  
**ISSUED FOR:** DA  
**AMENDED TO ADDRESS:** COUNCIL INP

**PROJECT REFERENCE:** 2006  
**DRAWN:** RB  
**SIZE:** A3

**SCALE:** 1:100 @ A3  
**ISSUE:** B  
**DATE:** DA 113

**PROJECT:**  
**ALTERATIONS AND ADDITIONS @**  
**323 KING STREET**  
**NEWTOWN NSW 2042**

**CLIENT:**  
**MS. KATHRYN YOUNG**

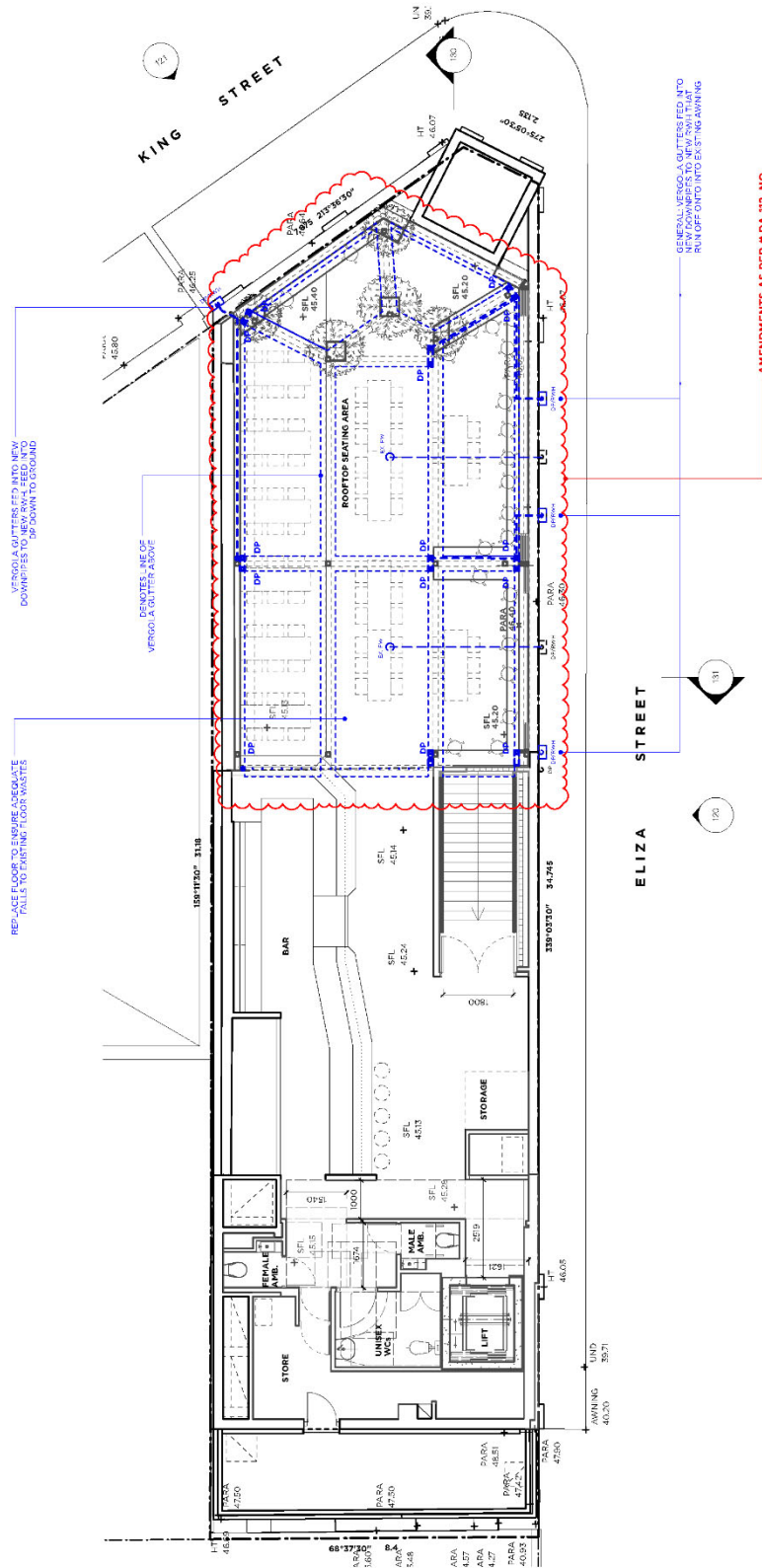
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**STUDIO**  
 26 Richards Avenue BERRY HILLS NSW 2010  
 "Inspired Architecture" Robert James Swain - architect



DRAWING TITLE:  
**PROPOSED SECOND FLOOR  
 STORMWATER CONCEPT PLAN**  
 PROJECT REFERENCE:  
 2006  
 DRAWN:  
 RB  
 SCALE:  
 1:100 @ A3  
 ISSUE:  
 A  
 DWG #:  
 DA 114

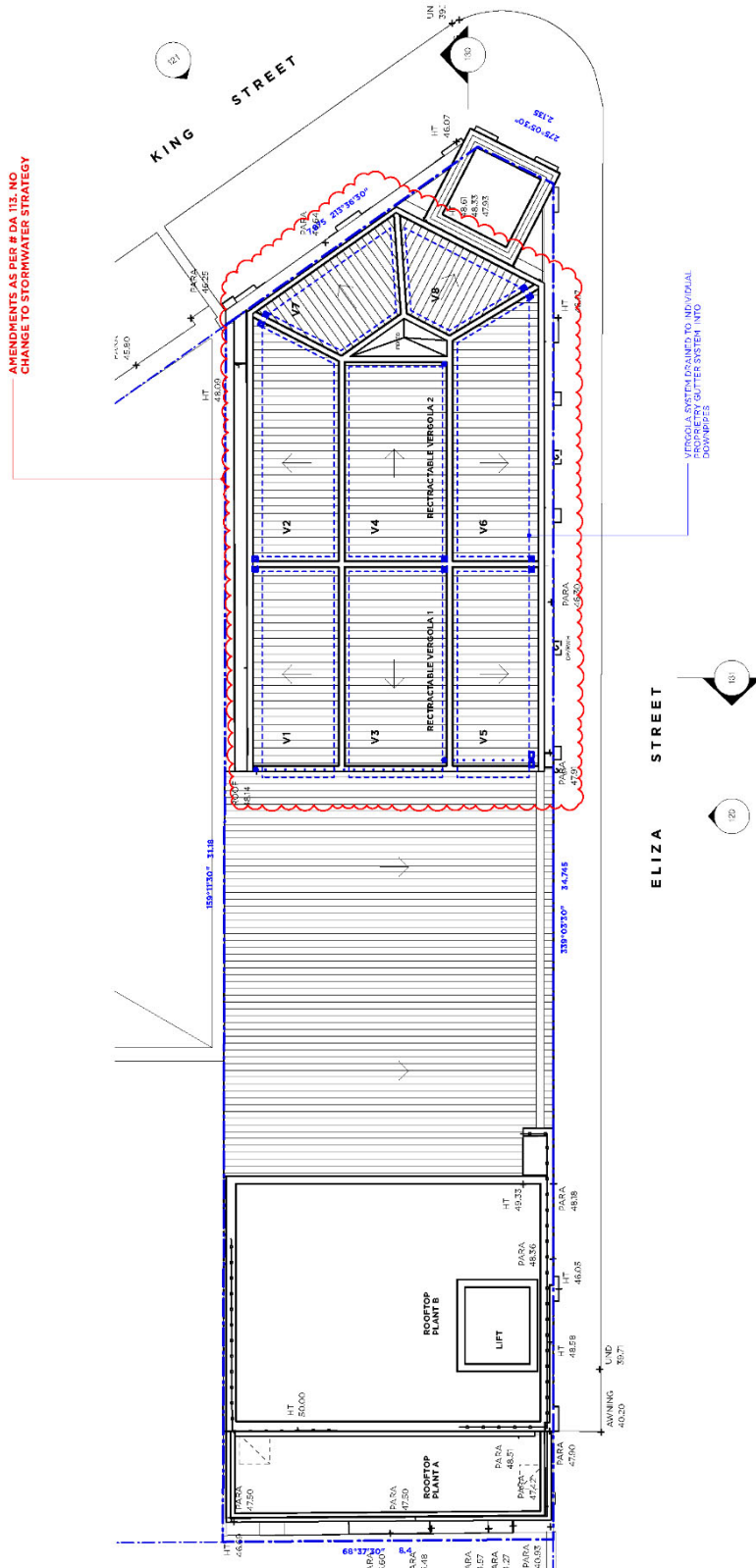
ISSUE: DATE DESCRIPTION  
 A 28/9/20 ISSUED FOR DA  
 B 6/7/21 AMENDED TO ADDRESS COUNCIL RFI

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 88 Richards Avenue SURRY HILLS NSW 2000  
 Note: Robert Arch: Neil Robert James Barwell #17195

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DRAWING TITLE:  
**PROPOSED ROOF STORMWATER  
 CONCEPT PLAN**

PROJECT REFERENCE:  
**2006**

SCALE:  
**1:100@A3**

DATE:  
**25/9/20**

ISSUE:  
**A**

PROJECT DESCRIPTION:  
**ALTERATIONS AND ADDITIONS @  
 323 KING STREET  
 NEWTOWN NSW 2042**

CLIENT:  
**MS. KATHRYN YOUNG**

SIZE:  
**A3**

DWG #:  
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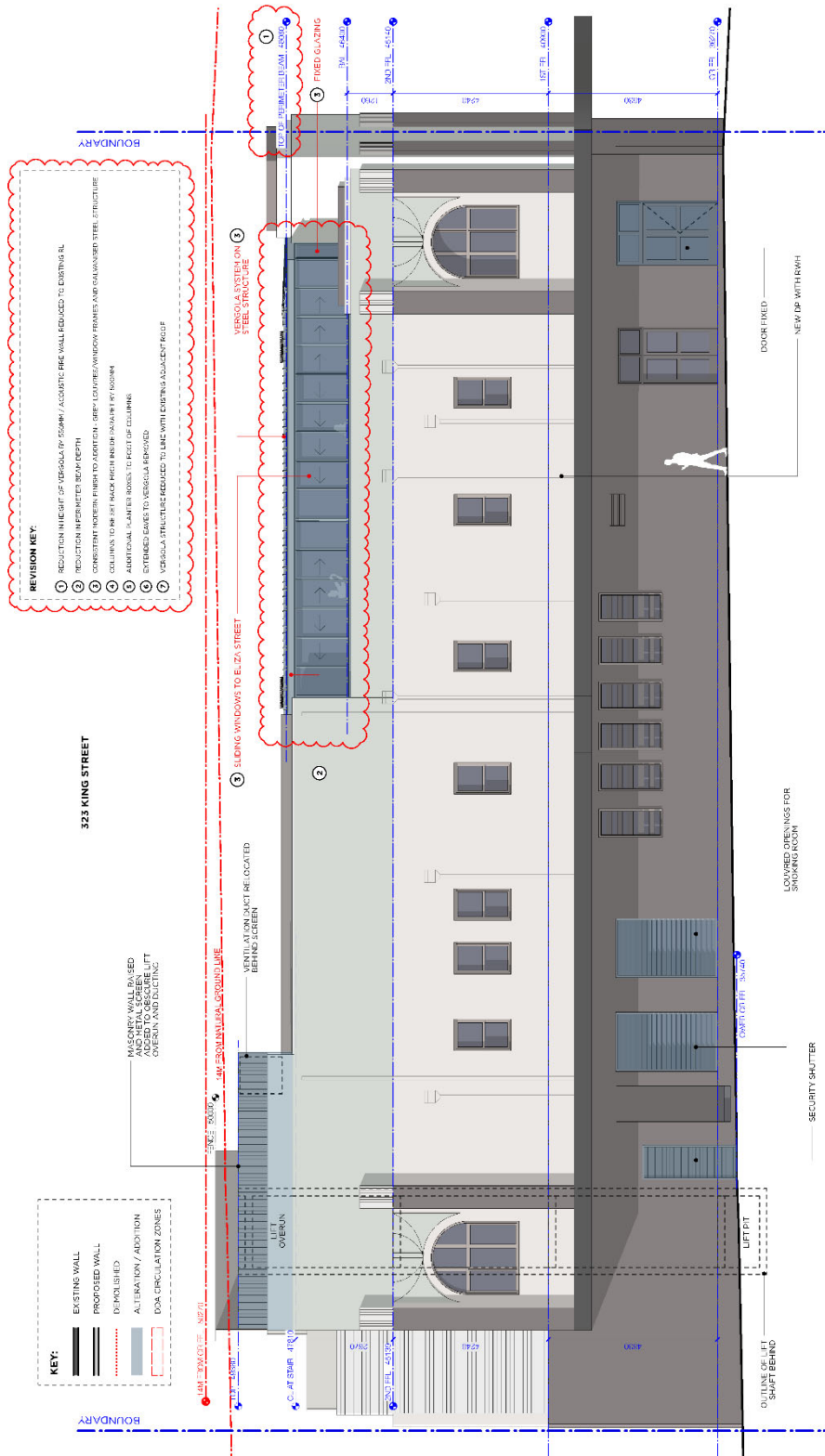
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 +61 422 852 395

32 Richards Avenue SURRY HILLS NSW 2010  
 National Architect: Robert James Blawie (R1156)





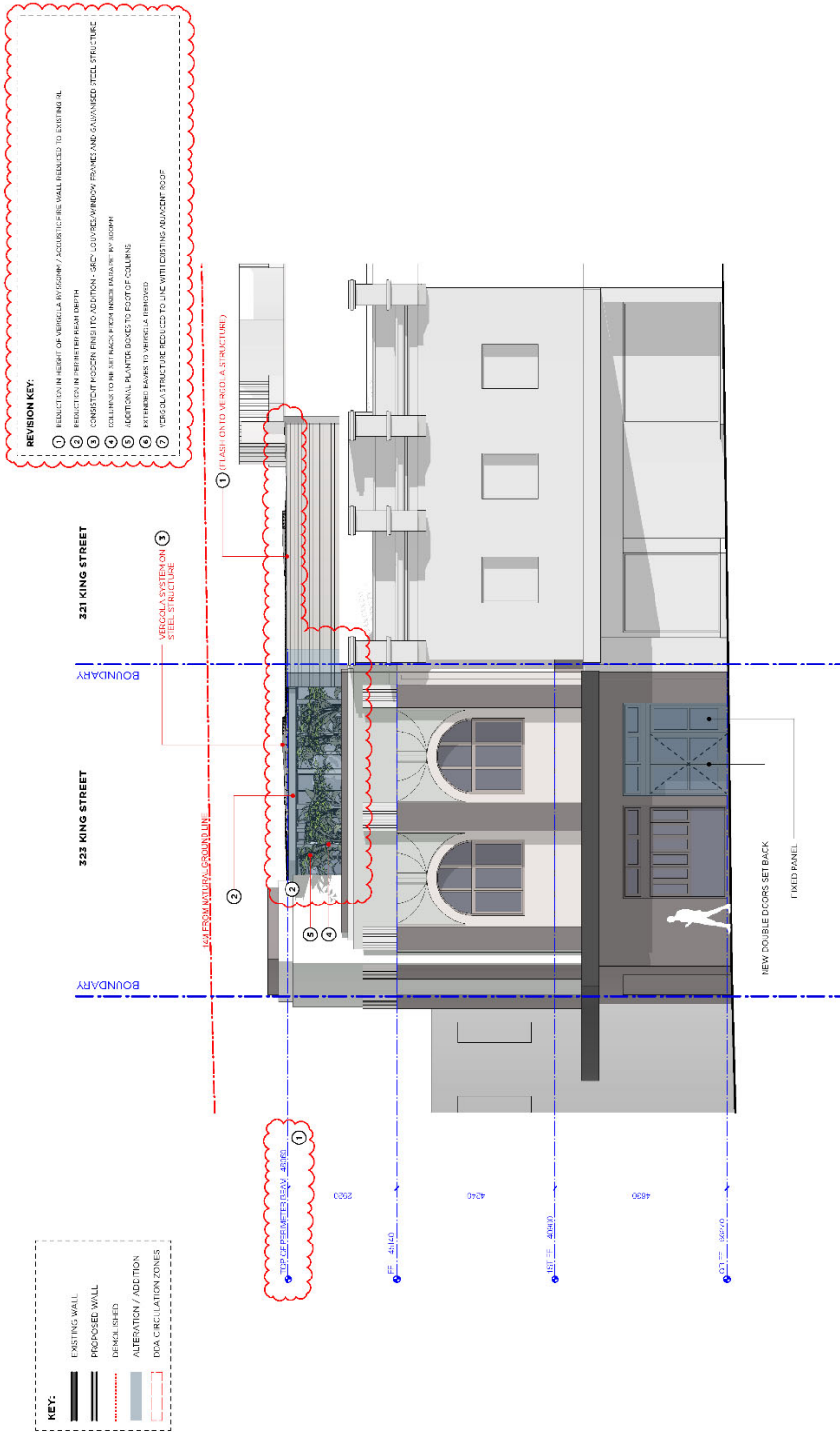
**REVISION KEY:**

- ① REDUCTION IN HEIGHT OF VORTEXGLAZ BY 250MM // ACQUISITIVE ARE WALL REDUCED TO EXISTING SL
- ② REDUCTION IN HEIGHT OF VORTEXGLAZ BY 250MM
- ③ CONSISTENT MODERN FINISH TO EXISTING - GREY GLAZING WINDOW FRAMES AND GALVANIZED STEEL STRUCTURE
- ④ COLLUMS TO BE SET BACK FROM INSIDE WALL BY 100MM
- ⑤ HORIZONTAL GLAZING ROSES TO BE SET OF COLLUMS
- ⑥ STAINED GLASS TO BE REGULAR GLAZING
- ⑦ VORTEXGLAZING REDUCED TO LINE WITH EXISTING ADJACENT ROOF

**KEY:**

- EXISTING WALL
- PROPOSED WALL
- DISPUBLISHED
- ALTERATION / ADDITION
- DOA CIRCULATION ZONES

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---	--	---	---	---	--



**DRAWING TITLE:**  
**PROPOSED SE ELEVATION (KING ST)**

**PROJECT REFERENCE:**  
 2006

**SCALE:**  
 1:100@A3

**ISSUE:**  
 B

**DATE:**  
 6/1/21

**DESCRIPTION:**  
 ISSUED FOR DA  
 AMENDED TO ADDRESS  
 COUNCIL RFI

**SIZE:**  
 A3

**DWG #:**  
 DA 121

**PROJECT:**  
**ALTERATIONS AND ADDITIONS @**  
**323 KING STREET**  
**NEWTOWN NSW 2042**

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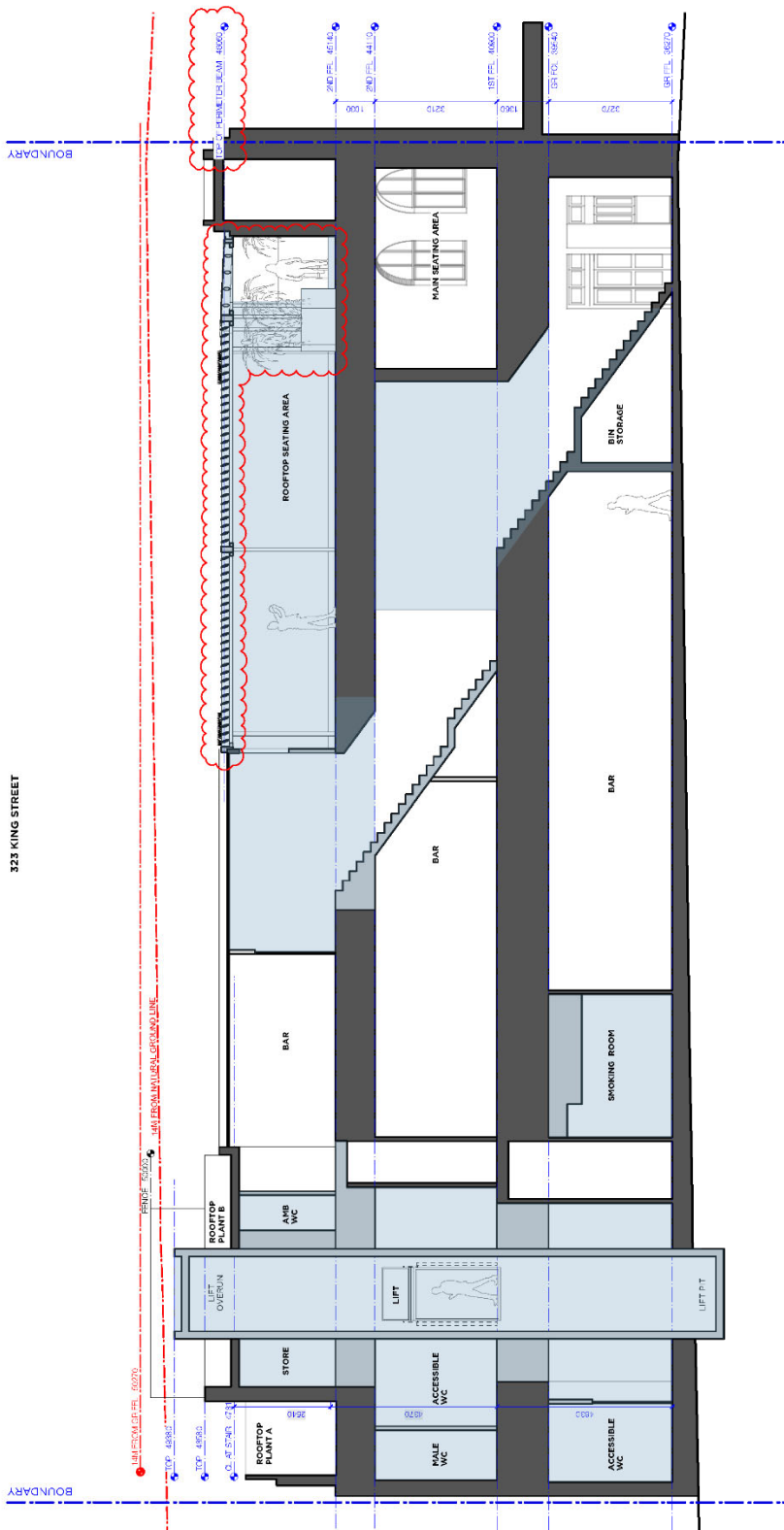
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 Named Architect: Robert James Burwell a11016

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**LINE**

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**DRAWING TITLE:** PROPOSED LONG SECTION  
**PROJECT REFERENCE:** 2006  
**SCALE:** 1:100 @ A3  
**ISSUE:** B  
**DWG #:** DA 130

**ISSUE DATE:** 23/9/20  
**DESCRIPTION:** ISSUED FOR DA  
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**CLIENT:** MS. KATHRYN YOUNG

