




 DEVELOPMENT ASSESSMENT PANEL REPORT	
Application No.	DA/2024/0729
Address	31 Chalder Street MARRICKVILLE
Proposal	Alterations and additions to an artisan food and drink premise including internal fit out and extension of hours of operation.
Date of Lodgement	8 September 2024
Applicant	Ester Spirits
Owner	Matthew J Markakis Dimitrios Markarkis Anastasia Markarkis
Number of Submissions	Nil
Cost of works	\$952,500.00
Reason for determination at Planning Panel	<ul style="list-style-type: none"> Section 4.4 – Floor Space Ratio (FSR) variation exceeds 10%
Main Issues	<ul style="list-style-type: none"> Section 4.4 – Floor Space Ratio variation
Recommendation	Approved with Conditions
Attachment A	Recommended Conditions of Consent
Attachment B	Plans of Proposed Development
Attachment C	Section 4.6 Exception to Development Standards
Attachment D	Plan of Management
	
LOCALITY MAP	
Subject Site 	Objectors 
Notified Area 	Supporters 

1. Executive Summary

This report is an assessment of the application submitted to Council for alterations and additions to an artisan food and drink premise including internal fit out and extension of hours of operation at No. 31 Chalder Street Marrickville.

The application was notified to surrounding properties and no submissions were received in response to the notification.

The main issues that have arisen from the application include:

- Section 4.4 – Floor Space Ratio variation exceeds 10%

Despite the issue noted above, it is considered that the proposed development is capable of generally complying with the aims, objectives, and design parameters contained in the relevant State Environmental Planning Policies, *Inner West Council Local Environmental Plan 2022*, and Marrickville Development Control Plan 2011, subject to the imposition of conditions included in the recommendation.

The potential impacts to the surrounding environment have been considered as part of the assessment process and given the context of the site and the desired future character of the precinct, are considered acceptable.

Considering the above, subject to the imposition of appropriate terms and conditions, the application is considered suitable for approval.

2. Proposal

The proposal seeks consent for alterations and additions to an artisan food and drink premise including internal fit out and extension of hours of operation. The artisan food and drink premises currently occupies the ground floor, and the proposal seeks to expand this to the loading dock area and to the first floor of the premises. The proposal includes the following works:

- Ground Floor:
 - Distillery floor and production;
 - Packaging / bottling;
 - Storage;
 - Retail area;
 - Loading bay;
 - Two (2) stairwells;
 - New sign with business name; and
 - Two (2) unisex toilets (inclusive of one (1) DDA toilet).
- First Floor:
 - Bar and dining area;

- Kitchen;
 - Cool room;
 - Bar washing / prep area;
 - Separate office; and
 - Two (2) toilets.
- External Alterations:
 - Replace existing front entrance doorway;
 - Create a new sliding door front entry with render finish;
 - Paint exterior of the new front entry;
 - Install a new metal framed window on front elevation to the first floor;
 - Repair / make good all existing windows; and
 - Remove an existing window on the rear elevation of the first floor.
 - Hours of Operation:

Day of Week	Bar	Distillery
Monday	12:00pm – 11:00pm	7:00am – 6:00pm
Tuesday	12:00pm – 11:00pm	7:00am – 6:00pm
Wednesday	12:00pm – 11:00pm	7:00am – 6:00pm
Thursday	12:00pm – 11:00pm	7:00am – 6:00pm
Friday	12:00pm – 11:00pm	7:00am – 6:00pm
Saturday	12:00pm – 11:00pm	7:00am – 6:00pm
Sunday	12:00pm – 9:00pm	7:00am – 6:00pm

Figure 1 - Proposed Hours of Operation of bar and distillery (Source: Applicant's SEE)

3. Site Description

The subject site is located on the north-eastern side of Chalder Street, between Victoria Road and Chalder Lane. The site consists of two (2) allotments – Lots 1 and 2. The subject proposal concerns Lot 1 in DP1275800, being the eastern allotment. The subject site is generally rectangular shaped with a total area of 295sqm.