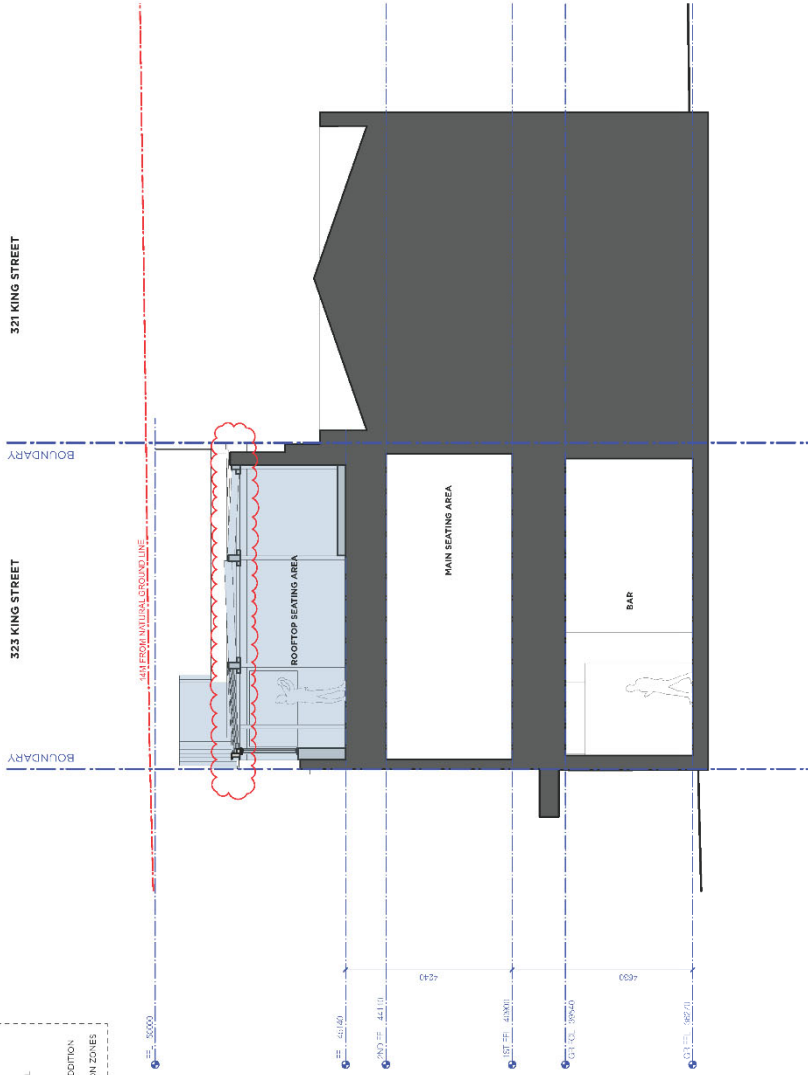
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 161 452 982 3056  
 Nominated Architect: Robert James Swavelle #11185

**BLA C K**  
**L I N E**  
**S T U D I O**

**KEY:**

- EXISTING WALL
- PROPOSED WALL
- DEMOLISHED
- ALTERATION / ADDITION
- DDA CIRCULATION ZONES



**DRAWING TITLE**  
**PROPOSED SHORT SECTION**

**PROJECT REFERENCE:**  
 2006

**SCALE:**  
 1:100@A3

**DWG #:**  
 DA 131

**ISSUE**    **DATE**    **DESCRIPTION**

**A**    28/9/20    ISSUED FOR DA

**B**    6/7/21    AMENDED TO ADDRESS COUNCIL RPT

**DRAWN:** RB

**ISSUED:** B

**PROJECT:**  
**ALTERATIONS AND ADDITIONS @**  
**323 KING STREET**  
**NEWTOWN NSW 2042**

**CLIENT:**  
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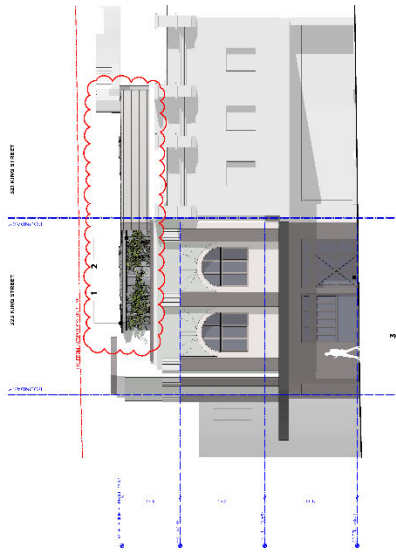
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 Newcastle Architect, Robert James Burwell WTB85

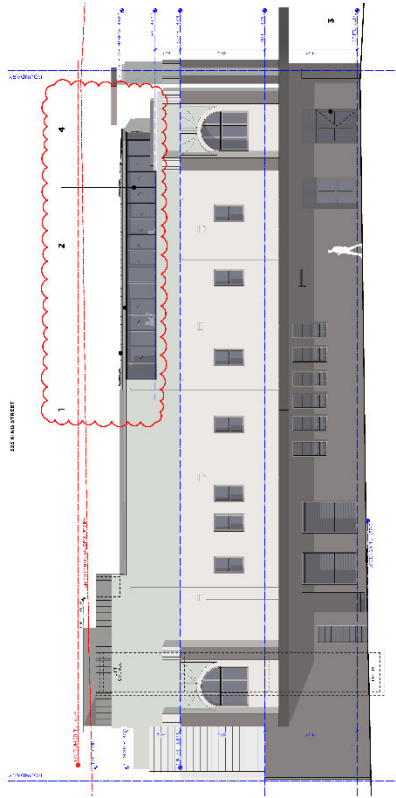
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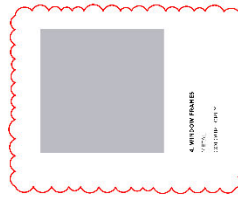
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1 KING STREET ELEVATION



4 ELIZA STREET ELEVATION



3. SIGNAGE  
BLACK  
RAL 9005  
100% POLYURETHANE



2 MATERIALS & FINISHES

ISSUE	DATE	DESCRIPTION
A	25/9/20	ISSUED FOR DA
B	6/7/21	AMENDED TO ADDRESS COUNCIL REPLY

**PROJECT:**  
**ALTERATIONS AND ADDITIONS @**  
**323 KING STREET**  
**NEWTOWN NSW 2042**  
**CLIENT:**  
**MS. KATHRYN YOUNG**

**DRAWINGS FILE:**  
**SCHEDULE OF MATERIALS AND FINISHES**  
**PROJECT REFERENCE:**  
**2006**  
**SCALE:**  
**1:200 @ A3**  
**DRAWN BY:**  
**B**  
**DATE:**  
**DA 300**

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 Melbourne Australia, Robert James Blackwell #1185  
 CONTACT ON 02 9542 1000

**BLACK**  
 RAL 9005  
 100% POLYURETHANE

**LINE**  
 RAL 9005  
 100% POLYURETHANE

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1 SITE PHOTO

2 SITE PHOTO WITH ANNOTATION

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**ISSUED TO ADDRESS COUNCIL**

DRAWING TITLE:  
**STREET VIEW 1 - KING STREET STATION**

PROJECT REFERENCE: **2006** DRAWN: **RB** SIZE: **A3**

SCALE: **NTS** ISSUE: **A** DWG #: **DA 400**





2 SITE PHOTO WITH ANNOTATION



1 SITE PHOTO

**DRAWING TITLE**  
STREET VIEW 2 - CORNER OF WILSON STREET

**PROJECT REFERENCE**  
2006

**SCALE**  
NTS

**ISSUE**  
A

**DATE**  
6/1/21

**DESCRIPTION**  
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**DWG #:**  
DA-410

**ISSUE:**  
A

**DRAWN:**  
RB

**SIZE:**  
A3

**PROJECT:**  
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NEWTOWN NSW 2042

**CLIENT:**  
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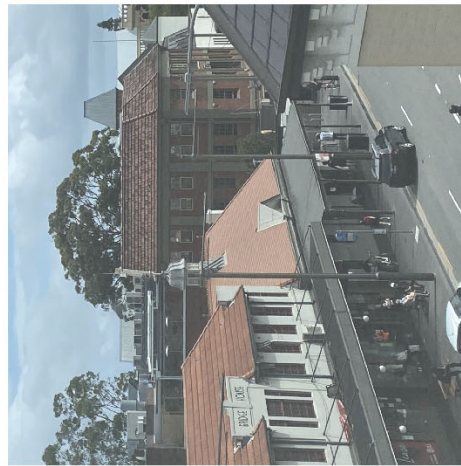
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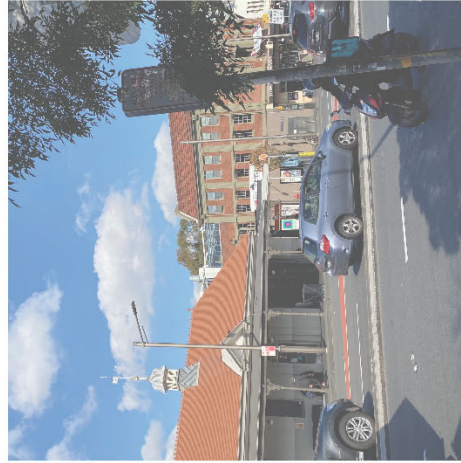
181 Rydalmore Avenue, Rydalmore NSW 2042  
Newcastle Architect: Robert James Dawkins #11185

GRAVANDER STREET STRUCTURE

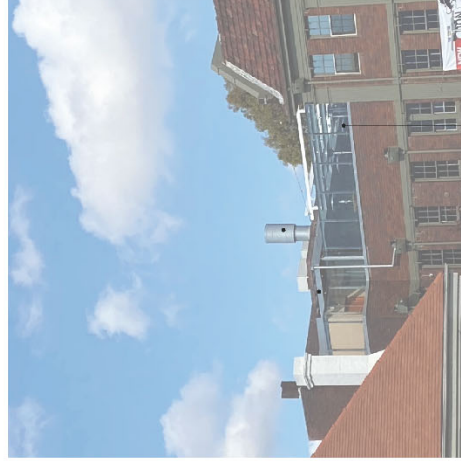
PLANT



1 VIEW FROM WEBSTERS ROOF



2 VIEW FROM KING STREET



3 VIEW FROM KING STREET (DETAIL)

GRAVANDER STREET  
PROJECT

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CLIENT  
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**A**

DATE  
**6/7/21**

DESCRIPTION  
**REF. TO ADDRESS COUNCIL**

DRAWING TITLE  
**PRECEDENT STUDIES  
TOWN HALL HOTEL | KING STREET**

PROJECT REFERENCE  
**2006**

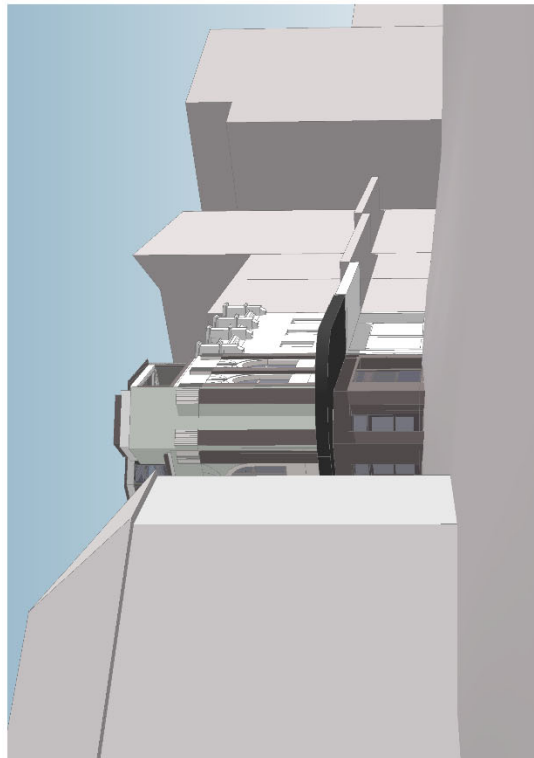
DRAWN  
**RB**

SCALE  
**NTS**

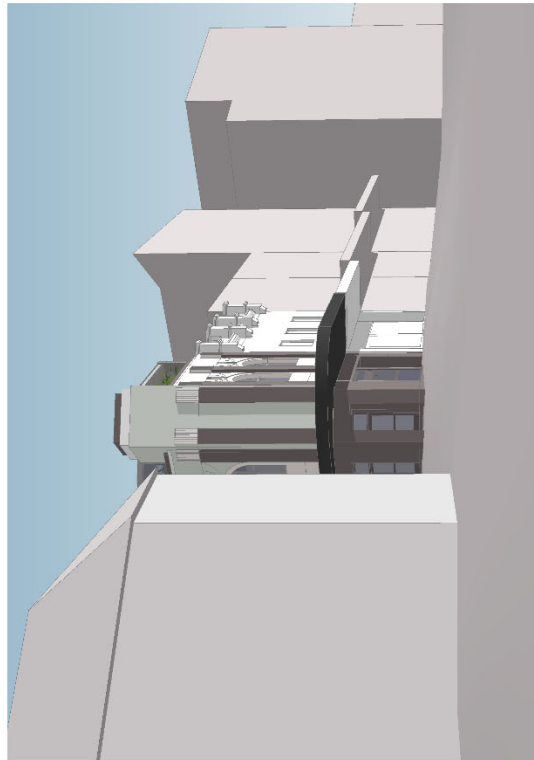
ISSUE  
**A**

DATE  
**DA 420**





1 SUBMITTED FOR DA



2 REVISED DESIGN

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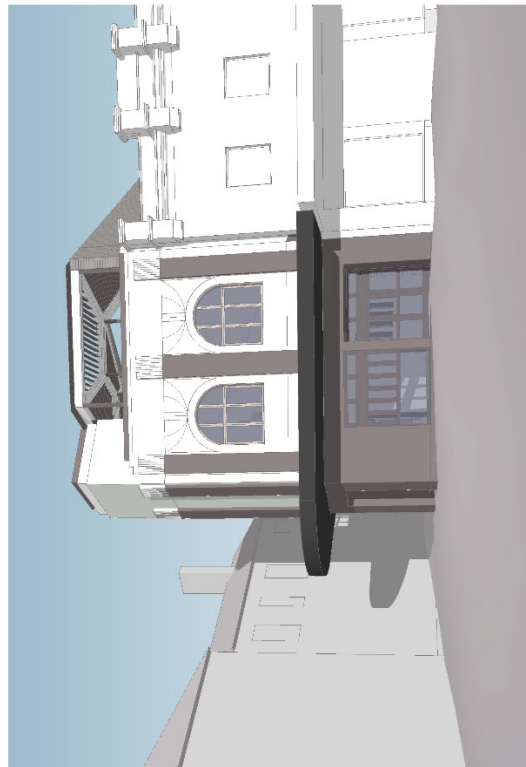
PROJECT: **ALTERATIONS AND ADDITIONS@  
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NEWTOWN NSW 2042**  
CLIENT: **MS. KATHRYN YOUNG**

ISSUE: **A** DATE: **6/1/21** DESCRIPTION: **ISSUED TO ADDRESS COUNCIL  
RFI**

DRAWING TITLE: **VIEW 1 - DESIGN COMPARISON**  
PROJECT REFERENCE: **2006** DRAWN: **RB** SIZE: **A3**  
SCALE: **NTS** ISSUE: **A** DWG #: **DA 450**



2 REVISED DESIGN



1 SUBMITTED FOR DA

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Attachment C- Acoustic Assessment

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Commercial 1 (Unit 27)

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office@koikasacoustics.com

Bexley NSW 2207

www.koikasacoustics.com

ABN: 12 058 524 771

**ACOUSTICAL REPORT**

**PROPOSED RENOVATIONS TO EXISTING PUBLIC BAR**

**WEBSTERS BAR**

**323 KING STREET, NEWTOWN NSW**

**Date:** Monday, 11 January 2021

**File Reference:** 4297R20200818pd323KingStNewtown\_DA\_v6

**DOCUMENT CONTROL**

<b>Project title</b>	Acoustical Report Proposed renovations to existing public bar 323 King Street, Newtown NSW
<b>Project number</b>	4297
<b>Document reference</b>	4297R20200818pd323KingStNewtown_DA_v6
<b>Document path</b>	G:\Shared drives\KA Acoustics 2020\REPORT\Clubs and Restaurants\4297 323 King Street, Newtown (Websters Bar)\4297R20200818pd323KingStNewtown_DA_v6.docx

Version	Date	Author	Review	Notes
V1	03/09/2020	PD	NK	Report version 1 available for issue
V2	22/09/2020	PD	NK	Report version 2 available for issue
V3	23/09/2020	PD	NK	Updated drawing references
V4	16/12/2020	PD	NK	Amended to address Council's RFI
V5	06/01/2021	PD	NK	Updated drawing references
V6	11/01/2021	PD	NK	Updated drawing references

<b>Approved by</b>	Nick Koikas M.A.A.S Principal Consultant
<b>Client</b>	Websters Bar Attention: Kathryn Young – <a href="mailto:kathy@webstersbar.com.au">kathy@webstersbar.com.au</a> C/o Blackline Studio Attention: Rob Burwell - <a href="mailto:rob@blacklinestudio.com.au">rob@blacklinestudio.com.au</a>

*The information contained herein should not be reproduced except in full. The information provided in this report relates to acoustic matters only. Supplementary advice should be sought for other matters relating to construction, design, structural, fire-rating, waterproofing, and the likes.*

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**Prepared For:** Websters Bar

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**ACOUSTICAL REPORT**  
**PROPOSED RENOVATIONS TO EXISTING PUBLIC BAR**  
**323 KING STREET, NEWTOWN NSW**

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## 1.0 INTRODUCTION

Koikas Acoustics Pty Ltd was engaged by Websters Bar to prepare a noise impact assessment for the proposed development at 323 King Street, Newtown seeking approval for the renovation of an existing public bar.

For the DA proposal, the acoustic adequacy of the proposed design must be assessed in terms of standard planning guidelines issued by Inner West Council in their Local Environment Plan (LEP) and Development Control Plan (DCP), and also in terms of other standard planning guidelines related to common sources of noise.

As per Council guidelines and other standard planning instruments, Koikas Acoustics has determined that operational use from the public bars new or altered spaces requires an assessment at the current DA stage. Noise from new areas are to be assessed cumulatively with existing noise sources for all new proposed operating hours and patron capacities.

This report presents the results and findings of an acoustic assessment for the subject proposal. In-principle acoustic treatments and noise control recommendations are included (where required) so that the premises may operate in compliance with the nominated acoustic planning levels.

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**2.0 THE PROPOSAL**

The development currently occupies the site at 323 King Street, Newtown. The application is for alterations and additions to the existing Websters Public Bar. The alterations will result in a new retractable awning over the rooftop terrace and minor internal alterations. The operating hours of the outdoor area and maximum patron numbers are also proposed to change.

The current development design can be seen in architectural drawings as prepared by Blackline Studio, detailed in Table 1. All calculations scenarios conducted for this assessment are referenced to these architectural drawings.

Table 1. Design drawings used in the assessment				
Drawing Title	Drawing No.	Revision	Date	Project No.
Site Analysis Plan	DA 005	A	23/09/2020	2006
Existing Ground	DA 010	A	23/09/2020	2006
Existing First Floor Plan	DA 011	A	23/09/2020	2006
Existing Second Floor Plan	DA 012	A	23/09/2020	2006
Existing Roof Plan	DA 013	A	23/09/2020	2006
Existing SW Elevation (Eliza St)	DA 020	A	23/09/2020	2006
Existing SE Elevation (King St)	DA 021	A	23/09/2020	2006
Proposed Ground Floor Plan	DA 110	B	06/01/2021	2006
Proposed First Floor Plan	DA 111	B	06/01/2021	2006
Proposed Second Floor Plan	DA 112	B	06/01/2021	2006
Proposed Roof Plan	DA 113	B	06/01/2021	2006
Proposed Roof Plan (Concept)	DA 114	B	06/01/2021	2006
Proposed SW Elevation (Eliza St)	DA 120	B	06/01/2021	2006
Proposed SE Elevation (King St)	DA 121	B	06/01/2021	2006
Notes	1. Detailed above are the plans and drawings available at the time of assessment. Where design changes are made without the prior knowledge of Koikas Acoustics, the assessment results and conclusions published within this report may be incorrect.			

The development location is situated in a primarily urban commercial area. The subject site is surrounded by commercial premises directly to the east, south and west. The nearest residential premise is located at 3 Eliza Street, located directly to the north of the subject site.

The subject site and surrounding properties are identified on the aerial photograph included as Figure 1. Prevailing ambient noise conditions on-site and in the local area are generally the result of typical environmental noise such as traffic and localised domestic and commercial noise sources.

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The ground and first floor of the venue is currently approved to operate under a 24 hours license Monday to Saturday, and 10am to midnight Sundays.

The newly renovated rooftop terrace area is proposed to trade between 10am and 3am Monday to Saturday, and 10am – Midnight Sundays.

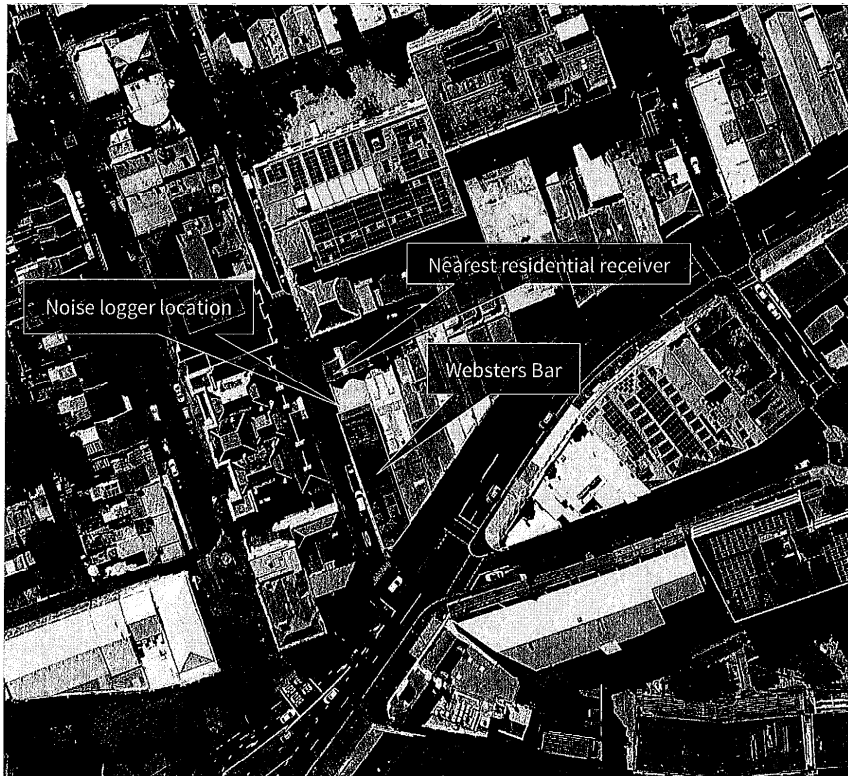


Figure 1. Aerial photo of the subject site and surrounding area (image source – Sixmaps)

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**3.0 AMBIENT NOISE SURVEY**

Existing external ambient noise levels were measured by installing a sound level meter data logger on the rooftop area of 319 King Street, Newtown.

A Type 1 precision Svantek 977 noise logger was used for the survey. As the sound level meter was installed on the roof, the microphone was approximately 6 metres above the ground level in free field conditions.

The instrument was set-up to measure A-frequency and 'Fast' time-weighted noise levels. Noise level data was stored within the logger memory at 15-minute intervals for about one week between Friday 14<sup>th</sup> and Thursday 20<sup>th</sup> August 2020.

Calibration readings were taken before and after each survey with a NATA calibrated and certified Larson Davis CAL200 precision acoustic calibrator. No system drift was observed for this meter.

BOM weather records for the nearest available weather station indicate that inclement weather conditions adversely impacted on the noise survey. All extraneous noise and inclement weather events were removed from the survey. The Bureau of Meteorology weather reports are attached as **Appendix A**.

Table 2: Summary of noise logger results (dB)			
Location	Period, T <sup>1</sup>	Ambient noise level LAeq	Rating background level LA90
319 King St	Day	55	48
	Evening	55	51
	Night	51	42
Notes	1.	The NSW EPA NPI refers to Night: 10 pm to 7 am Monday to Saturday and 10 pm to 8 am Sunday and public holidays.	

Unattended logger graphs are attached as **Appendix B**.

A detailed summary of the background noise levels with associated 1/1 octave band frequencies is provided in Table 3.



Table 1: 1/1 Octave Band Background noise levels - Leq,oneid [dB]										
Description	1/1 octave band centre frequency [Hz]									
	31.5	63	125	250	500	1k	2k	4k	8k	Total
Daytime [0700-1800]	21	28	38	39	42	43	40	33	24	48
Evening [1800-2200]	18	26	36	40	44	47	44	37	27	51
Early Night [2200-0000]	12	22	32	36	38	40	36	29	22	44
Night [0000-0700]	10	20	30	34	35	37	33	26	22	42

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**4.0 ACOUSTICAL PLANNING GUIDELINES**

The L&GNSW standard LA10 noise condition is applied to the assessment of noise from licensed areas of the premises.

**4.1 LICENSED PREMISES AND ENTERTAINMENT VENUES**

For noise that is emitted from a licensed/entertainment venue, the applied residential noise criteria are:

- LA10 noise levels from licensed venue noise sources must not exceed 5dB above the background level (assessed in 1/1 octave bands) at a residence between the hours of 7 am to 12 midnight.
- LA10 noise levels from licensed venue noise sources must not exceed the background level (assessed in 1/1 octave bands) at a residence between the hours of 12 midnight and 7 am.
- Noise from licensed venue noise sources must not be audible inside a habitable room in any residence after midnight and before 7 am.

A detailed summary of the licensed area noise criteria with associated 1/1 octave band frequencies are provided in Table 4.

Table 4 - L&GNSW noise criteria [dB]

Assessment Period	1/1 octave band centre frequency [Hz]										Total
	31.5	63	125	250	500	1k	2k	4k	8k		
7 am to 6 pm (RBL + 5)	26	33	43	44	47	48	45	38	29		53
6 pm to 10 pm (RBL + 5)	23	31	41	45	49	52	49	42	32		56
10 pm to 12 am (RBL + 5)	17	27	37	41	43	45	41	34	27		49
12 am to 7 am (RBL - 8dB)	2	12	22	26	27	29	25	18	14		34

**4.2 SLEEP DISTURBANCE/AROUSAL**

The EPA’s Sleep Arousal Criterion is described in the following documents; however, the conclusions in each document sheds an element of uncertainty on account that social surveys have not been undertaken to validate the guidelines:

- EPA’s Environmental Criteria for Road Traffic Noise,
- EPA’s Environmental Noise Control Manual 1994, nor the
- EPA’s Industrial Noise Policy/Noise Policy for Industry.

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The NPfl also provides guidance on assessing potential sleep disturbance for residents affected by maximum noise levels from a particular development or assessment site. Although the current literature is yet to define a quantifiable noise level above which sleep disturbance is experienced, guidelines are provided by the EPA for assessing the potential for sleep disturbance as follows:

- LAeq 15 minutes      40dB or the prevailing RBL plus 5dB, whichever is the greater;
- LAmax                    52dB or the prevailing RBL plus 15dB, whichever is the greater;
  
- The EPA considered that the *L<sub>A1, 1 minute</sub> of any specific noise source should not exceed the background noise level (L<sub>A90, 15 minutes</sub>) by more than 15 dB when measured outside the bedroom window.* A letter dated 14 December 1992 was distributed to all Regional Staff of the EPA and stated that the measurement period for quantifying the L<sub>A1</sub> is 1 minute, the time weighting of the sound level meter be set on “Fast”, and that the sound measurements be taken outside and 1 metre from the closest bedroom window.

In the DECCW’s, Sleep Disturbance is defined as “Awakening and disturbance to sleep stages”.

The DECCW Road Noise Policy (RNP) also provides some guidance for assessing noise that may result in sleep disturbance. This document suggests that a low probability for sleep disturbance can be achieved where LAmax noise levels within a bedroom are kept below 50-55dB, and LA1, 1-minute noise levels do not exceed the background level by more than 15dB outside a bedroom window.

A summary of the existing sleep disturbance guidelines are as follows:

Table 5: Sleep disturbance assessment guidelines					
Location	Period	Noise Policy for Industry		Road Noise Policy	
		LAeq 15 mins	LAmax	LAmax	LA1, 1 min
Nearest neighbouring Bedroom	Night	47	57	55 indoors	57
Notes	1.	Day: 7am to 6pm Monday to Saturday and 8am to 6pm Sunday and public holidays Evening: 6pm to 10pm Night: 10pm to 7am Monday to Saturday and 10pm to 8am Sunday and public holidays			



Koikas Acoustics has been advised by the EPA that the sleep arousal criterion is only a recommended assessment procedure and is not a legislated Act or Regulation as for example in the Protection of the Environment Operations Act 1997 (POEO Act 1997).

Australian Standard 1055.3-1984 *"Description and Measurement of Environmental Noise Part 3 Acquisition of Data Pertinent to Land Use"* considers the acquisition of data pertinent to land use, i.e. *"the measurement technique used, e.g. instrumentation, number of microphone positions, nature of the sound sources and the receivers and the significance of the results for land use."* Noise should therefore, be addressed in a manner pertinent to the environment in which it occurs and the noise metrics used, are an important measure of the noise.

In this case, there are other noise sources in the neighbourhood that may be louder and would exceed the EPA's sleep arousal/disturbance criterion for patrons shouting on the premise, for example, vehicles traversing the local area, doors slamming etc.

The rated background level (RBL) for the nearest residential premise was found to be 42 dBA during the night-time period. The  $L_{A1, 1 \text{ minute}}$  noise criterion for this residential premise is therefore 57 dB.

In addition, it is noted, the EPA's ECRTN, Appendix B, page 29 states:

- *"Maximum internal noise levels below 50-55 dB(A) are unlikely to cause awakening reactions", and*
- *"One or two noise events per night, with maximum internal noise levels of 65-70 dB(A), are not likely to affect health and well-being significantly".*

The EPA also state that a noise event with maximum internal levels of 65 to 70 dB(A) occurring once or twice per night would not likely affect health and well-being significantly. If the EPA states that a level over 55 dB(A) could cause awakening, then this would imply that it would also interrupt sleep and therefore on a regular basis could affect the well-being of a person significantly. It would appear that these statements are therefore contradictory and the relevance of the sleep disturbance criterion is questionable.

The EPA also concludes (Page 30 of the EPA's ECRTN), that *"until more definitive information becomes available, it will not be possible to develop noise level criteria for sleep disturbance that would have the equivalent level of confidence as those noise criteria used for annoyance reactions."*

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In Section **2.2.4 Assessment of Sleep Disturbance** of the DECCW's NGLG (August 2009) document also states "*Currently, there is no definitive guideline to indicate a noise level that causes sleep disturbance and more research is needed to better define this relationship.*"

In conclusion and based on the above, the EPA's sleep disturbance criteria may not be considered for such assessments on account of the low level of confidence asserted by the EPA in relation to the current correlation between noise levels and sleep disturbance/awakening. In addition, the level of noise generated by other sound sources unrelated to the subject site further compounds the relevance of the noise metrics considered in this assessment.

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## 5.0 LICENSED PREMISES NOISE ASSESSMENT

Noise levels at nearby receiver sites are predicted using the Cadna/A noise calculation program so that potential noise issues can be identified and addressed in the acoustic design. The software calculates outdoor sound propagation to accord with ISO 9613-2:1996.

### 5.1 DESIGN SCENARIOS AND MODELLING ASSUMPTIONS

Noise from the proposed renovated outdoor terrace area and internal spaces is assessed to nearby residential receivers within three distinct periods and operating modes. As the outdoor terrace area is proposed to operate up until 3 am, the daytime, evening, early night and night-time periods will be considered.

Furthermore, design details and assumptions regarding each of the noise model scenarios are as follows:

- It is assumed that the outdoor rooftop terrace area and internal spaces will be used to their maximum capacity during all proposed operating hours. Proposed maximum capacity is
  - Ground floor: 151 Patrons
  - First Floor: 170 Patrons
  - Terrace: 150 Patrons
- Operating modes alter between the daytime/evening, early night and night-time periods. The opening/closing of awnings, windows and doors are specified in each scenario in section 5.3 below.

### 5.2 SOURCE NOISE LEVELS

Noise levels of patron noise were measured on-site between the hours of 18:00 and 19:00 on Saturday 15<sup>th</sup> August 2020. The licensee has informed Koikas Acoustics that 6 pm on a Saturday evening is considered one of the busiest times of the week. Noise levels were taken at maximum possible capacity during the 2020 COVID-19 Pandemic. Exact patron numbers during noise measurements are provided in table 6. As the COVID-19 Pandemic is on-going, corrections have been made to increase measured noise levels to that of a regular operation maximum capacity sought as a part of the Development Application.

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The Lombard effect can be used to predict the increased vocal effort by a speaker in a room as ambient noise levels increase. As vocal effort of one speaker increases, so does for all speakers within the space. Rindel's calculation algorithm was used to predict the average ambient noise level within each space based on the increased patron capacity.

RMS noise limiter systems already exist within the venue. When noise measurements were conducted, the limiters were locked to their existing restricted levels detailed in DA200200553.09.

The HiQnet Audioarchitects RMS limiter has been locked by a third party and is unable to be adjusted by Websters Bar or Koikas Acoustics. All music noise measurements are respective of the limitations on music levels based on the previous DA. Noise measurements 1m of the terrace loudspeakers were consistent with the limiter settings detailed in DA200200553.09.

An NTi XL2 Type 1 precision spectrum analyser was used to measure the existing patron noise levels within the venue. The equipment used for taking noise level measurements is traceable to NATA calibration certification. The attended noise survey results are presented in Table 6 below.

Table 6. Source noise levels $L_{eq}$ [dB]										
Description	Noise Metric	1/1 octave band centre frequency [Hz]								Total
		63	125	250	500	1000	2000	4000	8000	
Roof top terrace area (80 patrons) + music (spatial average)	SWL	53	69	68	77	81	76	71	64	<b>84</b>
Speaker playing background music on rooftop terrace	SPL @ 1m	54	68	70	81	82	82	78	73	<b>87</b>
Internal noise levels – Ground Floor (32 patrons) (spatial average)	SWL	57	63	69	81	86	83	76	59	<b>89</b>
Internal noise levels – First Floor (39 patrons) (spatial average)	SWL	47	61	68	78	80	75	69	57	<b>83</b>
Internal noise levels – Gaming Room (10 patrons) (spatial average)	SWL	45	55	59	62	64	64	61	52	<b>70</b>

SWL = sound power level  
 SPL = sound pressure level

**5.3 CALCULATED NOISE AT RECEIVERS**

The nearest and most noise-sensitive residential receivers are:

- R1: Residential receiver 3 Eliza Street Upper floor window
- R2: Residential receiver 283 Australia Street Upper floor window

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The most noise-sensitive residential receiver point locations referred above were assessed for compliance and where necessary, Koikas Acoustics has determined the extent and type of additional noise mitigation measures necessary for compliance.

Refer to **Appendix C** for Cadna/A contour maps and receiver locations.

**SCENARIO 1.1 – Early Night (2200-0000) (OLGR/LAB)**

**Licensed premise noise to the neighbouring residential premises:**

**LA10 ≤ 49 dB at neighbouring residential boundaries (2200-0000)**

The following noise sources were considered for the evening period noise model scenario - 15 minutes period:

- 150 patrons (maximum capacity) in outdoor terrace area, background music playing
- 151 patrons (maximum capacity) on the ground floor and 170 patrons (maximum capacity) on the first-floor level (windows fronting King Street open)
- Main entrance door open
- Gaming room side door closed
- Operable rooftop Vergola style awning open
- Terrace operable windows facing Eliza Street closed

**Table 7 – Predicted receiver noise levels – Scenario 1.1 [dB]**

Assessment location	Noise metric	1/1 octave band centre frequency [Hz]								Total
		63	125	250	500	1000	2000	4000	8000	
External noise criteria [L90 + 5]	LA10	27	37	41	43	45	41	34	27	49
R1: Residential	LA10	20	29	33	43	45	39	32	16	48
R2: Residential	LA10	13	26	25	32	36	30	22	8	39

Compliance is expected at all locations and octave bands for the early night period. It is the opinion of Koikas Acoustics that the nominated noise criteria will be achieved provided the recommendations in section 5.4 of this report are properly implemented.

**SCENARIO 1.2 –Night (0000-0700) (OLGR/LAB)**

**Licensed premise noise to the neighbouring residential premises:**

**LA10 ≤ 34 dB inside neighbouring residential dwellings (0000-0700)**

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The following noise sources were considered for the evening period noise model scenario - 15 minutes period:

- 150 patrons (maximum capacity) in outdoor terrace area, background music playing
- 151 patrons (maximum capacity) on the ground floor and 170 patrons (maximum capacity) on the first-floor level (all windows closed)
- Main entrance door closed
- Gaming room side door closed
- Operable rooftop *Vergola* style awning closed (except small section facing King St, see figure 3.)
- Terrace operable windows facing Eliza Street closed

Assessment location	Noise metric	1/1 octave band centre frequency [Hz]								
		63	125	250	500	1000	2000	4000	8000	Total
External noise criteria [L90 + 5]	L <sub>A10</sub>	12	22	26	27	29	25	18	14	34
R1: Residential	L <sub>A10</sub>	17 <sup>1</sup>	27 <sup>1</sup>	24	28 <sup>1</sup>	30 <sup>1</sup>	24	14	0	34
R2: Residential	L <sub>A10</sub>	13 <sup>1</sup>	26 <sup>1</sup>	21	25	25	16	7	-5	31
Notes	1.	Noise reduction through an open window with non-direct line of sight is expected to be approximately 5-10 dB, therefore compliance with the limiting OLGR internal noise criteria is expected to be achieved for these octave bands.								

Compliance is expected at all locations and octave bands for the night-time period. It is the opinion of Koikas Acoustics that the nominated noise criteria will be achieved provided the recommendations in section 5.4 of this report are properly implemented.

**SCENARIO 1.3 – Daytime & Evening (0700-2200) (OLGR/LAB)**

**Licensed premise noise to the neighbouring residential premises:**

**L<sub>A10</sub> ≤ 53 dB at neighbouring residential boundaries (0700-1800)**

**L<sub>A10</sub> ≤ 56 dB at neighbouring residential boundaries (1800-2200)**

The following noise sources were considered for the evening period noise model scenario - 15 minutes period:

- 150 patrons (maximum capacity) in outdoor terrace area, background music playing
- 151 patrons (maximum capacity) on the ground floor and 170 patrons (maximum capacity) on the first-floor level (windows fronting King Street open)

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- Main entrance door open
- Gaming room side door closed
- Operable rooftop Vergola style awning open
- Terrace operable windows facing Eliza Street open

**Table 9. Predicted receiver noise levels - Scenario 1.3 [dB]**

Assessment location	Noise metric	1/1 octave band centre frequency [Hz]								Total
		63	125	250	500	1000	2000	4000	8000	
External noise criteria [L90 + 5]	L <sub>A10</sub>	33	43	44	47	48	45	38	29	53
R1: Residential	L <sub>A10</sub>	24	36	36	45	48	42	35	23	51
R2: Residential	L <sub>A10</sub>	18	32	30	39	42	37	30	18	45

Compliance is expected at all locations and octave bands for the daytime and evening periods. It is the opinion of Koikas Acoustics that the nominated noise criteria will be achieved provided the recommendations in section 5.4 of this report are properly implemented.

**SCENARIO 2.1 – Night (2200-0700) (NPf)**

**Sleep Disturbance - Noise Criteria assessed to the nearest bedroom windows:**

**L<sub>A</sub>Fmax ≤ 57 dB for residential premises (2200-0700)**

- One patron shouting on the rooftop terrace during the night-time period
- Main entrance door instantaneously opened for entry/exit

The maximum instantaneous noise was assessed from the rooftop terrace area in order to evaluate possible sleep disturbance to nearby bedrooms. The L<sub>WAmax</sub> of a patron shouting was derived from the equivalent noise level of “shouting” vocal effort, with an addition of 5 dB to account for the typical difference between the equivalent noise level and the instantaneous noise level of a source.

At a worse-case scenario this was predicted to be L<sub>WAmax</sub> 96 dB from the shouting patrons, assessed cumulatively with the ground floor entry door being opened then closed for access. Worse-case scenario instantaneous noise levels were calculated using a calibrated Cadna/A model from the terrace and ground floor entry areas to both nearby residential receiver points.



Noise reduction to the nearest windows was calculated. The resulting sound pressure level at the most affected neighbouring residential windows was found to be 50 dB(A) at the window of 283 Australia Street, Newtown, and 48 dB(A) at the window of 3 Eliza Street, Newtown.

The maximum internal noise inside the bedrooms is calculated to be 5-10dB lower than these values which meets the EPA's  $\leq 55-57$  dB(A) guideline, and is therefore deemed compliant. Even with the possibility that the maximum instantaneous noise may occur multiple times per night, it is not expected that any sleep disturbance will occur for neighbouring residents.

#### 5.4 RECOMMENDED NOISE CONTROLS

This report finds that the following noise control/noise management strategies are recommended for the proposed development:

- Up until midnight, the outdoor rooftop *Vergola* awning may be open. The roof must be completely closed and sealed however between the hours of midnight and 7 am except for the small section shown in figure 3 below.
- Windows and doors fronting Eliza Street should remain closed during the entire early night and night-time periods.
- Windows behind the bar storage areas on the ground and first floors (facing Eliza Street) should be sheeted up with a minimum 13mm standard plasterboard.
- Windows and doors fronting King Street may remain open until midnight, however between the hours of midnight and 7 am they must be kept closed in-between use as entry/exit for patrons.
- Balustrades of the rooftop area should be at least 1.2m high and be of a sealed construction (minimal air gaps).
- The western wall of the rooftop seating area must be constructed of a minimum 6.38 mm laminated glass sliding windows. Glazing should extend completely to the underside of the awning so that it is completely sealed when windows are closed. These windows may be open during the daytime and evening periods, but must be closed between 10pm and 7am. All fixed glass sections around the sliding windows should be constructed of the same thickness glazing and sealed completely from ground to ceiling.
- The eastern party wall of the rooftop area under the awning should be treated with absorptive materials that possess an NRC of not less than 0.6. Coverage should be at least 75% of this surface. See figure 2 below for location.

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- Speakers in the rooftop area should be limited to a sound pressure level of  $L_{A10}$  75 dB(A) (measured at 1m) and be only located under the awning area. An RMS noise limiter is already in place and is currently set to a higher level than recommended in this report, therefore overall noise levels from music is expected to be reduced during the night-time period.
- Signs should be posted within the roof-top area requesting patrons to lower their voices during the night-time period.

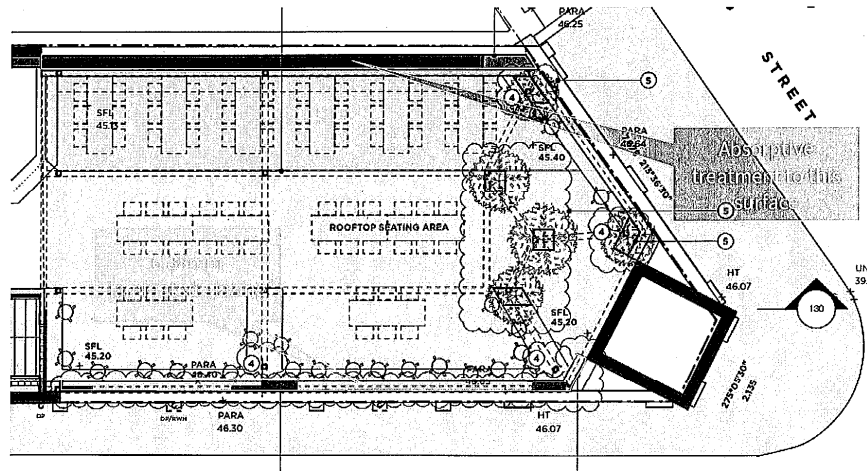


Figure 2. Proposed absorptive treatment and glazing on the second floor

The introduction of further sound absorption than outlined in this report could be considered if noise levels do not comply with the nominated noise criteria following the commissioning of the subject area. A further noise reduction of 2 – 3 dB could be achieved with the absorptive treatment of more surfaces.

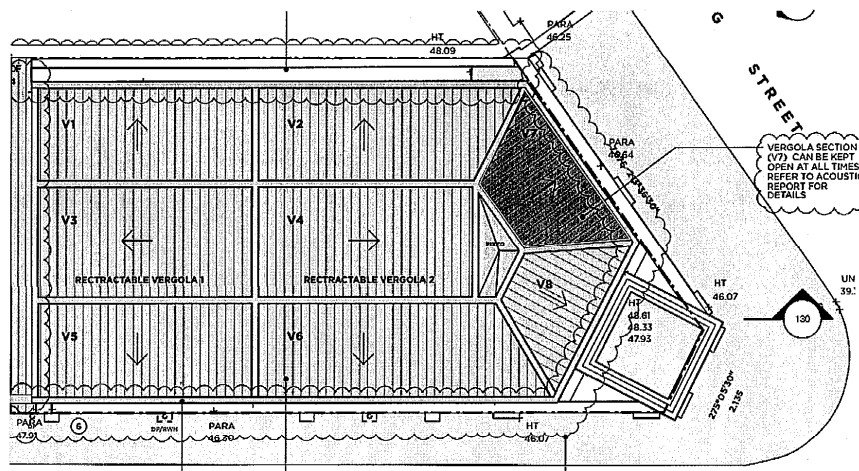


Figure 3. Vergola roof section highlighted in red is the only roof area that may remain open during the night-time period

## 6.0 CONCLUSION

This report presents the results of an assessment of noise emission from the proposed alterations & additions to an existing public bar at 323 King Street, Newtown. The assessment considers the noise emission from the proposed altered roof top terrace and internal spaces.