The site (Lot 1) has a frontage to Chalder Street of 10.39m. The site is affected by a number of easements including a variable width right of footway along the rear boundary of the subject site and 0.28m wide easement for support along the north-western side of the allotment.

The site supports a two-storey industrial building which is currently used as an artisan food and drink premises on ground floor. The adjoining properties support two-storey buildings which are typically used for industrial purposes and directly across Chalder Street is the Marrickville Public School playground.

The subject site is directly opposite a locally listed Heritage Item – I1218: Marrickville Public School, including interiors. The subject site does not consist of any vegetation and is not flood affected.

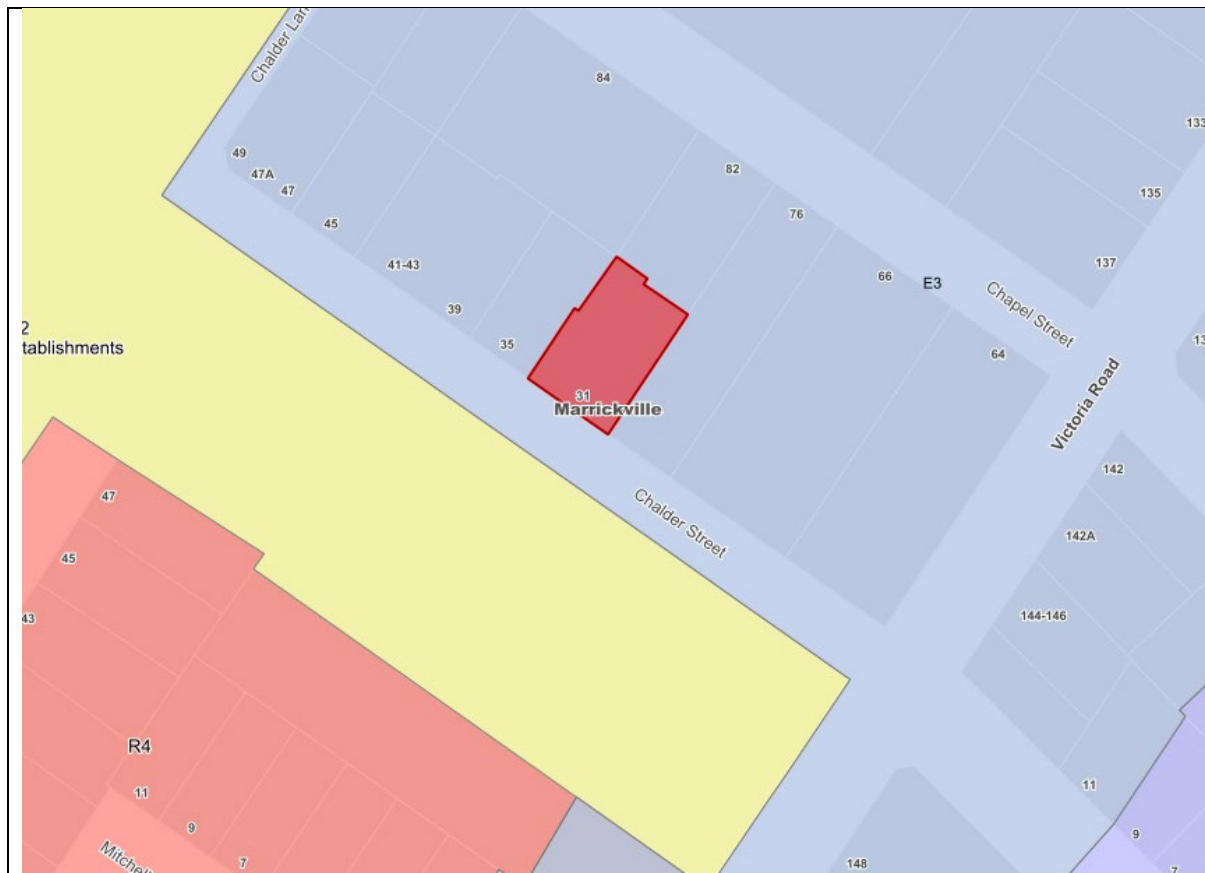


Figure 2: Zoning Map



Figure 3: Site Photo

4. Background

Site history

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

Application	Proposal	Decision & Date
DA200200153	To carry out restoration works to the fire damaged building.	Approved, 24/07/2002
CDC/2021/0087	Complying Development Certificate - Council - Change of use from Light Industry to Light Industry (Distillery).	Approved, 02/02/2022
DA/2022/0746	Restoration works and alterations and additions to a dilapidated warehouse building on Lot 2 of DP1275800.	Deferred Commencement – Local Planning Panel, 21/09/2023
CDC/2023/0003	Complying Development Certificate - Council – Change of use to artisan food and drink premises and internal alterations.	Approved, 02/03/2023

Application history

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

Date	Discussion / Letter / Additional Information
08/09/2024	Application lodged.
17/09/2024 to 01/10/2024	Notification period.
02/10/2024	Site inspection.
14/10/2024	A Request for Further Information letter was issued by Council which requested an amended Clause 4.6 – Exceptions to Development Standards Request, Acoustic Report, signage details, dimensioned plans of the proposed loading / unloading area and associated roadway, amended plans which demonstrate compliance with Food Standards and clarification of permissibility.
04/11/2024	Amended plans and supporting documentation were received. Renotification was not required in accordance with Council's Community Engagement Strategy. The amended plans and supporting documentation are the subject of this report.

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 (EPA Act 1979)*.

A. Environmental Planning Instruments

The application has been assessed and the following provides a summary of the relevant Environmental Planning Instruments.

State Environmental Planning Policies (SEPPs)

SEPP (Resilience and Hazards) 2021

Chapter 4 Remediation of land

Section 4.6(1) of the *Resilience and Hazards SEPP* requires the consent authority not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In considering the above, there is no evidence of contamination on the site.