Noise from the premises has been assessed in terms of its impact to nearby noise-sensitive residential premises. The nearest and most likely to be affected by the proposal is the residential dwelling directly to the north of the subject site.

The applied criteria is referenced from the standard noise conditions adopted by L&GNSW. These conditions limit patron noise from the venues to within background + 5dB up until midnight, and inaudibility within a residential space from midnight until 7 am. Additionally, it is not expected that any instantaneous noise from the premise will lead to any sleep disturbance for the most sensitive nearby residential receivers.

The resulting assessment and predictions of noise egress from the proposed development has found that acoustic compliance can be achieved at all proposed operating hours, provided that the noise control measures and operational management policies are adopted as described in this report.

In this regard, it is the opinion of Koikas Acoustics that the proposed development can meet relevant and applicable acoustical planning targets.

---

**koikasacoustics**

Date: Monday, 11 January 2021

File Reference: 4297R20200818pd323KingStNewtown\_DA\_v6

Prepared For: Websters Bar

Acoustical Report: Proposed renovations to existing public bar, 323 King Street, Newtown NSW

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**APPENDIX A**

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**APPENDIX A**



Daily Rainfall (millimetres)

MARRICKVILLE GOLF CLUB

Station Number: 066036 · State: NSW · Opened: 1904 · Status: Open · Latitude: 33.92°S · Longitude: 151.14°E · Elevation: 6 m

2020	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1st	0	0	0	0	22.0	0	0	0				
2nd	0	0	0	0	0	3.0	0	0				
3rd	0	29.0	0	5.0	0	0	0	0				
4th	0	1.0	11.0	6.0	0	0	2.0	0				
5th	0	0	3.0	0	3.0	0	0	0				
6th	0	1.0	39.0	0	0	0	0	0				
7th	2.0	46.0	0	2.0	0	0	0	0				
8th	1.0	65.0	19.0	0	0	35.0	3.0	20.0				
9th	0	78.0	5.0	0	0	2.0	0	2.0				
10th	0	194.0	4.0	1.0	0	3.0	1.0	31.0				
11th	0	1.0	0	10.0	0	6.0	3.0	2.0				
12th	0	0	0	0	0	0	1.0	0				
13th	0	7.0	0	0	0	7.0	5.0	0				
14th	0	0	0	0	0	7.0	10.0	0				
15th	0	0	10.0	0	3.0	0	4.0	4.0				
16th	5.0	1.0	9.0	0	7.0	0	0	1.0				
17th	34.0	0	5.0	0	0	1.0	0	0				
18th	18.0	0	0	0	0	3.0	1.0	0				
19th	3.0	11.0	0	0	1.0	0	0	0				
20th	1.0	0	0	0	0	0	0	0				
21st	0	0	0	0	0	6.0	0	0				
22nd	0	0	0	0	31.0	0	0					
23rd	0	0	1.0	0	2.0	0	0					
24th	1.0	1.0	1.0	0	0	0	0					
25th	1.0	0	0	0	0	0	0					
26th	0	0	19.0	0	23.0	0	7.0					
27th	0	0	4.0	0	0	0	75.0					
28th	0	0	0	0	0	0	25.0					
29th	0	0	7.0	0	1.0	8.0	2.0					
30th	0		1.0	1.0	6.0	1.0	1.0					
31st	0		0		0		0					
Highest daily	34.0	194.0	39.0	10.0	31.0	35.0	75.0	31.0				
Monthly Total	66.0	435.0	138.0	25.0	99.0	82.0	140.0					

↓ This day is part of an accumulated total  
 Quality control: 12.3 Done & acceptable, 12.3 Not completed or unknown



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Daily Rainfall (millimetres)

MARRICKVILLE GOLF CLUB

Station Number: 066036 · State: NSW · Opened: 1904 · Status: Open · Latitude: 33.92°S · Longitude: 151.14°E · Elevation: 6 m

Statistics for this station calculated over all years of data

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Mean	80.1	104.9	107.6	103.3	93.2	111.1	80.2	65.7	56.1	63.3	68.4	73.4
Median	66.0	75.2	86.1	75.4	63.9	83.0	50.0	40.8	46.2	46.2	58.4	58.8
Highest daily	139.7	194.0	215.9	123.0	111.8	104.0	127.0	78.7	73.7	124.0	143.5	88.9
Date of highest daily	13th 1911	10th 2020	9th 1913	21st 2015	5th 1919	5th 2016	10th 1904	31st 1906	29th 1916	15th 2014	14th 1969	13th 1910

1) Calculation of statistics

Summary statistics, other than the Highest and Lowest values, are only calculated if there are at least 20 years of data available.

2) Gaps and missing data

Gaps may be caused by a damaged instrument, a temporary change to the site operation, or due to the absence or illness of an observer.

3) Further information

<http://www.bom.gov.au/climate/cdo/about/about-rain-data.shtml>.



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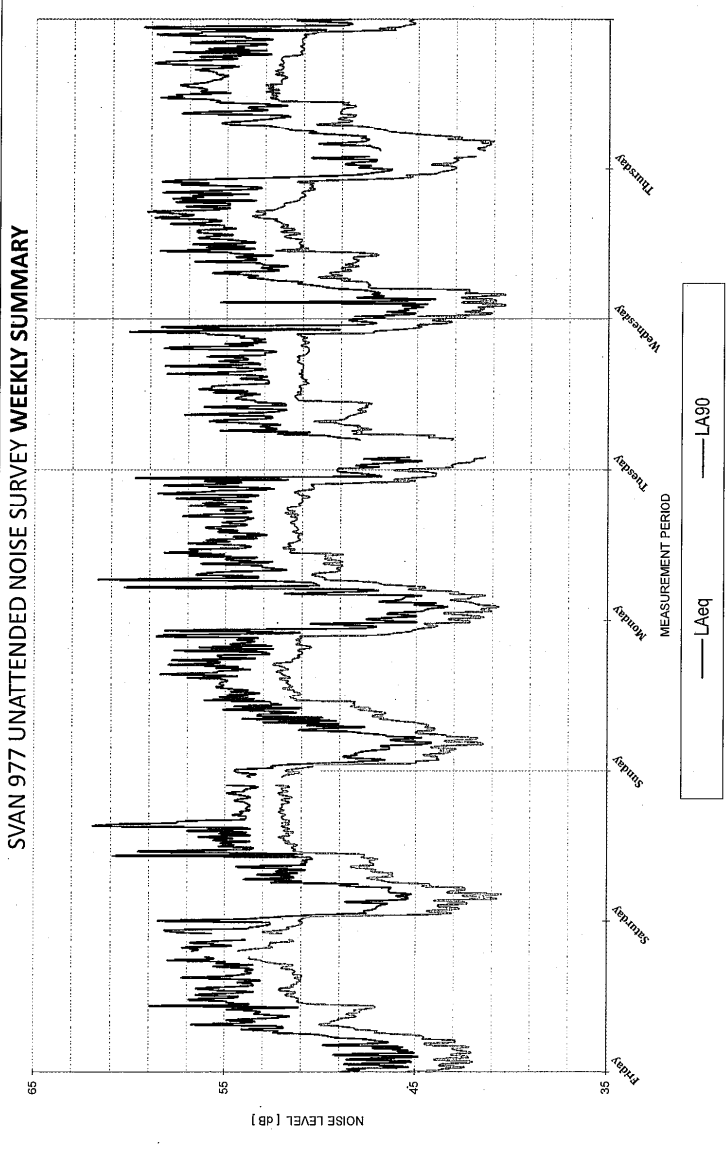
**APPENDIX B**

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**APPENDIX B**

WEEKLY SUMMARY  
 LOGGER LOCATION: 319 King Street, Newtown  
 PERIOD: 14th to the 20th August 2020

SVAN 977 UNATTENDED NOISE SURVEY WEEKLY SUMMARY



Sundays and Public Holidays the hours change to 0800

SUMMARY OF AMBIENT LEVELS

	LA90	
	Daytime	Night-time
Day 1	48	42
Day 2	47	42
Day 3	46	41
Day 4	49	42
Day 5	48	41
Day 6	48	41
Day 7	49	42
RBL	48	42

	LAeq	
	Daytime	Night-time
Day 1	55	49
Day 2	54	52
Day 3	55	50
Day 4	55	52
Day 5	54	52
Day 6	56	51
Day 7	56	51
Average	55	51

SUMMARY OF TRAFFIC LEVELS

LAeq 15 hrs	0700-2200	55	dB
LAeq 9 hrs	2200-0700	51	dB
Max LAeq 1 hr	0700-2200	56	dB
Max LAeq 1 hr	2200-0700	54	dB

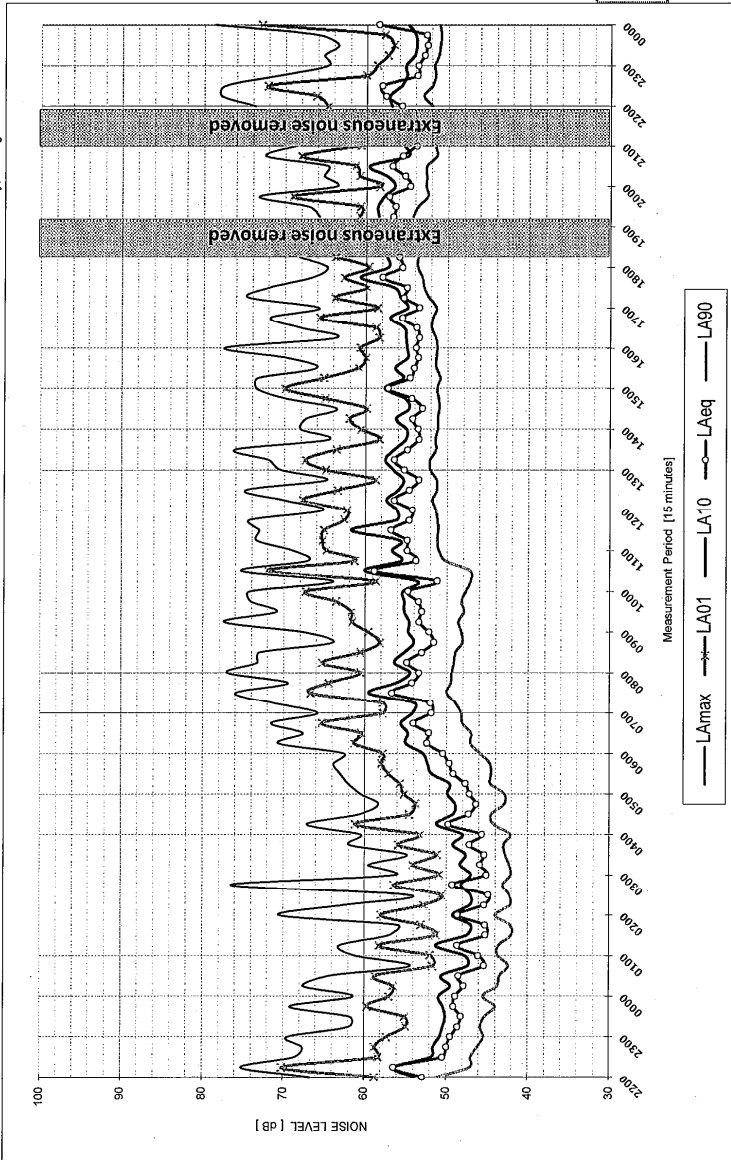
Maximum noise events as defined in the Environmental Noise Management Manual	7 day average - [LAmax - LAeq ≥ 15]	16
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koikas acoustics PTY LTD  
 CONSULTANTS IN NOISE & VIBRATION

DATE: Friday, 14 August 2020

LOGGER LOCATION: 319 King Street, Newtown

DAY 1



**AMBIENT NOISE METRICS**

Descriptor	Period	Level	Units
LA90 Daytime	0700-1800	48	dB
LA90 Evening	1800-2200	52	dB
LA90 Night-time	2200-0700	42	dB
LAeq Daytime	0700-1800	55	dB
LAeq Evening	1800-2200	56	dB
LAeq Night-time	2200-0700	49	dB

**TRAFFIC & MISC. NOISE METRICS**

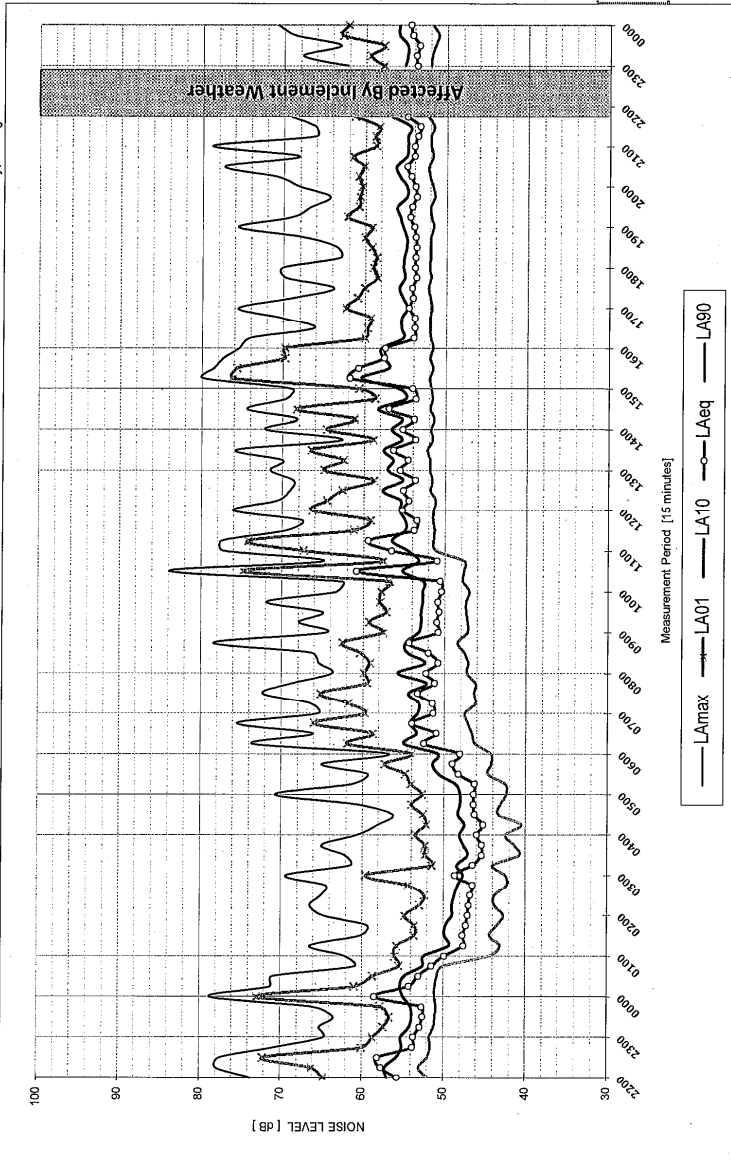
LAeq 15 hours	0700-2200	55	dB
LAeq 9 hours	2200-0700	49	dB
Max LAeq 1 hour	0700-2200	56	dB
Max LAeq 1 hour	2200-0700	51	dB

Maximum noise events as defined in the Environmental Noise Management Manual [LAmax - LAeq ≥ 15]

15
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**koikas** acoustics PTY LTD  
CONSULTANTS IN NOISE & VIBRATION

DAY 2  
 LOGGER LOCATION: 319 King Street, Newtown  
 DATE: Saturday, 15 August 2020



**AMBIENT NOISE METRICS**

Descriptor	Period	Level	Units
LA90 Daytime	0700-1800	47	dB
LA90 Evening	1800-2200	52	dB
LA90 Night-time	2200-0700	42	dB
LAeq Daytime	0700-1800	55	dB
LAeq Evening	1800-2200	54	dB
LAeq Night-time	2200-0700	52	dB

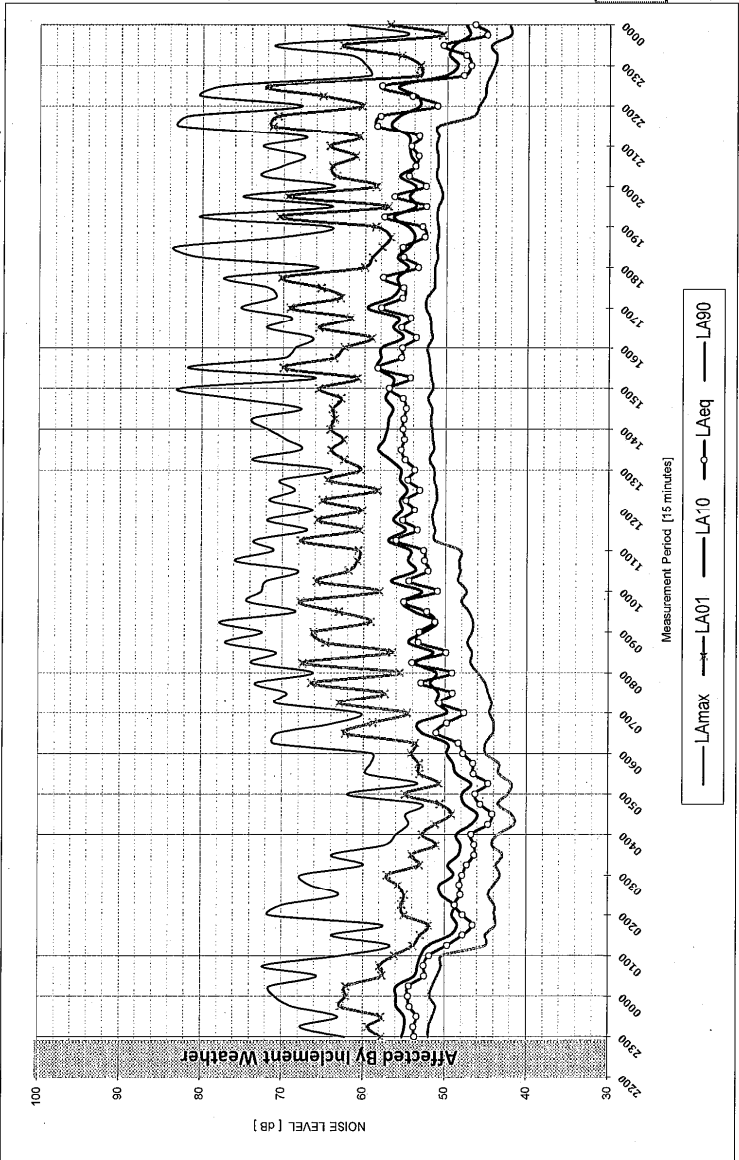
**TRAFFIC & MISC. NOISE METRICS**

LAeq 15 hours	0700-2200	55	dB
LAeq 9 hours	2200-0700	52	dB
Max LAeq 1 hour	0700-2200	57	dB
Max LAeq 1 hour	2200-0700	55	dB

Maximum noise events as defined in the Environmental Noise Management Manual [LAmax - LAeq ≥ 15]

22
----

DAY 3  
 -LOGGER LOCATION: 319 King Street, Newtown  
 DATE: Sunday, 16 August 2020



**AMBIENT NOISE METRICS**

Descriptor	Period	Level	Units
LA90 Daytime	0700-1800	46	dB
LA90 Evening	1800-2200	51	dB
LA90 Night-time	2200-0700	42	dB
LAeq Daytime	0800-1800	55	dB
LAeq Evening	1800-2200	55	dB
LAeq Night-time	2200-0800	50	dB

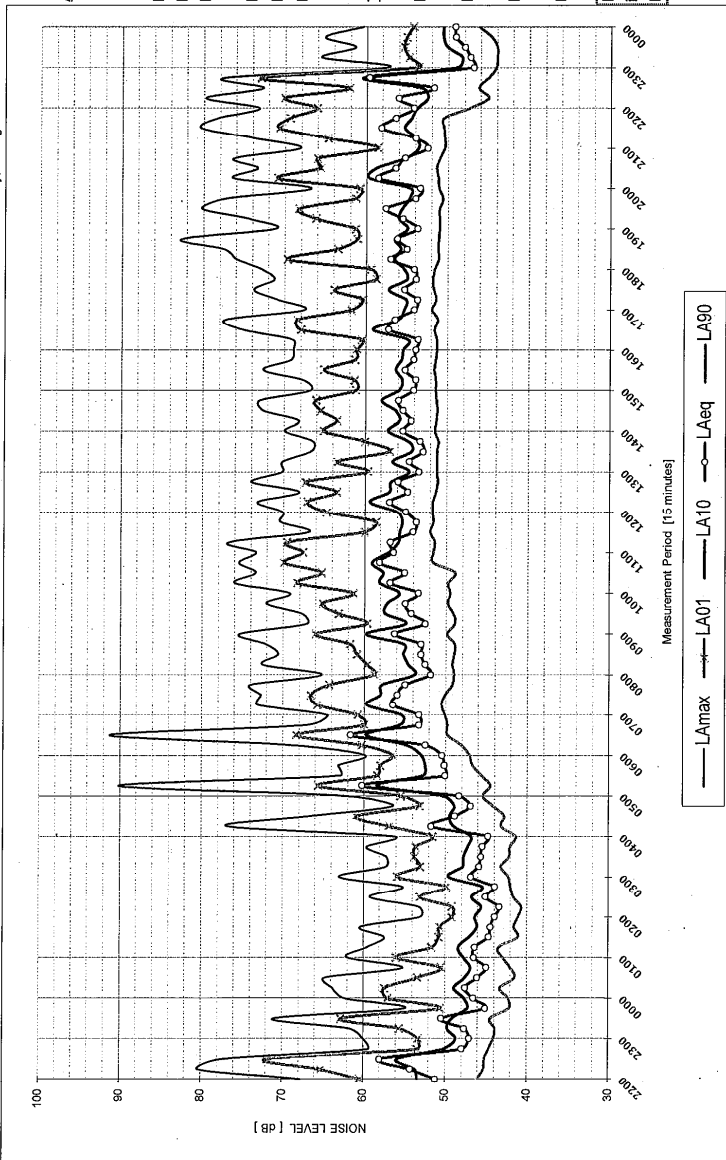
**TRAFFIC & MISC. NOISE METRICS**

LAeq 15 hours	0700-2200	55	dB
LAeq 9 hours	2200-0700	50	dB
Max LAeq 1 hour	0700-2200	56	dB
Max LAeq 1 hour	2200-0700	54	dB

Maximum noise events as defined in the Environmental Noise Management Manual [LAmax - LAeq ≥ 15] 13

koikas **acoustics** PTY LTD  
 CONSULTANTS IN NOISE & VIBRATION

DAY 4  
 LOGGER LOCATION: 319 King Street, Newtown  
 DATE: Monday, 17 August 2020