There is also no indication of uses listed in Table 1 of the contaminated land planning guidelines within Council's records. The land will be suitable for the proposed use as there is no indication of contamination nor are there any groundworks that would penetrate the existing concrete slab.

SEPP (Industry and Employment) 2021

Chapter 3 Advertising and Signage

The following is an assessment of the development under the relevant controls contained in the *Industry and Employment SEPP*.

The application seeks consent for the following signage:

Location	Sign Type	Lettering	Dimension
Southern Elevation	Business Identification Sign	"ESTER"	572mm x 152mm

The proposed development is consistent with objectives set out in Section 3(1)(a) and the assessment criteria specified in Schedule 5 as follows:

Criteria	Assessment
Character of the area	The proposed signage is for the purpose of providing the proposed and existing artisan food and drink industry with high quality business identification signage. The design and dimensions of the proposed signage will be in keeping with the existing and proposed future character of the locality and will be an improvement to the existing signage. Therefore, the proposed signage is considered to be compatible with the industrial character of the immediate locality.
Special areas	The proposed signage does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, or rural landscapes. Further, the proposed signage will not be visible from any surrounding residential uses; and therefore, there will have minimal impacts on any residential areas within the immediate locality of the site.
Views and vistas	The proposed signage is to be installed on the front façade, adjacent to the front sliding door of the premises; and thus, there will be no signage installed above the existing height of the building. Therefore, the signage proposed will not obscure or compromise important views.
Streetscape, setting or landscape	<p>The proposed signage is of an appropriate scale proportion and form for Chalder Street and the immediate locality as it is highly compatible with the objectives of the E3 – Productivity Support zoning of the site.</p> <p>Further, the signage proposed to the front facade is solely for business identification purposes and is of a good design quality and an improvement to the existing building and contributes to the visual interest of the streetscape and setting of the existing premises.</p> <p>Overall, the proposed signage is of a simple design and will not contribute to visual clutter of the streetscape and will not impact existing vegetation.</p>
Site and building	The proposed signage is of a scale and form that is appropriate with the existing building on which the signage is to be located. Further, the signage respects the important features of the building.
Associated devices and logos with advertisements and advertising structures	Not applicable.
Illumination	The Architectural Plans and associated documentation provided does not indicate that the proposed signage will be illuminated. As such, this section is not applicable.
Safety	The proposed signage will not reduce the safety of any public road, pedestrians, bicyclists and will not obscure sightlines from public areas.