**AMBIENT NOISE METRICS**

Descriptor	Period	Level	Units
LA90 Daytime	0800-1800	49	dB
LA90 Evening	1800-2200	50	dB
LA90 Night-time	2200-0800	41	dB
LAeq Daytime	0700-1800	55	dB
LAeq Evening	1800-2200	56	dB
LAeq Night-time	2200-0700	52	dB

**TRAFFIC & MISC. NOISE METRICS**

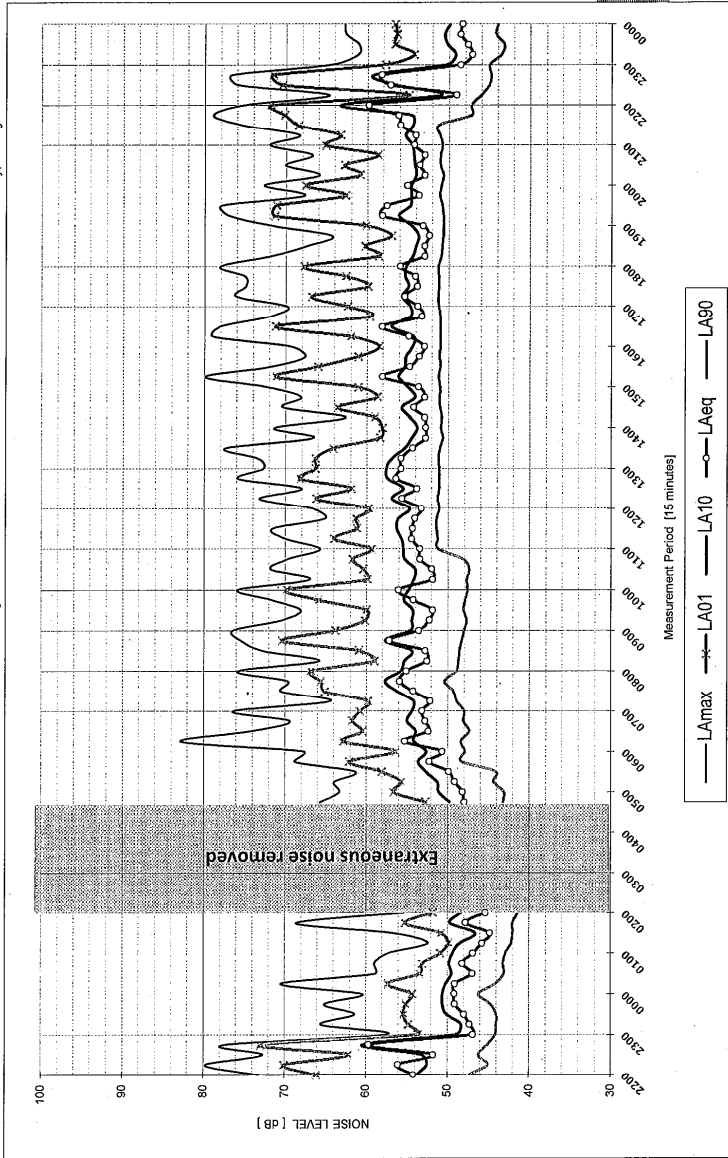
LAeq 15 hours	0700-2200	55	dB
LAeq 9 hours	2200-0700	52	dB
Max LAeq 1 hour	0700-2200	56	dB
Max LAeq 1 hour	2200-0700	55	dB

Maximum noise events as defined in the Environmental Noise Management Manual [LAmax - LAeq ≥ 15]

15
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DAY 5  
 LOGGER LOCATION: 319 King Street, Newtown  
 DATE: Tuesday, 18 August 2020



**AMBIENT NOISE METRICS**

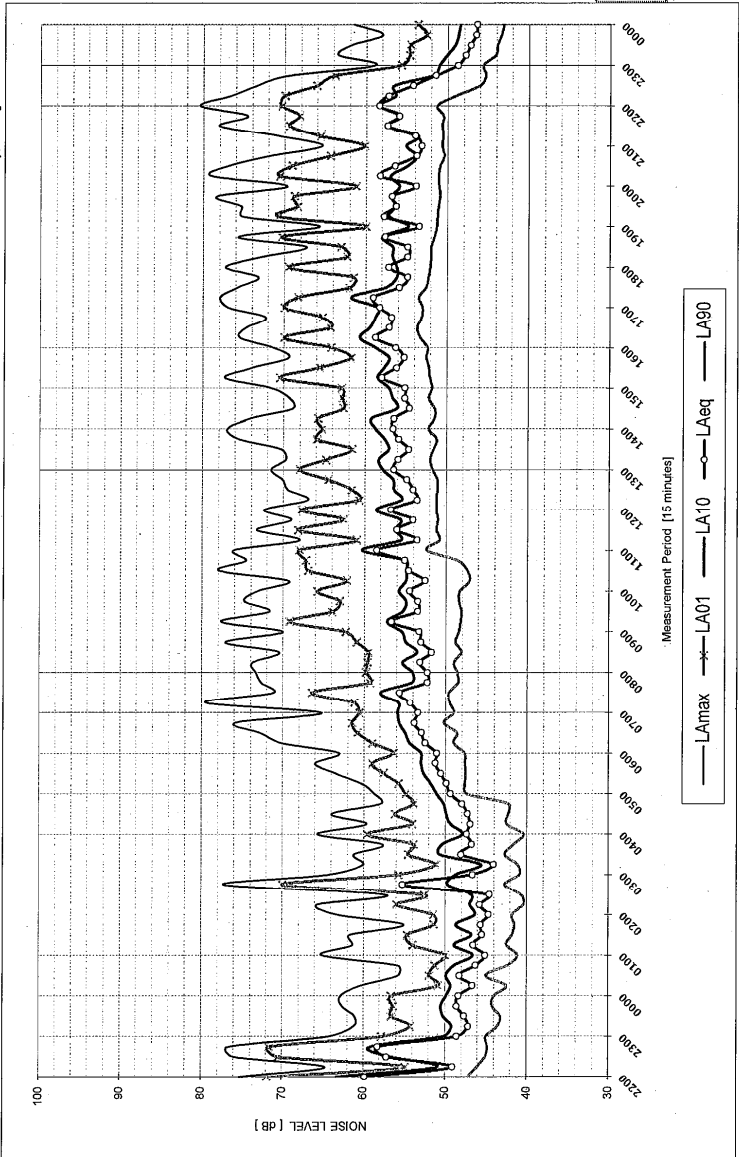
Descriptor	Period	Level	Units
LA90 Daytime	0700-1800	48	dB
LA90 Evening	1800-2200	51	dB
LA90 Night-time	2200-0700	42	dB
LAeq Daytime	0700-1800	54	dB
LAeq Evening	1800-2200	55	dB
LAeq Night-time	2200-0700	52	dB

**TRAFFIC & MISC. NOISE METRICS**

LAeq 15 hours	0700-2200	55	dB
LAeq 9 hours	2200-0700	52	dB
Max LAeq 1 hour	0700-2200	56	dB
Max LAeq 1 hour	2200-0700	55	dB

Maximum noise events as defined in the Environmental Noise Management Manual [LAmax - LAeq ≥ 15]	15
--	----

DAY 6  
 LOGGER LOCATION: 319 King Street, Newtown  
 DATE: Wednesday, 18 August 2020



**AMBIENT NOISE METRICS**

Descriptor	Period	Level	Units
LA90 Daytime	0700-1800	48	dB
LA90 Evening	1800-2200	51	dB
LA90 Night-time	2200-0700	41	dB
LAeq Daytime	0700-1800	56	dB
LAeq Evening	1800-2200	56	dB
LAeq Night-time	2200-0700	51	dB

**TRAFFIC & MISC. NOISE METRICS**

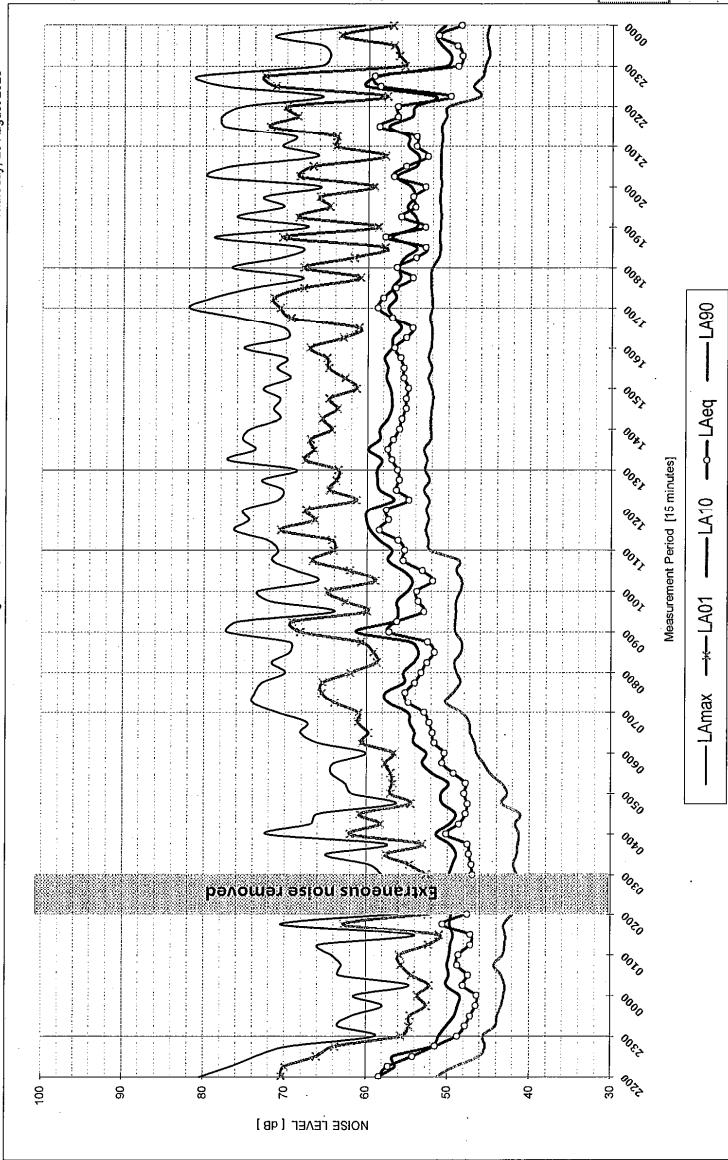
LAeq 15 hours	0700-2200	56	dB
LAeq 9 hours	2200-0700	51	dB
Max LAeq 1 hour	0700-2200	57	dB
Max LAeq 1 hour	2200-0700	53	dB

Maximum noise events as defined in the Environmental Noise Management Manual [LAmax - LAeq ≥ 15]

17
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DAY 7  
 LOGGER LOCATION: 319 King Street, Newtown  
 DATE: Thursday, 20 August 2020



**AMBIENT NOISE METRICS**

Descriptor	Period	Level	Units
LA90 Daytime	0700-1800	49	dB
LA90 Evening	1800-2200	51	dB
LA90 Night-time	2200-0700	42	dB
LAeq Daytime	0700-1800	56	dB
LAeq Evening	1800-2200	55	dB
LAeq Night-time	2200-0700	51	dB

**TRAFFIC & MISC. NOISE METRICS**

LAeq 15 hours	0700-2200	56	dB
LAeq 9 hours	2200-0700	51	dB
Max LAeq 1 hour	0700-2200	57	dB
Max LAeq 1 hour	2200-0700	51	dB

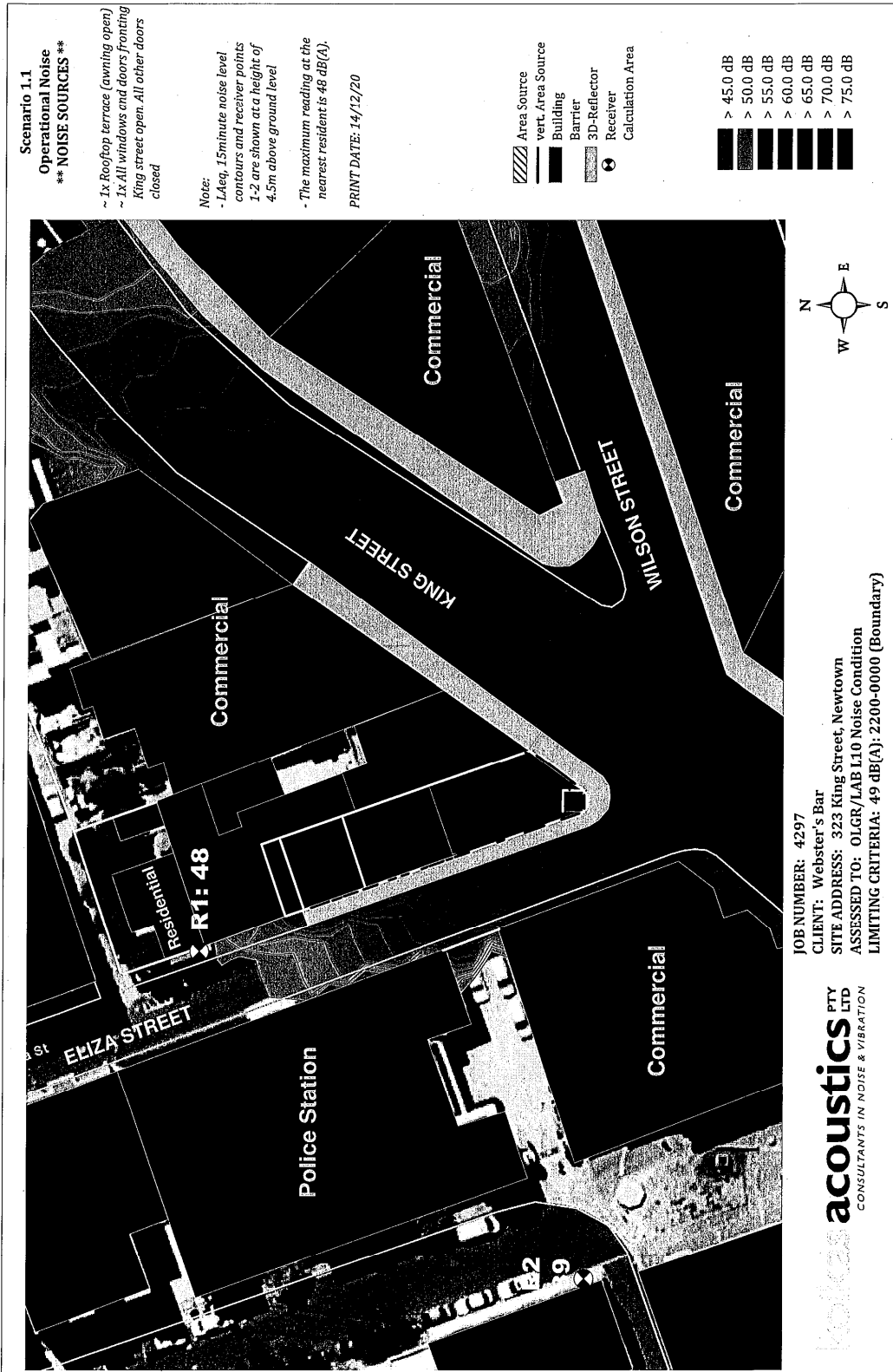
Maximum noise events as defined in the Environmental Noise Management Manual [LAmax - LAeq ≥ 15]

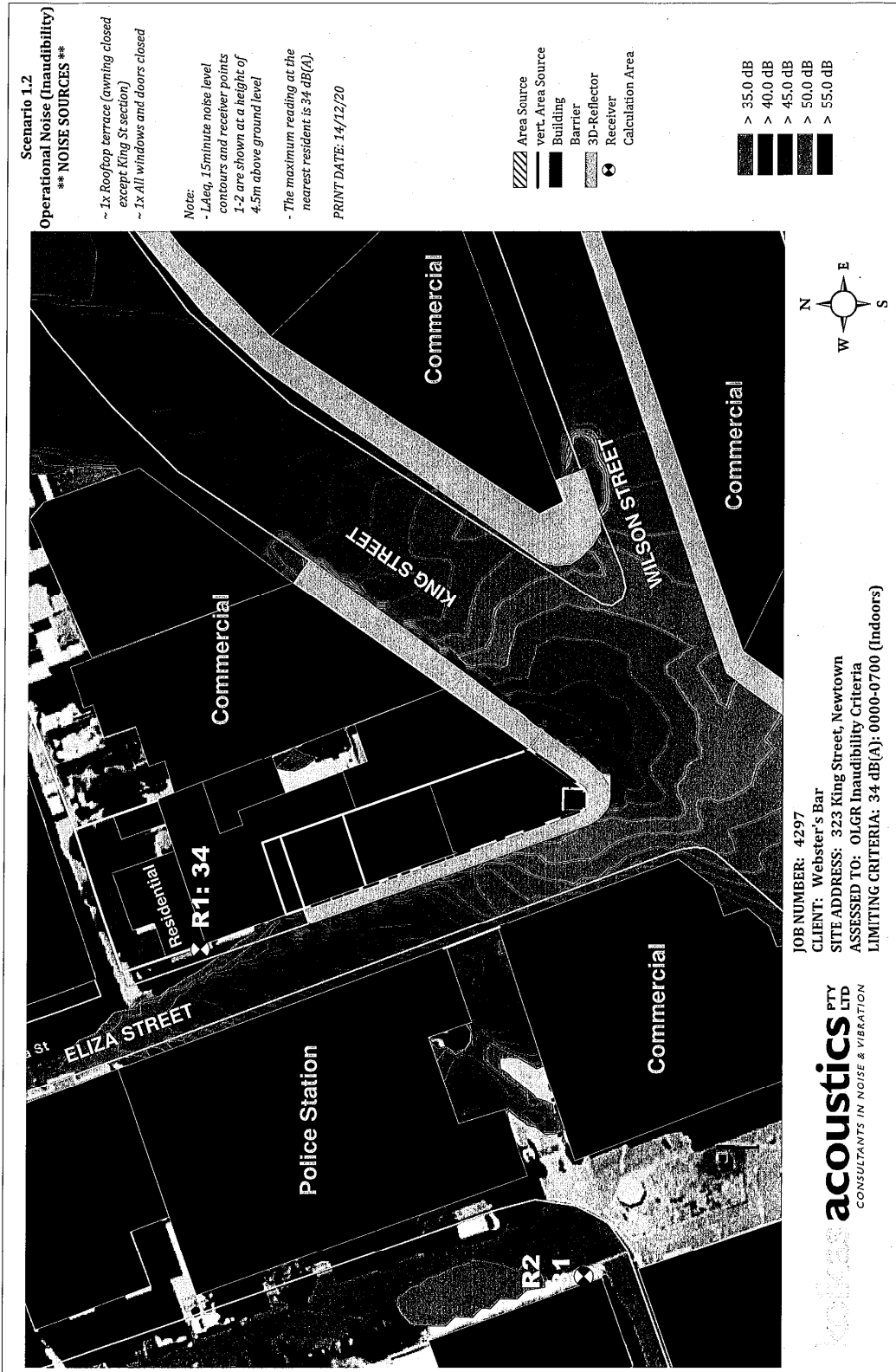
17
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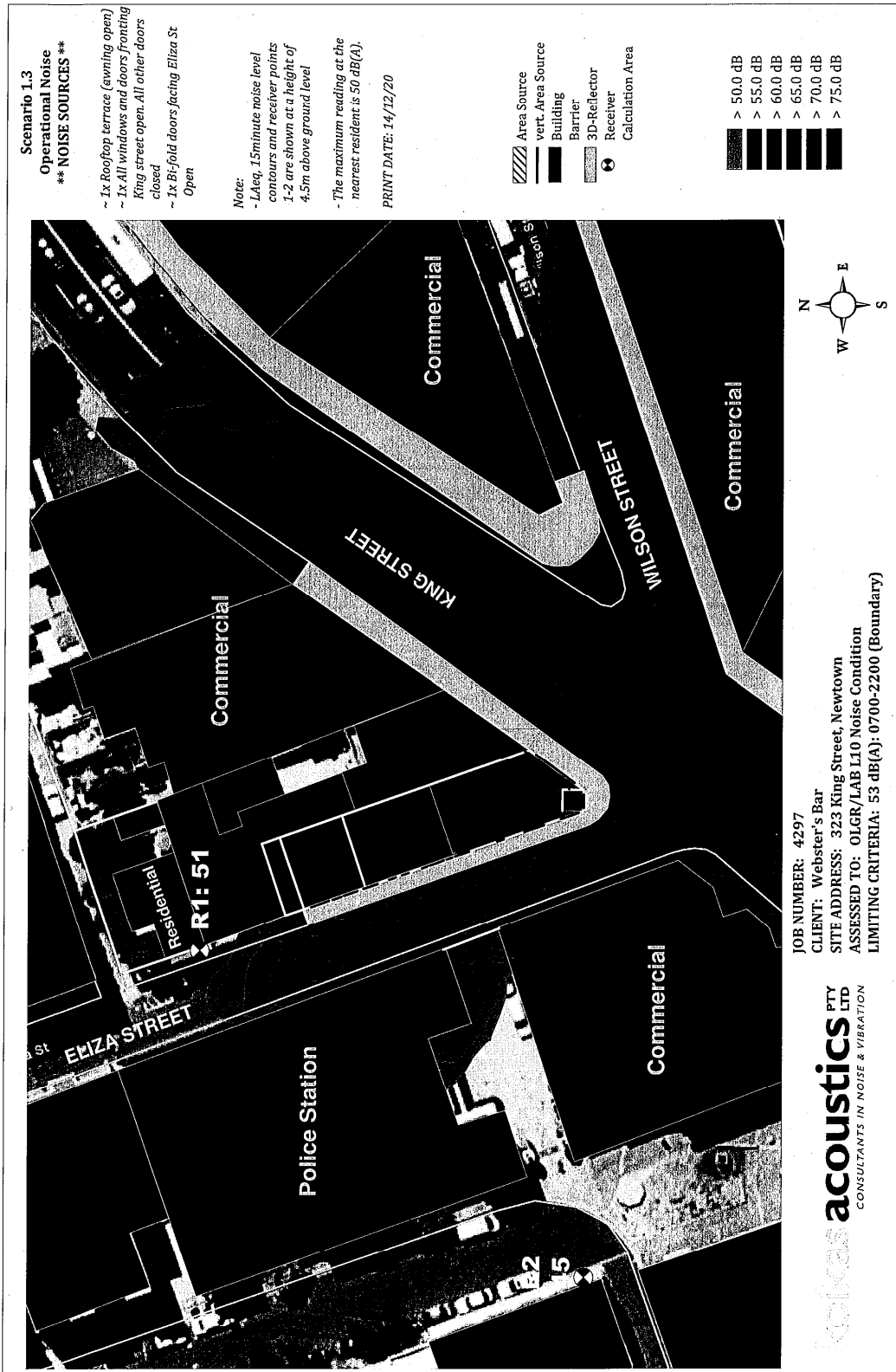
**APPENDIX C**