As the sign is for business identification purposes Part 3.3 does not apply. The proposal is considered acceptable noting the aims and objectives of this chapter of the SEPP.

Inner West Local Environmental Plan 2022

The application was assessed against the following relevant sections of the *Inner West Local Environmental Plan 2022 (IWLEP 2022)*.

Part 1 – Preliminary

Section	Proposed	Compliance
Section 1.2 Aims of Plan	<p>The proposal satisfies this Section as follows:</p> <ul style="list-style-type: none"> • The proposal facilitates economic growth and employment opportunities within the Inner West; • The proposal prevents adverse social, economic, and environmental impacts on the local character of the Inner West; and • The proposal prevents adverse social, economic, and environmental impacts, including cumulative impacts. 	Yes

Part 2 – Permitted or prohibited development

Section	Proposed	Compliance
Section 2.3 Zone objectives and Land Use Table <i>E3 – Productivity Support</i>	<ul style="list-style-type: none"> • The application proposes alterations and additions to an artisan food and drink industry including internal fit out and extension of hours of operation to between 7.00am-11.00pm Monday to Sunday which is permissible with consent in the E3 – Productivity Support zone; • Artisan food and drink industry is characterised as a type of light industry according to the definition under the <i>IWLEP 2022</i>. Light industries, such as an artisan food and drink industry, is permissible with consent in the E3 zone; and • The proposal is consistent with the relevant objectives of the zone, as the proposal will support the establishment of an emerging light industry and will not compete with surrounding local and commercial centres. 	Yes
Section 2.7 Demolition requires development consent	<p>The proposal satisfies this Section as follows:</p> <ul style="list-style-type: none"> • Demolition works are proposed, which are permissible with consent; and • Standard conditions are recommended to manage impacts which may arise during demolition. 	Yes, as conditioned

Part 4 – Principal development standards

Control	Proposed		Compliance
Section 4.3 Height of building	Maximum	20m	Yes – No change from existing
	Proposed	9.4m	
Section 4.4 Floor space ratio	Maximum	1:1 or 295sqm	No – See discussion below
	Proposed	1.36:1 or 400.6sqm	
	Variation	35.8% or 105.6sqm	
Section 4.5 Calculation of floor space ratio and site area	The site area and floor space ratio for the proposal has been calculated in accordance with the section.		Yes
Section 4.6 Exceptions to development standards	The applicant has submitted a variation request in accordance with Section 4.6 to vary Section 4.4 – Floor Space Ratio.		See below under the relevant heading for further details

Section 4.6 – Exceptions to Development Standards**Floor Space Ratio Development Standard**

The applicant seeks a variation to the above mentioned development standard under Section 4.6 of the *IWLEP 2022* by 105.6sqm or 35.8%. Section 4.6 allows Council to vary Development Standards in certain circumstances and provides an appropriate degree of flexibility to achieve better design outcomes.

A written request has been submitted to Council in accordance with Section 4.6(3) of the *IWLEP 2022* justifying the proposed contravention of the Development Standard. In order to demonstrate whether strict numeric compliance is unreasonable and unnecessary in this instance, the proposed exception to the Development Standard has been assessed against the objectives and provisions of Section 4.6 of the *IWLEP 2022* below.

Whether compliance with the development standard is unreasonable or unnecessary

In *Wehbe* at [42] – [51], Preston CJ summarises the common ways in which compliance with the Development Standard may be demonstrated as unreasonable or unnecessary. This is repeated in *Initial Action* at [16]. In the Applicant's written request, the first method described in *Initial Action* at [17] is used, which is that the objectives of the Floor Space Ratio Development Standard are achieved notwithstanding the numeric non-compliance.

The **first objective of Section 4.4 – Floor Space Ratio** is *“to establish a maximum floor space ratio to enable appropriate development density”*.

The written request states that the proposal seeks to modernise an existing industrial building to expand the existing artisan food and drink industry. As a result of this, the proposal will increase the existing variation from the Development Standard due to the removal of the

internal off-street parking space. Although there is a technical increase in Gross Floor Area (GFA), the proposal does not seek to alter the visual, bulk, height and / or scale of the existing building as all the changes are contained within the existing building footprint. Accordingly, the breach is consistent with the first objective given that the proposal maintains an appropriate development density when viewed from the streetscape and neighbouring properties.

The **second objective of Section 4.4 – Floor Space Ratio** is *“to ensure development density reflects its locality”*.

The written request states the proposal does not seek to extend the existing building footprint or increase the height of the building beyond existing. Therefore, the development density of the existing industrial building will remain substantially the same as existing, and thus, will continue to reflect the development density of its locality. Accordingly, the breach is consistent with the second objective.

The **third objective of Section 4.4 – Floor Space Ratio** is *“to provide an appropriate transition between development of different densities”*.

The written request states that opposite the subject site is Marrickville Public School, which is zoned SP2 – Infrastructure for the purposes of an Educational Establishment. As addressed above, the development does not seek to alter the existing built form, as such, the transition between the subject site and the SP2 zone will remain the same as existing. Similarly, the properties to the east (along Victoria Road) are prescribed an FSR of 2:1. The proposed FSR of 1.36:1 provides an appropriate transition to the land to the east and will not undermine the scale of development earmarked by the applicable Development Standards for sites adjoining Victoria Road. Accordingly, the breach is consistent with the third objective.

The **fourth objective of Section 4.4 – Floor Space Ratio** is *“to minimise adverse impacts on local amenity”*.

The written request states that given the proposal does not seek to increase the height, bulk and scale of the development, the impacts to amenity of adjoining properties and the streetscape will be the same as existing. Further, the increased GFA on-site is a result of deleting the existing internal off-street parking space. The reduction in off-street parking on-site will not have an unreasonable impact on the amenity of the locality given that there is access to nearby public transport and existing on-street parking along Chalder Street and within the vicinity of the site. Accordingly, the breach is consistent with the fourth objective.

The **fifth objective of Section 4.4 – Floor Space Ratio** is *“to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain”*.

The written request states that the increased variation beyond existing will be a result of converting the existing off-street parking space into retail space. As such, the additional GFA proposed will not result in the reduction of urban tree canopy on the subject site and / or within the vicinity of the subject site. Accordingly, the breach is consistent with the fifth objective.

As the proposal achieves the objectives of the Floor Space Ratio Development Standard, compliance is considered unreasonable and unnecessary in this instance.

Whether there are sufficient environmental planning grounds to justify contravening the development standard

Pursuant to Section 4.6(3)(b), the Applicant advances four (4) environmental planning grounds to justify contravening the Floor Space Ratio Development Standard. Each will be dealt with in turn:

Environmental Planning Ground 1 - *The reduction of car parking on site will not result in undue environmental impacts noting that the existing parking space on site is not currently utilised by patrons or staff to service the development.*

This environmental planning ground is accepted because the subject site is a licensed premises, and therefore, it can be expected that the patrons will arrive on-site via public transport, on foot, or using ride share platforms. Additionally, there are numerous examples of recent approvals in the vicinity of the subject site which have approved artisan food and drink premises without patron parking, such as DA/2023/0001 (No. 300 Illawarra Road), DA/2021/0644 (No. 13 Brompton Street) and DA/2021/0545 (No. 6 Sydney Street).

Environmental Planning Ground 2 - *The non-compliance does not create adverse and unreasonable impacts on the amenity of surrounding sites and the public domain in terms of privacy impacts, excessive solar access reduction, view loss and adverse streetscape impact.*

This environmental planning ground is accepted because the proposal does not seek to alter the building footprint, setbacks and / or heights of the industrial building from existing. Therefore, impacts associated with visual bulk and scale, such as solar access and overshadowing, view loss and privacy will remain the same as existing. Further, the proposal seeks to enhance the existing front façade to provide visual interest when viewed from the public domain which will ultimately have enhanced streetscape impacts from existing.