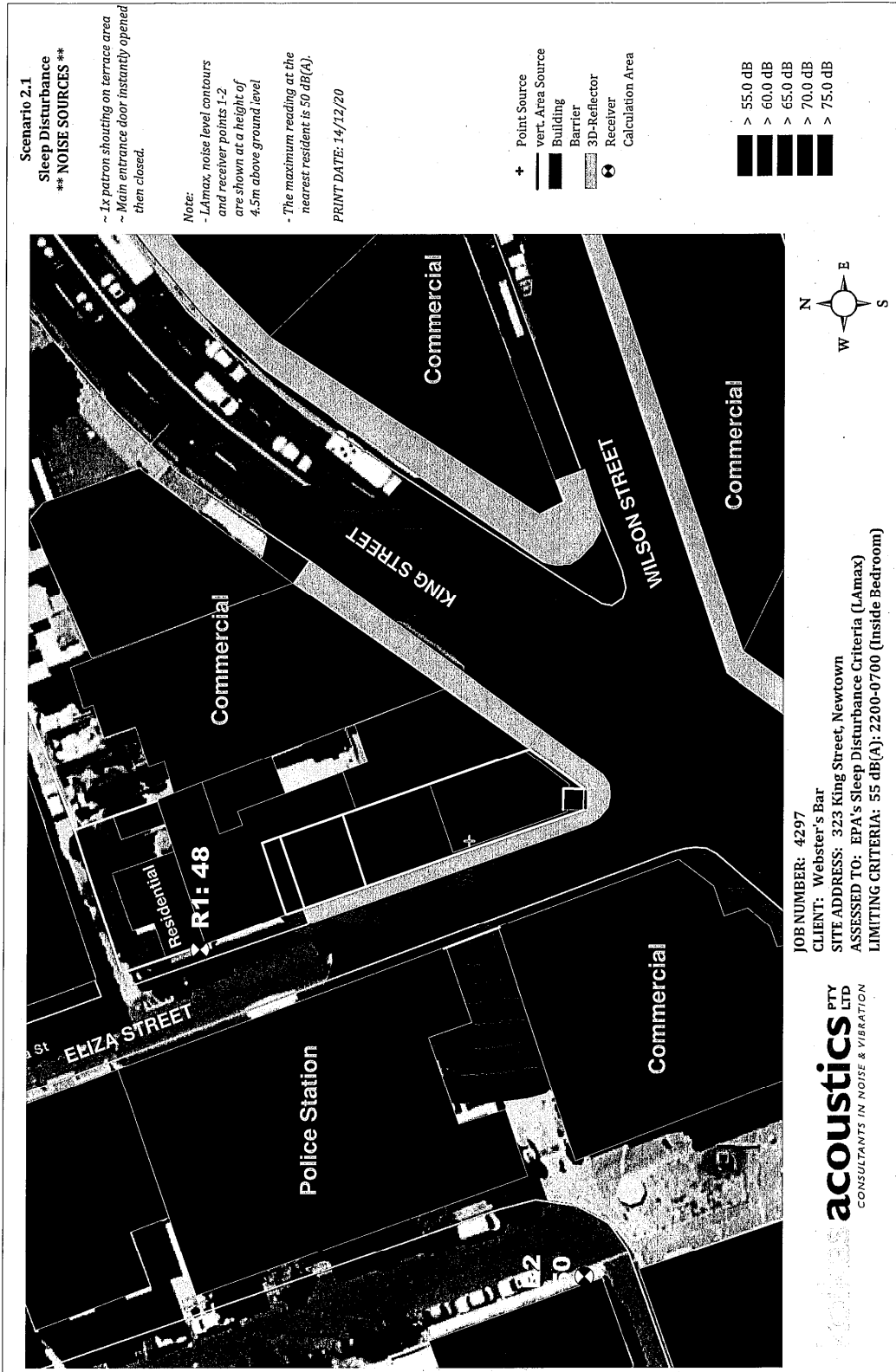
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**APPENDIX C**











**Attachment D – Plan of Management**

**DRAFT PLAN OF MANAGEMENT**

FOR WEBSTERS BAR NEWTOWN

LOCATED AT 323 KING STREET NEWTOWN

**JANUARY 2020. (rev B)**

- PART 4 – 4 (i) revised

CONTENTS

PART 1 Purpose .....3  
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PART 3 Hours of Trade.....3  
PART 4 Capacity of the Premises .....3  
PART 5 Signage .....3  
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PART 14 Fire Safety and Safety Measures .....8  
PART 15 Crime Scene Preservation Guidelines .....8  
PART 16 Amendment to this plan .....9

**PART1 Purpose**

- 1) The purpose of this Plan of Management is to establish performance criteria for various aspects of the operations of the Websters Bar, having regard to the relevant matters under the Environmental Planning and Assessment Act, 1979 and the Liquor Act, 2007.

**PART2 Use of Plan**

- 2) All staff involved with the sale or supply of liquor or security shall be made familiar with this Plan of Management.

**PART3 Impact on Locality**

- The pub has been a central part of the Newton precinct for years and is unlikely to generate any unreasonable social impacts given the location of the subject site within a commercial/business zone and close to public transport nodes.
- The pub will continue to provide a positive social impact through the provision of employment during construction and its ongoing operation.
- There will be no increase to the existing gaming licence or entitlements.
- The pub will continue to be a venue that focusses on good dining, safe and providing a key meeting place for the community.
- The pub will continue to draw and encourage patrons who enjoy good dining and drinks and foster social relationships.
- The pub will continue to discourage patrons who want to engage in unacceptable anti-social behaviour.
- The pub will generate no material difference in terms of the character of the locality by the changes to operating hours.
- The pub is unlikely to generate any negative impacts on the interaction or quality of social relationships within the locality.
- The existing Plan of Management will monitor the management of pub and the licensee will work with Police, Council and residents to ensure the pub will operate in a manner that is beneficial to the neighbourhood.
- Any potentially negative impacts generated by the operation of the pub can be mitigated through the Plan of Management.

**PART4 Hours of Trade**

- 3) The premises may trade 24 hours on a day for Ground and First floor Monday to Saturday and 10am to midnight Sundays.
- 4) It is proposed that the rooftop area is to trade between 10am and 3am Monday to Saturday and 10am - midnight Sundays.
  - i) The Rooftop will have a system in place to control noise reaching any surrounding neighbours. Operating modes alter between the daytime, early night and night-time periods. The opening/closing of awnings, windows and doors are outlined in the current Acoustic Report from Koikas Acoustics.
  - ii) Staff and security numbers will be adequately maintained for the duration of the Rooftops operation.
  - iii) Any other measures needed to be taken for behaviour of patrons and intoxication levels will be delegated by the management on duty. Industry measures examples such as plastic polycarb drinkware, bottled water runs every hour, no doubles or

shots and no more than 4 drinks per person may be put into place.

**PART5 Capacity of the Premises**

- 5) Signage will be erected displaying that the maximum number of persons permitted in the premises shall be no more than
  - Ground Floor: 151 persons
  - Level 1: 170 persons
  - Roof: 150 persons
- 6) The maximum number of persons permitted on the rooftop is 150.

**PART6 Signage**

- 7) Signage will be erected at the entrance to the Hotel, stating the licensee name and license number.
- 8) Signage requesting patrons to leave the premise in a quite and orderly manner.
- 9) Signage relating to the use of 24 hour CCTV surveillance.
- 10) All signage required under the Liquor Act 2007 shall be conspicuously displayed and maintained.

**PART7 Amenity of Neighbourhood**

- 11) The licensee shall consider the amenity of neighbours and shall take all reasonable measures to ensure the conduct of the business does not impact adversely on the surrounding area.
- 12) The licensee will take all reasonable measures to ensure that the behaviour of staff and patrons when entering or leaving the premises does not detrimentally affect the amenity of the neighbourhood.
- 13) The business shall be conducted in such a manner as not to interfere with, or materially affect, the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
- 14) The licensee shall ensure that the entry points and immediate vicinity are kept clean and tidy during the use of the Hotel.
- 15) At times of busy foot traffic management will maintain an orderly line for patrons to enter the venue. This line will be policed by Websters' Management and Staff, and security guards when on shift. The line will be either along Eliza Street or King Street, depending on the most relevant area for patron and neighbourhood safety.

**PART 8 Noise**

- 16) The LA<sub>10</sub> noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and 12.00 midnight at the boundary of any affected residence.
- 17) The LA<sub>10</sub> noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) between 12.00 midnight and 7:00am at the boundary of any affected residence.

- 18) Notwithstanding compliance with the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12.00 midnight and 7:00am.

**PART 9 Behaviour of Patrons and Responsible Service of Alcohol**

- 19) The licensee and staff shall take all reasonable steps to control the behaviour of patrons of the premises as they enter and leave it.
- 20) The license attached to the premises shall be exercised - at all times - in accordance with the provisions of the Liquor Act;

The following operational policies for the responsible service of alcohol shall apply;

- i) All staff involved in the sale and supply of liquor or security shall have completed an approved course in the Responsible Service of Alcohol.
- ii) The licensee will maintain a register containing copies of the certificates showing the satisfactory completions of Responsible Service of Alcohol course undertaken by the licensee and all staff required to complete that course. That register shall be made available for inspection on request by a NSW Police officer or special inspector.
- iii) The licensee shall not engage in any liquor promotion that is likely to promote irresponsible service of liquor.
- iv) The licensee shall not serve alcohol to any person who is intoxicated.
- v) Any person who is intoxicated shall be denied entry to the premises.
- vi) The licensee will not permit intoxication or any indecent, violent or
- vii) An RSA Marshall will be on shift based around service and a number of patrons needed for extra monitoring.
- viii) quarrelsome conduct by patrons on the premises. Any person causing such a disturbance shall be refused service and asked to leave the premises. Any patron whose behaviour is either extreme or repeatedly objectionable may be barred from entering the premises for a period determined by the licensee.
- ix) No person under the age of 18 years shall be admitted to the premises unless in the company of a responsible adult. Production of photographic identification will be required where age is an issue. The only acceptable proofs of age identification shall be:
  - Photo driver's license;
  - RTA photo ID card; or
  - Current passport.
- x) Low alcohol beer and non-alcoholic beverages (including water) will be available at all times when full strength liquor is available.
- xi) Light meals will be available on request whenever alcohol is available for consumption in the premises.

**PART 10 Control on Number of Patrons**

- 21) At all times, the licensee shall ensure that the total numbers of persons present in the premises does not exceed the maximum permissible number referred to in Part 4 Capacity of the Premises.

- 22) The licensee or duty manager shall either monitor the number of persons in the premises or appoint a member of the staff or a security person to do so. Clickers will be used on the front door to monitor all numbers within in the venue.
- 23) When the person monitoring the number of persons in any specific part of the premises forms the opinion that there may be within 25 persons of the maximum permissible number of patrons, that person will ensure that a physical head count of the patrons present is undertaken.
- 24) If such a count reveals that there are within 25 persons of the maximum number of patrons permitted in any specific part of the premises, the licensee or duty manager shall assign staff or security personnel to monitor the number of patrons entering and leaving the premises to ensure that the maximum number of persons present (including staff, security personnel and entertainers) does not exceed the maximum.

**PART 11 Staff and Security**

- 25) Security shall be provided in accordance with the following:
  - i) 1 guard present from 9pm Monday to Thursday until the last patron leaves the vicinity of the premises;
  - ii) 2 guards present from 9pm, 10pm, Friday and Saturday until the last patron leaves the immediate vicinity of the premises.
- 26) A uniformed security guard is to carry out a patrol of the immediate vicinity of the Hotel from midnight Monday to Saturday, until the last patron leaves the immediate vicinity of the premises.
- 27) The licensee shall require any security personnel employed at the Hotel to;
  - i) Be dressed in readily identifiable uniform displaying identification as a security guard and to be appropriately licensed.
  - ii) Fill in a time sheet (start and finish times) which is to be initialed by the manager/licensee on duty.
  - iii) Report to the manager/licensee to obtain a briefing on any specific duties to be addressed before commencing duty.
  - iv) Note details of any incidents which required intervention by a security guard within the premises or in the vicinity of the premises in logbooks.
- 28)
  - i) Ensure that persons entering the premises are suitably attired in accordance with the Hotel's dress code which shall require patrons, at least, to be neatly dressed in casual wear, with footwear and to be clean.
  - ii) Prevent any person, detected as intoxicated, entering the premises and bring to notice of the licensee or manager, any person on the premises who might be considered to be in, or approaching, a state of intoxication.
  - iii) Prevent patrons leaving the premises with glasses or other opened drinking containers.
  - iv) Prevent patrons entering the premises with alcoholic drinks.

- v) Monitor patron behaviour in, and in the vicinity of, the premises until all patrons have left them, taking all practical steps to ensure the quiet and orderly departure of patrons.
- vi) Collect any rubbish in the vicinity of the premise that may be associated with the business.
- vii) Co-operate with the Police operating in the vicinity of the premises.
- viii) Upon commencing duty and thereafter, regularly during routine patrols, check to ensure that all emergency exit doors are closed and kept closed.
  - ix) Patrol all toilets at random intervals, notifying the licensee or management of any suspected illegal activity or if the toilets need attention in regard to cleanliness.
  - x) In the event of an incident, clearly identify themselves as security and attempt to rectify the problem.
  - xi) Assist the licensee or management in removing patrons from the Hotel. Patrons are only to be asked to leave at the direction of management. Forced removal from the premises must only occur at the direction of management and with reasonable force only. Immediate hands on action may be used in self-defense or in the defense of another patron.
- 29) For the purpose of the plan, the description, "the vicinity of the premises" shall be the footpath immediately surrounding the building along King and Eliza Streets.
- 30) The licensee shall install and maintain closed circuit TV cameras to provide surveillance of the interior of the Hotel as well as the entries and the vicinity of the premises immediately adjacent to the premises. Digital recordings from those cameras shall be kept for 21 days and shall be made available to the Police or special inspector within 24 hours after receipt of a written request for access to them.
- 31) The licensee/manager shall maintain and record in the Incident Book, in addition to the matters noted in (28) (iv) above;
  - i) Any complaints made directly to the management or staff of the Hotel by local residents or business people about the operation of the Hotel or the behaviours of its patrons; and
  - ii) Any visits by any law enforcement personnel noting their agencies or departments, badge numbers/name tags, reasons for the visits and results of the visits. This will be to maintain communication between the venue and enforcement personnel for any issues raised.
- 32) The licensee shall make the Incident Book available to Council and the Police at all reasonable times and within 7 days of receipt of a written request from the Council to do so.

**PART 12 Delivery and Waste Disposal**

- 33) All wastes shall be stored in designated refuse areas. Disposal of the waste will be by appropriate contractors.

**PART 13 Maintenance**

- 34) The premises shall be kept in a clean and tidy condition and regularly maintained to the satisfaction of Council both internally and externally.
-

**PART14 Removal of liquor from the premises**

- 35) The licensee shall prevent patrons leaving the premises with liquor in opened containers, glasses or the like.

**PART 15 Fire Safety and Safety Measures**

- 35) The licensee shall ensure that all essential services installed at the premises and the closed circuit CCTV system are certified annually and shall ensure that they remain in good working order.
- 36) In the event of any malfunctioning of any essential service or the CCTV system, the licensee shall ensure that it is rectified as quickly as is reasonably possible.
- 37) Lists of the telephone numbers of all relevant emergency agencies shall be kept near all telephones.
- 38) All managers and other permanent staff shall be made aware of fire safety requirements and the procedures to be followed in the event of an emergency at the premises.

**PART 16 Crime Scene Preservation Guidelines**

- 39) Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
1. Take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence including:
    - Determine the scene e.g. perimeter and location/s;
    - Prevent access to and secure the scene by placing a person to guard the area.
    - Make inquiries to identify the assailant/s where appropriate, and request witnesses remain within the licensed premises until police arrive - If not, record all witnesses' particulars where practical.
    - Leave and do not touch any items associated with the act of violence, such as weapons, broken glass, blood etc.
    - DO NOT clean up or interfere (e.g. move furniture) with crime scenes. (Interfering with evidence may constitute an offence, leaving you liable to prosecution, and/or result in the closure of the premises).
    - Record all information into notebooks/incident registers ensuring names, security no., specific tasks and/or involvements of each person are recorded.
    - Provide a copy of all records in notebooks/incident registers to police.
  2. Make direct and personal contact with the Local Area Commander or delegate, and advise the Commander or delegate of the incident; and
  3. Comply with direction given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.

**PART17 Complaint Handling**

- 40) All complaints made to the Hotel are to be recorded in the incident book and shall note the: date and time of the incident; nature of the complaint, address and contact details of the



complainant; and any actions proposed to deal with the complaint. A note of the complaint and whether it has been or needs to be followed up is to be made in the daily report.

- 41) All complaints are to be responded by management within 48 hours of a complaint being made the complaint was not made to management in the initial call.
- 42) The incident register is to be reviewed weekly by the licensee to ensure that complaints, where possible, are being dealt with.
- 43) Any recurring complaints should be dealt with, if attributable to the Hotel, through new management procedures and incorporated into this plan.

**PART 18 Amendment to this plan**

- 44) If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for the better management of the premises, subsequent to that modification Inner West Council and Inner West Licensing Police shall be provided with a copy of the modified plan

## Attachment E – Statement of Heritage Significance



### Statement of Heritage Impact

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Local Development Application-  
Alterations and additions to the Websters Bar premises,  
with extended trading hours and changes to patron numbers  
323 King Street, Newtown NSW 2042



Author:	Momcilo Romic
Date Issued:	8 January 2021
Revision:	REV 2



Statement of Heritage Impact  
323 King Street, Newtown NSW 2042

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323 King Street, Newtown NSW 2042

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Statement of Heritage Impact  
323 King Street, Newtown NSW 2042

## 1. Introduction

This Statement of Heritage Impact has been prepared to accompany an application for alterations and additions to the existing Websters Bar premises located at 323 King Street, Newtown NSW 2042.

The report evaluates the proposed development and the revised building design concept drawings- Issue B, designed by Black Line Studio, Rob Burwell- Architect.

The revised building design concept drawings now address the heritage and planning contentions raised in Council's correspondence dated 8 December 2020. The changes are summarised below:

- Reduced height of vergola by 550mm.
- Acoustic fire wall reduced to existing RL.
- Reduction to thickness of perimeter steel beam.
- Columns setback from parapet by 500mm.
- Consistent modern finish to addition, grey louvres/window frames and galvanised steel structure.
- Planter boxes to the foot of columns.
- Extended eaves removed.
- Vergola structure reduced to line with existing adjacent roof.

It finds that the revised proposal is acceptable from a heritage perspective and design changes are complementary and sympathetic to the character of King Street and Enmore Road Heritage Conservation Area.

The main objective of this Statement of Heritage Impact is to determine the suitability of the design and the heritage impact of the proposal in relation to the provisions established by Council and by the New South Wales Heritage Office (now the Heritage Division of the NSW Department of Premier and Cabinet) guidelines where applicable.



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**2. Site Details**

**2.1. Location**

The site is known as 323 King Street, Newtown NSW 2042 and is located on the corner of Eliza Street and King Street is some 78 metres north from Newtown Railway Station.

The site’s legal description is Lot 1 in DP 177710 and is regular in shape with a frontage of 7.9m to King Street and 34.7m to Eliza Street.

At the site stands a part 2 and 3 storey brick and rendered building Art Deco period building which is used as a pub trading as Webster’s Bar and is legally known as Lot 1 in DP 177710.

A location plan of the site is provided below and along with photographs which illustrate the physical description of the pub building trading as Webster’s Bar.



Location Plan



Statement of Heritage Impact  
323 King Street, Newtown NSW 2042



*Aerial Photograph*



*Panorama View*





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*Subject premises*



*Subject premises*

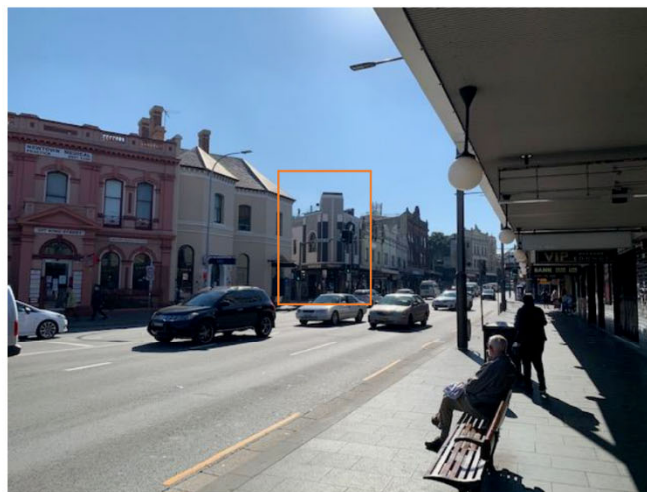




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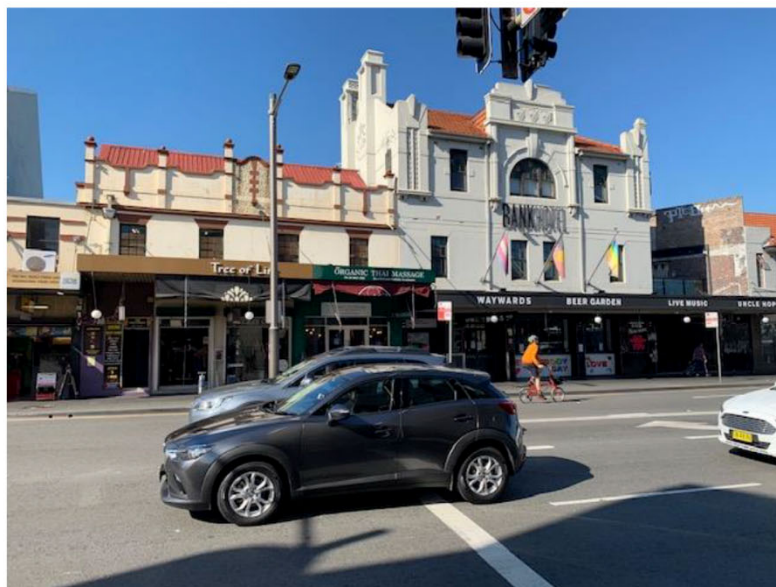
*Subject premises- Eliza Street*



*Subject premises- looking city bound down King Street*



*Commercial landuses opposite the premises- looking east*



*Commercial landuses opposite the premises- looking south*



Statement of Heritage Impact  
323 King Street, Newtown NSW 2042



*Commercial landuses opposite the premises- looking south east*



*Subject premises from Eliza Street*





Statement of Heritage Impact  
323 King Street, Newtown NSW 2042



*Existing roof top terrace*



*Existing roof top bar*

The site is located within the Newton town centre where adjoining uses are predominantly commercial and business in nature where these activities consist of retail stores, shops and other food and drink premises.

Governmental uses such as Newtown Court House and Police Station is located immediately to the west of the site.