Environmental Planning Ground 3 - *The development also seeks to improve the appearance of the existing building through modifying front building façade, including the addition of contemporary design features.*

This environmental planning ground is accepted because although the proposal seeks to vary the maximum permissible allowable Floor Space Ratio on-site, the proposal will result in a positive design outcome in terms of improving the existing streetscape and the existing building on-site. As such, the proposal effectively responds to the precinct controls under Part 9 – Strategic Context of the MDCP 2011.

Environmental Planning Ground 4 - *Upgrades to the building will be undertaken as identified by the BCA and Access Report prepared by Nest Consulting Group.*

The environmental planning ground is accepted because the upgrades recommended by the BCA and Access Reports will improve the safety of the building's occupants. Further, the removal of the off-street parking space within the existing building to accommodate further retail space will improve the safety of patrons as any conflicts involving patrons and vehicular movements will be significantly reduced from existing which is a satisfactory outcome.

Cumulatively, the grounds are considered sufficient to justify contravening the Development Standard.

For the reasons outlined above, it is recommended that the Section 4.6 exception be granted.

Part 5 – Miscellaneous provisions

Section	Compliance	Compliance
Section 5.4 Controls relating to miscellaneous permissible uses	The proposed artisan food and drink industry has a 40.5sqm floor area dedicated for retail sales which is substantially less than the 80.12sqm (20% of the GFA of the industry) maximum permissible retail floor area on-site. As such, the proposal is compliant with Subsection 10 of this Section of the <i>IWLEP 2022</i> .	Yes
Section 5.10 Heritage Conservation	<p>The proposed works / premises is located in proximity to a locally listed Heritage Item – I1218 – Marrickville Public School, including interiors at No. 116 Chapel Street, Marrickville.</p> <p>The proposed works and operation of the artisan food and drink industry are located sufficiently away from the Heritage Item in question, as the subject site is directly opposite the Marrickville Public School playground, rather than the built forms that are more highly valued. As such, it is considered that the proposed works will have minimal impacts on the integrity and significance of the Item given that it will be of minimal visibility from the historically regarded buildings.</p> <p>Therefore, the proposal is consistent with the objectives contained under this Section of the <i>IWLEP 2022</i>.</p>	Yes

Part 6 – Additional local provisions

Section	Proposed	Compliance
Section 6.1 Acid sulfate soils	<ul style="list-style-type: none"> The site is identified as containing Class 5 acid sulfate soils. The proposal is considered to adequately satisfy this section as the application does not propose any works that would result in any significant adverse impacts to the watertable. 	Yes
Section 6.8 Development in areas subject to aircraft noise	<ul style="list-style-type: none"> The site is located partially within the ANEF 25-30 contour and the ANEF 30-35 contour. The proposal is capable of satisfying this Section as conditions have been included in the development consent to ensure that the proposal will meet the relevant requirements of Table 3.3 (Indoor Design Sound 	Yes, as conditioned

Section	Proposed	Compliance
	Levels for Determination of Aircraft Noise Reduction) in AS 2021:2015, thereby ensuring the proposal's compliance with the relevant provisions of Section 6.8 of the <i>IWLEP 2022</i> .	
Section 6.31 Development on certain land at Victoria Road, Marrickville	<ul style="list-style-type: none"> The proposal is for alterations and additions to an existing artisan food and drink premise. Given that the extent of building works is restricted to the existing built form, it is considered that the development is minor in nature and is consistent with the E3 – Productivity Support zone objectives. Therefore, Subclause (3) of this Section of the <i>IWLEP 2022</i> is not applicable in this instance. 	N/A

B. Development Control Plans

Summary

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

MDCP 2011	Compliance
Part 2.1 – Urban Design	Yes
Part 2.5 – Equity of Access and Mobility	Yes, as conditioned – see discussion
Part 2.6 – Acoustic and Visual Privacy	Yes, as conditioned – see discussion
Part 2.9 – Community Safety	Yes – see discussion
Part 2.10 – Parking	Acceptable, on merit – see discussion
Part 2.12 – Signage and Advertising Structures	Yes – see discussion
Part 2.21 – Site Facilities and Waste Management	Yes – see discussion
Part 6 – Industrial Development	Yes, as conditioned – see discussion
Part 9 – Strategic Context	Yes