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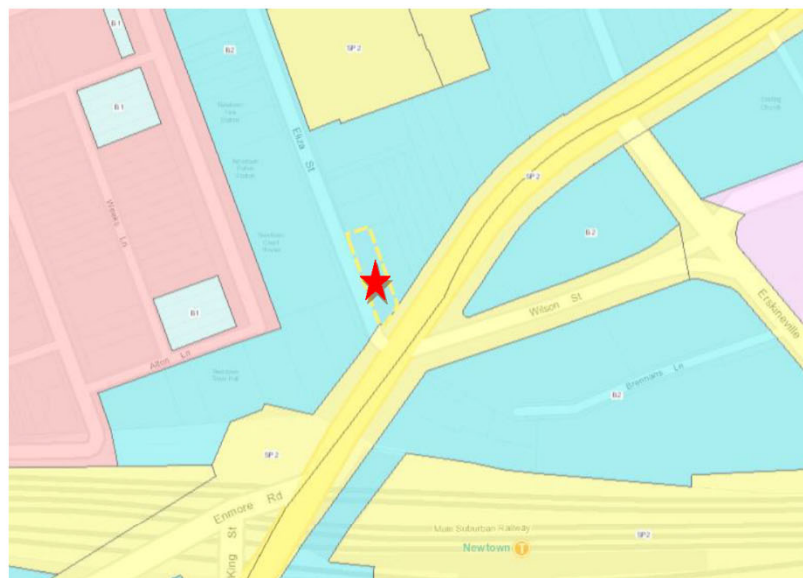
Adjoining buildings are generally of a 2 and 3 storey height plane and there are no immediate adjoining residential land uses and these are typically located at Lennox Street and Alton Lane to the north and west.

**2.2. Zoning & Heritage**

The site is zoned B2 Local Centre under Marrickville Local Environmental Plan 2011.

Development for the purposes of a food and drink premises (pub) is permitted in that zone.

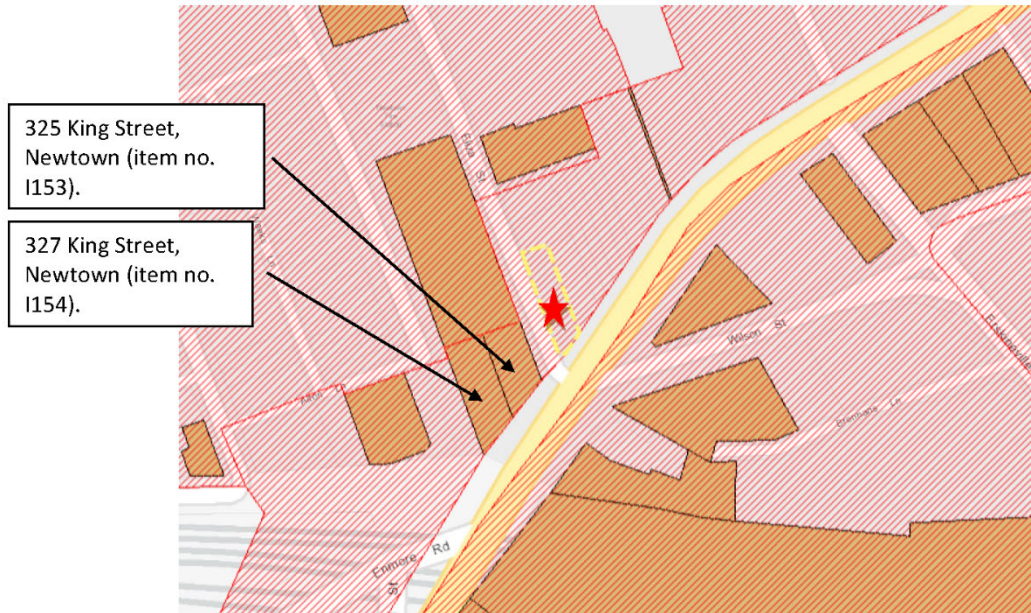
A zoning plan of the site is provided below.



Zoning map



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*Heritage map- subject site (red star) in relation to heritage listed items shown in brown and the HCA shown in red hatching*

The subject property is not listed as an item of heritage significance in any statutory instrument.

However, it is located within a Heritage Conservation Area- King Street and Enmore Road and in the vicinity of the subject site are 2 local heritage items- Former CBC Bank at 325 King Street, Newtown (item no. I153) and Former ANZ Bank at 327 King Street, Newtown (item no. I154) as shown in the heritage map above.

As such, the property is subject to the heritage provisions of the Marrickville LEP 2011 and the Marrickville Development Control Plan (DCP) 2011 under the Environmental Planning and Assessment Act 1979.

Inner West Council must take into consideration the potential impact of any proposed development on the heritage significance of the listed items in the vicinity of the subject site.

It is our view; the proposed works are not considered to have an adverse impact on the heritage significance of the area and the nearby local heritage items and the proposal will assist in contributing to the amenity of the area.



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The proposed works are consistent with the other development situated onsite and that on adjoining commercial sites.

### 3. Heritage Significance

#### Established Significance of the King Street and Enmore Road HCA

The subject site is located within the boundaries of the Heritage Conservation Area- King Street and Enmore Road, which is describe in the Marrickville DCP 2011 as:

*The King Street and Enmore Road retail strip is a remarkably intact area dating from the late 19th and early 20th centuries, where the relationship between topography and street grid provides a variety of corners and landmarks, vistas and framed features. Collectively, the groups of two to three storey terraces which line both sides of the curving ridge roads create a sense of unity, coherence and visual enclosure. This coherence is strengthened by the prominence of the retail frontages, the survival of most suspended awnings, and the under-awning string of pearls lighting which links the shops all along the streets. While of compatible height and scale, the buildings also display a diversity of architectural and decorative features. The streetscape has a unique and very attractive visual quality which should be preserved and enhanced.*

*Section 8.2.4 of this DCP addresses the function of buildings along King Street and Enmore Road as well as their architectural qualities. It acknowledges that the retail strip is characterised by a variety of lifestyle and building uses, and by innovation and creativity in retail offerings. It aims to encourage mixed uses where they can enliven the area. However, it first aims to protect and encourage the retail function which has persisted since the shopping streets were laid out in the 19th century, and which gives the area its unique character.*

#### Contributory Aspects of the Subject Site

The subject site is not a listed heritage item. However, it is identified as being a contributory building and thus, it is only changes to those aspects of the site that contribute to the heritage significance of the King Street and Enmore Road HCA that may have a potential heritage impact, and it is only such changes that are addressed in assessing the potential heritage impact of the development proposal in the built form. The proposed extended hours and increases to patrons do not affect the heritage assessment.

Contributory buildings are buildings that have been altered but are still identifiable as dating from a Key Period of Significance for the HCA and in this case, the Art Deco architectural period.





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The building does contain its overall form and even though altered, remains contributory to the HCA character despite the buildings alterations such as cement rendering and paint finish to the Art Deco period brickwork and other additions to the rear of the premises and to the roof top, but the period and style of the building remains generally discernible.

Considering the above DCP Character Statement, the elements of the subject site that contribute to the significance and character of the King Street and Enmore Road HCA are identified as follows.

Contribution to HCA	Site Elements
Exceptional	There are no elements of the site that make an exceptional contribution to the HCA.
High	Continuous zero lot street setbacks.
	Subdivision pattern.
	Land use activity being a pub and remains important from a social value.
Moderate	Ground and first floor façade.
	Splay corner tower/ parapet.
	Arched windows.
	Commercial awning.
Little	Vertically proportioned windows.
	Later rear additions.
	Later roof top additions and acoustic/fire wall.
	Later cement rendered and painted brick external walls.
	Later cement rendered and painted corbel brickwork and other features to external walls.
Later signage to the premises.	
Intrusive	There are no elements of the site that are intrusive to the HCA.

**4. Development Proposal**

Development Application submitted to Council seeks:

Alterations and additions, and include:

- New lift and associated accessible toilets.
- Renovated rooftop terrace area with new vergola and acoustic attenuation.
- National Construction Code/Building Code upgrade with extension to the boundary fire wall.





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Amend the number of patrons at the licensed venue to a maximum of 471 patrons as follows:

- Ground floor- 151 patrons (previously approved as 200 patrons).
- First Floor- 170 patrons (previously approved as 160 patrons).
- Roof top- 150 patrons (previously approved as 130 patrons).

Hours of operation:

- Ground and First Floors (current hours/days of operation- no change)

Monday to Saturday, 24 hours on a day, and

Sunday, 10am to midnight.

- Roof top

Monday to Saturday, 10am and 3am, and

Sundays, 10am to midnight.

**5. Assessment of Heritage Impact**

**Consideration of the Guidelines of the NSW Heritage Division**

The NSW Heritage Office (now the Heritage Division of the NSW Department of Premier and Cabinet) has published a series of criteria for the assessment of heritage impact.

The physical impact of the proposal on the site’s contributory elements is described in the following table.

Contribution to HCA	Site Elements	Impacts
Exceptional	There are no elements of the site that make an exceptional contribution to the HCA.	None
High	Continuous zero lot street setbacks.	None
	Subdivision pattern.	None
	Land use activity being a pub and remains important from a social value.	Allows the continued use of the premises.
Moderate	Ground and first floor façade.	None
	Splay corner tower/ parapet.	None



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	Arched windows.	None
	Commercial awning.	None
	Vertically proportioned windows.	None
Little	Later rear additions.	None
	Later roof top additions and acoustic/fire wall.	Acceptable heritage impact.
	Later cement rendered and painted brick external walls.	None
	Later cement rendered and painted corbel brickwork and other features to external walls.	None
	Later signage to the premises.	None
Intrusive	There are no elements of the site that are intrusive to the HCA.	None

The relevant ‘questions to be answered’ in the NSW Heritage Manual ‘Statements of Heritage Impact’, provided below, have been considered in the preparation of our assessment and this is based on the revised architectural drawings prepared by the project architect- revision B and in response to Council’s request for further information dated 8 December 2020.

As the guidelines in the Heritage Office document Statements of Heritage Significance do not specifically address assessment of impact on Contributory items in Heritage Conservation Areas, the following ‘questions to be answered’ have been developed, based on the approach in the above-mentioned document.

*The following aspects of the proposal respect or enhance the heritage significance of the item or area for the following reasons:*

- The proposal respects the heritage significance of the area by continuing to retain the subdivision pattern, main façade with a zero-lot setback and distinct splay corner architectural features of the pub.
- The pub remains intact and is important from a social and aesthetic value.

*The following aspects of the proposal could detrimentally impact on the heritage significance of the item or area for the following reasons:*

- The roof top additions and the relationship to the site context and aesthetics was re-considered by the Architect.



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- Following on from Council's initial assessment, the design concept plans had been amended to show:

A reduction in height/boundary wall

Reduction in height of the top of the vergola by 550mm.

The existing boundary fire wall which also acts as an acoustic wall is required to be extended to be a 3-hour fire rated wall under the requirements of the BCA (refer to BCA Report).

Under the BCA, the fire wall must be extended to the boundary line as shown in drawing number DA 112 for mandatory safety and fire separation needs.

Although this is required for the safety of patrons and to safeguard the building from the spread and risk of fire from the neighbouring property, we believe it does however result in a noticeable and obtrusive singular vertical element detracting from the prominence of the corner tower element. In addition, the extended eaves that previously extended to the perimeter walls below have now been removed.

Reduction in beam depth of the perimeter pergola beam

The structural perimeter beam of the vergola is reduced in depth and will be a steel I beam.

This further reduces the impact of the horizontal support beams appearance from the street and allows the existing parapet line to remain as the dominant horizontal element which showcases the historic zero lot building line along the streetscape.

Materials and Colour

Lighter grey and natural tones have been used to differentiate between both old and new elements allowing the art deco building to take precedent.



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Previously the “lid” reference in Council’s request for information, which admittedly took reference from the existing building in terms of colours (i.e., white perimeter beam and brown columns and louvres) is now clearly a secondary set back modern structure and is now subdued by using a softer galvanised steel structure, in character with its locality.

Other buildings have successfully used this palette of materials in other roof top additions Notably the Town Hall Hotel on King Street.

Refer to drawing number DA 420 concerning the Town Hall Hotel.

#### Setting back columns (500mm) from the perimeter

The vergola columns have been set back from the inside face of the parapet by 500mm to accentuate the difference between the solid historic bases below and the lightweight and open structure above.

The two structures clearly read as two separate elements with the ground and first floor being the dominant horizontal segments of the pub building and maintaining the existing parapet line along the zero-setback building alignment along King Street.

Based on the revised drawings, we believe the conservation area and nearby local heritage items will not be detrimentally impacted by the revised roof top additions.

#### New greenery to the roof top

The revised plans now incorporate greenery to soften the building form elements.

*The following sympathetic design solutions were considered and discounted for the following reasons:*

- The do-nothing scenario was considered but was discounted due to economic and BCA fire and safety reasons.



Statement of Heritage Impact  
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- The use and additions to the roof top is necessary to allow the pub to compete with other entertainment venues and is needed to allow the economic viability of the premises.
- The roof covering will enhance the amenity, safety and comfort of patrons.
- To safeguard the premises from future fire risk and allow a compliant fire wall.
- In terms of the internal fabric, there are no original heritage features to be detrimentally affected by the new works.

*New Development Adjacent to a Heritage Item*

*How is the impact of the new development on the heritage significance of the item or area to be minimised?*

- The additions to the roof top have been modified as explained earlier above by way of a reduction in height, reduced beam size, setting back columns, introduction of greenery and revised choice of materials to be of a modern form and to be in keeping with other materials used in the local context.

*Why is the new development required to be adjacent to a heritage item?*

- The subject site does not share a common boundary line with any local heritage items and these local items in proximity are separated by public road corridors.
- The new development is required to improve the appeal and longevity of licensed venue so that it remains attractive and competitive in a fierce hospitality/entertainment market.
- The hospitality industry in general has been affected by the COVID- 19 pandemic, and the proposed works are viewed to assist restimulate public interest in visiting the venue once the full effects of the pandemic are flattened and to maintain a competitive edge over other venues.

*How does the curtilage allowed around the heritage item contribute to the retention of its heritage significance?*

- The site does not contain a curtilage due to the zero-lot wall construction of the building's facade.



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*How does the new development affect views to, and from, the heritage item? What has been done to minimise negative effects?*

- Given the reduction and other supplementary changes to the proposal (refer to revised drawings DA 450 and DA 460), the proposal will not adversely affect significant views to, or from, the local heritage items these local items in proximity are separated by public road corridors and generally dissociated.
- Any changes will be viewed in the context of the continual, appropriate, and evolution of the streetscape of King Street.
- No significant views in the King Street and Enmore Road Heritage Conservation Area will be adversely affected by the proposal.
- The streetscape of King Street will continue to read as retail frontages with suspended awnings constructed off 2 and 3 storey buildings that were built to the boundary in the late 19th and early 20th century period, and some appropriate, later alterations.
- The proposed changes to the pub premises will not dominate the streetscape and users of the HCA will continue to be able to appreciate its significance.

*Is the new development sympathetic to the heritage item? In what way (e.g. form, siting, proportions, design)?*

- Yes, we believe the proportion of the revised roof top addition is now within acceptable limits and would not dominate the pub building and that of other surrounding buildings as the main façade and its aesthetic quality would remain intact.

*Will the additions visually dominate the heritage item? How has this been minimised?*

- No, due to the reduction in the scale of the roof top addition and related changes, we believe the roof top addition would not affect the aesthetics of the pub building and other surrounding buildings.

*Will the public, and users of the item, still be able to view and appreciate its significance?*

- Yes, because the horizontal space of the ground and first floor plates will remain more dominant by proportion rather than the roof top addition which is lower in proportion.

Heritage Objectives of Marrickville LEP 2011



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The development proposal is considered to be acceptable, from a heritage perspective, for the following reasons:

- The Art Deco architectural style of the pub building is to remain legible.
- Retains views to and from the adjacent local heritage items as they are clearly separated by public road corridors.
- The roof top additions are consistent with the existing architectural elements within the King Street and Enmore Road HCA.
- The ability of the pub building to contribute to the streetscape of the King Street and Enmore Road HCA, will be retained.

The proposal is, therefore, considered to be consistent with the relevant heritage objectives of the Marrickville LEP 2011, which are:

*5.10 Heritage conservation*

*(1) Objectives*

*The objectives of this clause are as follows:*

*(a) to conserve the environmental heritage of Marrickville,*

*(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views.*

Heritage Guidelines of Marrickville DCP 2011

The proposed development is consistent with the guidelines of the *Marrickville DCP 2011* that relate to development in conservation areas and adjacent of heritage items:

Objective (O) O5 - Part 8.1.1 of MDCP 2011 reads:

*To encourage new development which complements existing heritage items and heritage conservation areas in a modern context.*

We are of the view the proposed alterations and additions to the roof top of an existing pub building in a modern form as illustrated in the revised architectural drawing will complement the existing urban character as the works are clearly distinguishable as new.



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We believe the proportion of the roof top addition is now within acceptable limits and would not dominate the pub building and that of other surrounding buildings as the main façade and its aesthetic quality would remain intact.

We would like to reiterate the structure would remain in openness and the intent of the Architect's design is to provide a feeling of openness for patrons visiting the roof top and greenery to create a landscape setting.

The enclosure of the roof top was discouraged by the Architect, as solidness would otherwise impede on space.

A balance is achieved by allowing a roof top experience to be functional in direct response to the natural elements where the vergola is not considered a 'lid' like addition.

Desired Future Character –Part 9.37.2 of MDCP 2011 reads as follows and an appraisal is offered below:

*1. To protect the identified Heritage Items within the precinct.*

Appraisal- The subject site is not listed as a local heritage item. Nearby local heritage items are not to be detrimentally affected by these new works.

*2. To protect and preserve contributory and period buildings within the precinct and require their sympathetic alteration or restoration.*

Appraisal- Considering the revised changes and the location of these new works on the roof top of the pub premises, we believe the alterations are sympathetic and within acceptable heritage limits.

*3. To protect the identified values of the King Street and Enmore Road Heritage Conservation Area.*

Appraisal- The additions will support the continued use of the premises as a pub and this will contribute to an eclectic vibe to the commercial and entertainment area envisaged by Council.

The original scale of the building and that of neighbouring buildings will not be adversely affected and we believe the alterations are appropriate.

*4. To protect and enhance the character of streetscapes and public domain elements within the precinct including prevailing subdivision patterns, building typologies, materials and finishes, setbacks, landscaping, fencing, open space, carriageway and footpath design and kerb and guttering.*





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Appraisal- The proposal does not affect the public footway elements. As discussed above, the revised proposal provides for an acceptable form and scale.

5. *To ensure that buildings provide strong definition to the street through retention of the existing nil building setbacks.*

Appraisal- The roof top addition is offset from the existing street zero-building line. The existing 2 storey-built form to King Street will continue to retain its strong definition.

6. *To retain, as a minimum, the front portion of contributory buildings where they are contributory to the heritage conservation area (HCA) and/or streetscape.*

Appraisal- No changes are proposed to the existing front façade and fabric of the pub building.

7. *Where required, to protect, preserve and enhance the existing character of the streetscape, where only compatible development is permitted.*

Appraisal- Based on the revised drawings, we believe the proposal is compatible with the existing character.

8. *To ensure that the street building frontage of infill development complements the siting (location and orientation), scale, form (height, massing and setback), proportion (height to width and solid to void), rhythm, pattern, detail, material, colour, texture, style and general character in the design of the existing predominantly traditional two storey commercial streetscape, without being imitative.*

Appraisal- No changes are proposed to the existing building line frontage and the façade is to remain intact.

The roof top additions are not enclosed and given the revised design changes made by the Architect, the additions do not result in a top-heavy appearance and the new works are clearly defined as new modern works and proportionality balanced when you compare the scale and built form of the ground and second floor plates.

The roof top addition is lesser in height than the height of the fenestration to the pair of arched windows.

The proposal retains the 2-storey commercial streetscape-built form and aesthetic quality of the pub building.

9. *To ensure that there are active commercial fronts to new buildings facing onto streets to create a vibrant and safe streetscape.*



Statement of Heritage Impact  
323 King Street, Newtown NSW 2042

Appraisal- No changes to the existing commercial front is proposed as there is no change of use.

10. *To ensure that higher density development demonstrates good urban design and environmental sustainability and provides suitable amenity for occupants of those developments.*

Appraisal- No higher density development is proposed.

11. *To ensure that the design of higher density development protects the residential amenity of adjoining and surrounding properties.*

Appraisal- No higher density development is proposed.

12. *To support pedestrian and cyclist access, activity and amenity including maintaining and enhancing the public domain quality.*

Appraisal- No changes are proposed to the existing public footway.

13. *To ensure the provision and design of any parking and access for vehicles is appropriate for the location, efficient, minimises impact to streetscape appearance and maintains pedestrian safety and amenity.*

Appraisal- N/A as no parking is proposed.

Based on the changes put forward by the Architect, we believe the roof top addition would be consistent with the HCA and is within acceptable limits and meets the desired future character objectives.

## 6. Conclusion and Recommendation

The main body of this report reviewed key planning and heritage considerations for a consent authority.

The subject property is not listed as an item of heritage significance in any statutory instrument.

The existing building is one of the many commercial and civic related buildings of the 20<sup>th</sup> century which is located in and gives the King Street and Enmore Road Heritage Conservation Area a distinct historic character.

It is also in the vicinity of the heritage listed items- 'Former CBC Bank' at 325 King Street, Newtown and 'Former ANZ Bank' at 327 King Street, Newtown.



Statement of Heritage Impact  
323 King Street, Newtown NSW 2042

Based on the changes put forward by the Architect, the additions to the roof top have been modified by way of a reduction in height, reduced beam size, setting back columns, revised choice of materials to be of a modern form and to be in keeping with other materials used in the local context, we believe the roof top composition is acceptable. The incorporation of greenery softens the appearance of the built form structures to the roof top and provides for a landscaped setting.

The ability of the subject property to contribute to the streetscape of King Street and Enmore Road Heritage Conservation Area, will be retained.

The proposal will have no adverse impact on the heritage significance of the properties at 325 King Street, Newtown and 327 King Street, Newtown or the King Street and Enmore Road Heritage Conservation Area.

There are no views between the subject site and the heritage items in the vicinity that have been identified as contributing factors to the cultural heritage significance of any of these places.

The proposal is consistent with the heritage requirements and guidelines of Marrickville Local Environmental Plan 2011 and Marrickville Development Control Plan 2011.

Council should have no hesitation, from a heritage perspective, in approving this development application.

**Momcilo (Momo) Romic**  
Heritage Consultant

*BTP (UNSW), MEM (UNSW)*  
*NSW Builder Licence No. 252856C*

**Attachment F – Notice of Determination issued under DA200200553.09**

DA200200553 CLEN4

1 November 2013

LEES GROUP PTY LTD  
C/O DESIGN COLLABORATIVE PTY LTD  
156A Church Street  
CAMPERDOWN NSW 2050

Dear Sir/Madam

**323 KING STREET, NEWTOWN**

Council has considered your **Application No. 200200553.09** under Section 96 of the Environmental Planning and Assessment Act to modify Modified Land and Environment Court Order 10896 dated 12 December, 2012 .

Council resolved that the application be **APPROVED** and a Modified Determination No. 200200553 (Incorporating Land and Environment Court orders relating to Land and Environment Court appeal numbers 10631 of 2003, 10632 of 2003, 10633 of 2003, 10895 of 2010, 10896 of 2010 and 10147 of 2011) be issued with condition 10A being modified in the following manner:

10A. For the period up until 12 December 2014, amplified music may be provided to the roof top area subject to the following:

- i) Such music must be played through the Hotel sound system and not via any other amplification/speakers;
- ii) The speakers must be of a number and location as shown on drawing number SEC/1;
- iii) The sound system must be governed by an RMS limiter that limits the output of the system to 90dB(A) when measured one (1) metre from any speaker;
- iv) The RMS limiting can be provided by a dedicated RMS compressor/limiter unit or incorporated into a DSP processor/controller for the sound system;
- v) The RMS noise limiter used pursuant to condition 10A (iii) must be secured so that it can not be adjusted or modified. Access to the RMS limiter is to be restricted to a qualified technician for the purpose of repair, maintenance or calibration;
- vi) No live entertainment or instruments that do not require amplification shall be utilised on the roof deck; and
- vii) The north eastern part of the wall as marked in red on drawing SEC/1 must be raised in height by 0.5 metres by way of a solid 12 millimetre thick compressed fibro panel.

Reason: To protect the amenity of the surrounding neighbourhood.

Please find **attached** a copy of the Determination as modified. The modified consent is now the consent in force under the Environmental Planning and Assessment Act as from the above date.

Furthermore you are advised that any Construction Certificate that is issued relating to this development must be in accordance with the terms and conditions of the determination.

Under Section 96AB of the Environmental Planning and Assessment Act you may, within twenty eight (28) days of the receipt of this notice, request Council to review this determination. A review request of this determination may be made under Section 96AB of the Act.

Under Section 97AA of the Environmental Planning and Assessment 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.

Yours faithfully



Judy Clark  
**Manager Development Assessment**

Encl.

Enquiries: Peter Wotton on 9335 2260

Ref: **D11** TRIM Doc.

DA200200553.09 CLEN4

**MODIFIED DETERMINATION NO. DA200200553.09200200553  
(Incorporating Land and Environment Court orders relating to  
Land and Environment Court appeal numbers  
10631 of 2003, 10632 of 2003, 10633 of 2003,  
10895 of 2010, 10896 of 2010 and 10147 of 2011)**

1 November 2013

Lees Group Pty Ltd  
C/O Design Collaborative Pty Ltd  
156A Church Street  
CAMPERDOWN NSW 2050

Dear Sir/Madam

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

Pursuant to Section 81 of the Act, notice is hereby given of the determination by the Council of **Development Application No. 200200553** to carry out alterations to the premises and use the roof of the Zanzi Bar (formally the Oxford Hotel) as a beer garden relating to property situated at:

**323 KING STREET, NEWTOWN**

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

The Development Application was determined on 28 October 2003 pursuant to Section 80(3) of the Act by the granting of a "Deferred Commencement" Consent.

**PART A - DEFERRED COMMENCEMENT CONSENT**

This consent may not be acted upon until the Council or its delegate is satisfied as to the following matters:

1. A plan shall be submitted to Council showing:
  - a) Access to the premises via the principal place of entry and roof terrace, complying with AS 1428.1- 1998 "Design for access and mobility".
  - b) An accessible toilet complying with AS 1428.1- 1998 "Design for access and mobility".

- c) A minimum lift design complying with AS 1735.12 -1999 "Lifts, escalators and moving walkways Part 12: Facilities for persons with disabilities".

Reason: To ensure that the premises are accessible to all persons.

Evidence of the above matter(s) was produced to Council or its delegate's satisfaction and the Consent operates from 28 July 2004.

#### PART B – CONDITIONS OF CONSENT

Once operative the consent is subject to the following conditions:

##### GENERAL

1. The development being carried out substantially in accordance with Plan No. DA02 prepared by Cracknell & Lonergan Architects dated 11 June 2003 and amended details submitted to the Council on 22 July 2003 with the application for development consent and as amended by the following conditions and the plans required by conditions 1 and 2 and 3 of Part A of this Consent.  
Reason: To confirm the details of the application as submitted by the applicant.
- 1A. For a period of two (2) years from the date that this consent was so modified the premises shall be operated in accordance with plan of management ref: 058322.POM9 dated 6 June 2011 amended to be consistent with conditions 3, 5A, 6A, 10A and 10B.  
Reason: To comply with the requirements of the Land and Environment Court.
2. The hours of operation of the roof top area being restricted to between the hours of 10.00am to 10.00pm Mondays to Sundays and Public Holidays. No other use of the roof top area is permitted outside of those hours.  
Reason: To ensure that the operation of the premises does not interfere with the amenity of the locality.
3.
  - i) Notwithstanding condition 2 above, for a period of two (2) years from the date that this Determination was so modified, the hours of operation of the rooftop area shall be restricted to between the hours of 10.00am to 12.00 midnight on Thursdays to Saturdays. During the extended trading hours beyond 10.00pm Thursdays to Saturdays:
    - a) A staff member must be present on the rooftop area; and
    - b) A uniformed security person must be present to assist in minimising noise from the roof top area; and
    - c) The rooftop area is to be vacated by patrons by 12.00 midnight; and
    - d) Staff are to finish the cleaning of the roof area by 12.15am.
  - ii) A continuation of the extended hours will require Council's approval under the Environmental Planning and Assessment Act by way of a fresh application.  
Reason: To permit a trial period of extended hours for a one (1) year period and to ensure that the extended hours of operations are reviewed and assessed in light of their performance and to ensure that the use does not interfere with the amenity of the locality.
4. All ingress and egress after 10.00pm being from the King Street entrance with the four (4) doors on Eliza Street being closed between 10.00pm and 10.00am the following day.  
Reason: To ensure all patrons enter and exit the premises to and from King Street between 12.00 midnight and 10.00am the following day.

5. The maximum number of persons within the Hotel at any one time is two hundred and seventy (270).

Reason: To protect the amenity of the surrounding neighbourhood.

- 5A. Notwithstanding conditions 5 and 11 of this consent for a period of two (2) years from the date that this consent was so modified the number of patrons within the Hotel at anyone time may be increased to:

- i) 300; and
- ii) 360 subject to condition 5B below.

provided that at any time there shall be no more than:

- a) 130 patrons on the rooftop;
- b) 160 patrons on the first floor; and
- c) 200 patrons on the ground floor.

Reason: To comply with the requirements of the Land and Environment Court.

- 5B. Notwithstanding conditions 5 and 11 of this consent for period of two (2) years from the date this consent was so modified the number of patrons within the Hotel at anyone time may be increased to 360 provided that the furniture on the ground floor and first floor is arranged and where required stored in accordance with Option 2 contained in the report of BCA Logic titled "*Population Assessment Based on Furniture Layouts (Dated 18<sup>th</sup> August 2011)*" and dated 19 August 2011.

Reason: To comply with the requirements of the Land and Environment Court.

- a) A 65% reduction in furniture shown on the ground floor from that shown in the ground floor plan prepared by Cracknell and Lonergan Issue A dated 10/08/2006;
- b) A 35% reduction in the furniture shown on the first floor plan from that shown in the first floor plan prepared by Cracknell and Lonergan Issue A dated 10/08/2006;
- c) Adequate space in the basement to store any furniture removed in accordance with a) or b) above;

and prior to and during the use of the premises in accordance with this condition the furniture on the ground floor and first floor is arranged and where required stored in accordance with the plans approved by Council from time to time.

Reason: To comply with the requirements of the Land and Environment Court.

6. A uniformed security guard is to be engaged by the Hotel to carry out regular patrols of Eliza Street and the surrounding area between the hours of 12.00 midnight to 5.00am Tuesdays to Sundays.

Reason: To protect the amenity of the surrounding neighbourhood.

- 6A. For a period of two (2) years from the date that this consent was so modified the following measures shall be implemented to control the number of patrons within the premises on Thursday, Friday and Saturday nights from the later of:

- i) 8.00pm; and
- ii) within 30 minutes of the manager becoming aware that the hotel has 200 patrons on the premises:



## Ground Floor:

- a) Two security guards shall be stationed at the front door to the premises on the corner of King Street and Eliza Street; one guard shall have a counter which shall be used to count the number of persons upon the whole of the premises and the other guard shall have a counter which shall be used to count the number of persons on the ground floor;
- b) A security guard shall be stationed at the bottom of the rear stairs at the ground floor level to prevent people from using those stairs to access the upper floors; that guard shall have a counter to count the number of persons accessing the ground floor via those stairs;

## First Floor

- c) A staff member or security guard shall be stationed at the top of the front stairs on the first floor; that person shall have a counter which shall be used to count the number of persons on the first floor;

## Rooftop

- d) The door on the rooftop to the rear stairs shall be closed so as to prevent persons accessing the rooftop via that door;
- e) A staff member or security guard shall be stationed at the top of the stairs on the rooftop; that person shall have a counter which shall be used to count the number of persons on the rooftop; this person may cease their station once the rooftop is closed;

## Headsets

- f) All security guards and staff monitoring patron numbers are to have hands free headsets which enable them to communicate with each other to ensure that maximum patron numbers on each level are not exceeded.

## Records

- g) Patron numbers on each level shall be confirmed by head count each hour until each level is closed and those counts must be recorded in a permanent register which shall be made available for inspection by Police or an authorised Council Officer upon request.

Reason: To protect the amenity of surrounding neighbourhood.

7. Council waiving the requirement of forty (40) additional off-street car parking spaces required for the development.  
Reason: In view of the development's close proximity to public transport.
8. No injury being caused to the amenity of the neighbourhood by the emission of noise, smoke, smell, vibration, gases, particulate matter, the exposure to view of any unsightly matter or otherwise.  
Reason: To protect the amenity of the locality.
9. 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 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.

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 NSW Office of Liquor, Gaming and Racing or NSW Independent Liquor and Gaming Authority, the more stringent condition shall prevail.

Reason: To protect the amenity of the surrounding neighbourhood.

- 9A. Exhaust fans behind the two round grills on the southern façade of the Hotel below the plant room shall be serviced and regularly maintained to ensure the noise admitted from them comply with the noise criteria specified for mechanical plant in this consent.

Reason: To protect the amenity of surrounding neighbourhood.

10. No live or amplified music or entertainment being provided on the roof top area. No entertainment in the form of live bands, disco or similar (other than background music from the existing juke box) shall be provided on the premises. Any proposal to provide entertainment in any form other than background music or existing juke box shall be subject to a separate acoustical assessment and application to Council.

Reason: To protect the amenity of the surrounding neighbourhood.

- 10A. For the period up until 12 December 2014, amplified music may be provided to the roof top area subject to the following:

- i) Such music must be played through the Hotel sound system and not via any other amplification/speakers;
- ii) The speakers must be of a number and location as shown on drawing number SEC/1;
- iii) The sound system must be governed by an RMS limiter that limits the output of the system to 90dB(A) when measured one (1) metre from any speaker;
- iv) The RMS limiting can be provided by a dedicated RMS compressor/limiter unit or incorporated into a DSP processor/controller for the sound system;
- v) The RMS noise limiter used pursuant to condition 10A (iii) must be secured so that it can not be adjusted or modified. Access to the RMS limiter is to be restricted to a qualified technician for the purpose of repair, maintenance or calibration;
- vi) No live entertainment or instruments that do not require amplification shall be utilised on the roof deck; and
- vii) The north eastern part of the wall as marked in red on drawing SEC/1 must be raised in height by 0.5 metres by way of a solid 12 millimetre thick compressed fibro panel.

Reason: To protect the amenity of the surrounding neighbourhood.

- 10B. i) Except as provided for in condition 10B (ii), all music provided on the ground and first floor of the Hotel must be run through the Hotel sound systems subject to the following:

- a) All amplifiers/speakers must be controlled by an RMS noise limiter(s) that limits the output noise as follows:
  - 1) On the ground floor - 89dB(A) measured as a spatial average across the entire floor; and
  - 2) On the first floor - 85dB(A) measured as a spatial average across the entire floor; and

- 3) The RMS limiting can be provided by a dedicated RMS compressor/limiter unit or incorporated into a DSP processor/controller for the sound system.
- b) The RMS noise limiter(s) must be installed and calibrated, or when required, modified, by a qualified technician to ensure compliance with condition 10B (i) (a).
- c) Reed switches are to be installed in all windows which are able to be opened on the Eliza Street façade and connected to the Hotel's sound system such that when any such window is open, the noise limit of the Hotel's sound system is attenuated by 10dB. The attenuator is to be installed between the RMS noise limiter(s) and the associated amplifiers.
- ii) When live music is provided on the ground or first floor any instruments/sound sources or voices that require amplification shall be via the hotel sound system in accordance with condition 10B (i). Instruments that do not require amplification such as stringed and/or woodwind instruments are not controlled by the RMS limiter(s) and can only be used if all windows to Eliza Street are closed.
- Reason: To protect the amenity of the surrounding neighbourhood.
11. The maximum number of persons permitted on the roof top area at any one time (including staff) is seventy five (75).  
Reason: To reduce the potential impact of the proposed use.
12. No food is permitted to be served or consumed on the roof top area at any time except complimentary finger food provided in accordance with licensing requirements.  
Reason: To limit the scope of the proposed use to the details sought by the application.
13. No portable umbrellas or similar weather protection items are permitted to be installed or erected on the roof top area.  
Reason: To ensure that architectural qualities of the building.
14. A minimum of six (6) cigarette receptacles are to be provided on the roof top area.  
Reason: To ensure that litter is contained within the premises.
15. The proprietors of the hotel being responsible at all times to ensure the orderly dispersal of patrons from the roof top area.  
Reason: To protect the amenity of the surrounding neighbourhood.
16. Signs being appropriately located within the roof top area 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.  
Reason: To ensure the quiet and orderly ingress and egress of patrons of the hotel and to protect the amenity of the surrounding residential neighbourhood.
17. Any proposed lighting of the roof top area being designed, located and shielded to eliminate direct vision from residences in the area and to ensure that no injury is caused to the amenity of the surrounding area by light overspill. Details of any lighting system being submitted to and approved by the Council prior to installation.  
Reason: To protect the amenity of the surrounding neighbourhood from the emission of light.

18. A separate application being submitted to, and approved by, Council prior to the erection of any advertisements or advertising structures.  
Reason: To ensure the compliance of any advertisements or advertising structures with the requirements of Marrickville Development Control Plan for Signs along King Street and Enmore Road.
19. No storage of goods or equipment external to any building on the site being permitted.  
Reason: To ensure the premises are kept in a neat and tidy manner.
20. No signs or goods to be displayed for sale or stored on the footpath in front of the premises at any time without the prior approval of Council.  
Reason: To prevent the public footpath from being obstructed.
21. A road opening permit shall be obtained for all works carried out in public roads or Council controlled lands. Restorations shall be in accordance with Marrickville Council's Restorations Code.  
Reason: To ensure that all restoration works are in accordance with Council's code.
22. All building work must be carried out in accordance with the provisions of the Building Code of Australia 96.  
Reason: To ensure the work is carried out to an acceptable standard and in accordance with the Building Code of Australia 96.
- 22A. The fabric canopy to be constructed of Rip Stop nylon with 50mm polyester on the underside face with an open weave fabric, quilted and fixed to the frame with removable mechanical fixings.
- 22B. The glass screen along north eastern parapet be made of obscure glazing for its full length.

#### **BEFORE THE ISSUE OF A CONSTRUCTION CERTIFICATE**

23. A plan for the landscaping of the planter boxes on the roof terrace being submitted to Council's satisfaction before the issue of the Construction Certificate. The landscaping chosen being of low scale to ensure it does not project above the parapet at the building edge. Details being submitted with the landscape plan including the depth of soil, waterproof membrane, subsoil drainage and irrigation.  
Reason: To ensure that appropriate landscaping is planted that does not project above the parapet at the building edge.
24. Details of all finished surface materials, including colour and texture to be used in construction being submitted to Council's satisfaction before the issue of the Construction Certificate.  
Reason: To ensure that finished surface details are in keeping with the character of the area.
25. Before the issue of the Construction Certificate evidence of payment of the building and construction industry Long Service Leave Scheme, is required to be given to Council. The required payment of \$100, can be made at the Council Offices. This fee has been based on an estimated cost of works of \$50,000.  
Reason: To ensure that the appropriate levy (0.2% of the cost of the building and construction work costing \$25,000 or more) is paid in accordance with the Building and Construction Industry Long Service Payments Act 1986.

26. Where Council is appointed as the Principal Certifying Authority to carry out inspections of the works in progress for the purposes of issuing an Occupancy Certificate, a fee of \$715 is required to be paid to Council for the required inspections and the Occupation Certificate before the issue of a Construction Certificate.  
Reason: To inspect the works in progress to confirm that the works are built in accordance with the development consent and construction certificate.
27. Before the issue of the Construction Certificate the person acting upon this development consent shall sign a written undertaking that they shall be responsible for the full cost of repairs to footpath, kerb and gutter, or other Council property damaged during the construction of the proposed development.  
Reason: To ensure that all damages arising from the building works are repaired at no cost to Council.

#### **BEFORE COMMENCING WORKS**

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

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

Reason: To comply with Section 81A(2) of the Environmental Planning and Assessment Act 1997.

29. The approved plans **must** be submitted to the Customer Centre of any office of Sydney Water before the commencement of any work, including excavation activity associated with the development, to ensure that the proposed work meets the requirements of Sydney Water in relationship to:
- (a) sewers;
  - (b) watermains;
  - (c) stormwater channels; and
  - (d) development requirements where applicable.

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

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

30. A waste management plan prepared in accordance with Council's Development Control Plan, DCP No. 27 'Controls for Site Waste Management and Minimisation' must be submitted to Council before works commence. Copies of the DCP are available from Council's Development and Environmental Services Division, Level 1 Administrative Building, 2 Fisher Street Petersham.  
Reason: To ensure the appropriate disposal and reuse of demolition and construction waste generated on the site.

31. Before work commences, a suitable hoarding or fence approved by Council must be erected between the work site and the public place. Enquiries for site fencing and hoardings in a public place including Council approval, can be made through Council's Technical Services Division on ☎9335 2222.  
Reason: To provide protection to the public place.

#### **CONSTRUCTION AND SITE WORKS**

32. All demolition, construction and associated work necessary for the carrying out of the development being restricted to between the hours of 7.00 am to 5.30 pm Mondays to Saturdays, excluding Public Holidays. All trucks and vehicles associated with the construction, including those delivering to or removing material from the site, only having access to the site during the hours referred to in this condition. All construction vehicles bringing materials to and from the site being loaded and unloaded wholly within the property. No waste collection skips, spoil, excavation or demolition material from the site or building materials associated with the construction of the development being deposited on the public road, footpath, public place or Council owned property without Council's approval, having first been obtained. The developer being responsible to ensure that all contractors associated with the development are fully aware of these requirements.  
Reason: To minimise the effect of the development during the construction period on the amenity of the surrounding neighbourhood.
33. The area surrounding the building work being reinstated to Council's satisfaction upon completion of the work.  
Reason: To ensure that the area surrounding the building work is satisfactorily reinstated.
34. Where Council is appointed as the Principal Certifying Authority the following inspections of the building or work must be undertaken:
- (a) reinforcing steel when in position and before concrete is placed;
  - (b) dampcourse, termite barriers and floor timbers before the floor material is fixed;
  - (c) filling the wall cavity with mortar up to weep-hole level before the laying of any brickwork above slab level;
  - (d) the framework including roof members when completed and before the fixing of any internal linings;
  - (e) wet areas (bathrooms, laundries), damp-proofing and flashings before linings are fixed;
  - (f) continuous cavity construction, flashing, waterproofing to the existing building(s);
  - (g) connection and hold-down fixing methods of component members;
  - (h) external stormwater drainage lines before backfilling of trenches and absorption pit where permitted;
  - (i) upper floor beams and joists before fixing any floor material;
  - (j) fire upgrading work; and
  - (k) completion of the building or work.

At least 48 hours notice of the required inspection must be given to the Development and Environmental Services Division, ☎9335 2222.

Note: The person acting upon this consent must satisfy him/herself that each of the above building elements have been inspected and approved before continuing with construction.

Reason: To ensure the building work is carried out in accordance with the Building Code of Australia during the course of construction.

35. If the proposed work is likely to cause obstruction of the public place and/or is likely to endanger users of the public place, a suitable hoarding or fence approved by Council must be erected between the work site and the public place. Enquiries for site fencing and hoardings in a public place including Council approval, can be made through Council's Technical Services Division on % 9335 2223.  
Reason: To provide protection to the public place.
36. The placing of any building/demolition materials on Council's footpath or roadway is prohibited and under no circumstances must building operations be carried out on the footpath or roadway without the consent of Council.  
  
The placement of waste storage containers in a public place also requires Council approval and must comply with Council's Local Policy – 'Placement of Waste Storage Containers in a Public Place'. Enquiries can be made through Council's Waste Services Section on ☎ 9335 2222.  
Reason: To ensure the public ways are not obstructed and the placement of waste storage containers in a public place are not dangerous to the public.
37. A clear unobstructed path of travel of not less than 1000 mm is to be provided to all exits and paths of travel to exits.  
Reason: To provide safe egress in case of fire or other emergency.
38. All required exit doors are to be readily openable without a key from the side that faces a person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900 mm and 1200 mm from the floor in accordance with Clause D2.21 of the Building Code of Australia 96.  
Reason: To ensure the exits are useable at all times.
39. The existing building shall be fully upgraded to meet the requirements of the Building Code of Australia, with particular attention being directed to Clause D1.3.  
Reason: To ensure the development meets the requirements of the Building Code of Australia, that are appropriate use of the building.

#### **BEFORE OCCUPATION OF THE BUILDING**

40. You must obtain an Occupation Certificate from your Principal Certifying Authority before you occupy or use the building completed in accordance with this Consent. A copy of the Certificate must be forwarded to Council within seven (7) days of the date of the Certificate being determined.  
Reason: To comply with Section 109M of the Environmental Planning and Assessment Act.
41. The landscaping of the planter boxes being carried out prior to occupation or use of the roof top area in accordance with the approved plan, with such landscaping being maintained to ensure it does not project above the parapet at the building edge at all times to Council's satisfaction.  
Reason: To ensure adequate landscaping is maintained.
42. The person acting upon this development consent shall be responsible for the satisfactory completion of all works required to be carried out in connection with drainage, crossings, alterations to kerb and guttering, footpaths and roads resulting from the development before the issue of an Occupation Certificate. Works shall be in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#1-"Development Specifications".  
Reason: To ensure applicant completes all required work.

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

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

Yours faithfully



Judy Clark  
**Manager Development Assessment**

Enquiries: Peter Wotton on 9335.2260

Ref: D3A TRIM Doc.82332.13