The following provides discussion of the relevant issues:

Part 2 – Generic Provisions

Control	Assessment	Compliance
Part 2.5 Equity of Access and Mobility	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The proposal seeks to upgrade the existing building in accordance with the recommendations provided in the submitted BCA Report and Access Report. This includes accessible toilet facilities, entry to and within the premise. A 	Yes, as conditioned

Control	Assessment	Compliance
	<p>standard condition will be recommended to be imposed as part of this consent to ensure that the building complies with the National Construction Code. This is to be satisfied prior to the issue of a Construction Certificate; and</p> <ul style="list-style-type: none"> • The development does not seek to add a passenger lift leading from the ground floor to the first floor of the premises. According to the submitted Access Report, <i>'the first-floor storey has been determined as not being required to be served by a ramp complying with AS1428.1-2009 or passenger lift, on the basis the building is a Class 6 or 8 building, containing not more than 3 storeys and with a floor area of not more than 200sqm to the first floor storey in accordance with D4D4(f) of the BCA'</i>. • Notwithstanding the applicant's justification with regard to the requirements of the NCC, MDCP 2011 requires appropriate access to and within all areas normally used by the occupants, shall be designed in accordance with the BCA and relevant Australian Standards. This includes access to the first floor. The DCP prescribes that where there is any inconsistency between the Premises Standard and DCP, the greater level of compliance prevails to the extent of any inconsistency. As such, having regard to the extent of works proposed, and that the primary patron area is located on the first floor and associated cost of work, the first floor of the premises should be accessible via lift. In cases of change of use applications with minimal work, an unjustifiable hardship claim can be made, however this has not been presented with this application, and having regard to the extent of work, the number of patrons utilising the space, the size of the tenancy allowing for the provision of a lift, and cost of work(\$952,500), it is considered first floor access is warranted in the circumstances and an unjustifiable hardship would be unlikely supported. • Having regard to the above, a condition is included in the recommendation requiring the provision of a lift to the first floor to allow patrons equitable access in accordance with the provisions of Part 2.5.10 of MDCP 2011. This would therefore be consistent with Objective 1 of the DCP which seeks to <i>provide equitable access within all new development, and ensure substantial alterations to existing development, or an intensification of an existing land use, provides an improved level of access for all people.</i> • Subject to the imposition of a condition requiring the provision of a lift to the first floor, the proposal is acceptable having regard to the provisions of Part 2.5 of MDCP 2011. 	
Part 2.6 Acoustic and Visual Privacy	<p>The proposal will have a satisfactory impact on visual and acoustic levels of the surrounds as follows:</p> <p><u>Visual Privacy:</u></p> <ul style="list-style-type: none"> • The proposal is located such that there is no potential for adverse privacy impacts to any residential development as 	Yes, as conditioned

Control	Assessment	Compliance
	<p>the immediately adjoining buildings are commercial/industrial in nature and the only windows to the premises are located on the front façade. The proposed openings on ground floor and first floor overlook Chalder Street, therefore, will allow for passive surveillance of the streetscape/public domain.</p> <p><u>Acoustic Privacy:</u></p> <ul style="list-style-type: none"> • The development application was accompanied by an Acoustic Report which demonstrates the premises is able to comply with the relevant acoustic noise criteria, subject to adopting the recommendations provided in the Acoustic Report and Plan of Management. Compliance with this documentation is included in the recommended conditions; • The submitted Plan of Management includes appropriate management techniques to limit acoustic impacts to nearby residents which are located at 47 and 49 Chalder Street; and • The proposed hours of operation are reasonable to limit acoustic impacts to nearby residents, subject to a 12-month trial period. Refer to <i>Part 6.2.4 – Hours of Operation</i> of this report for a detailed assessment. 	
Part 2.9 Community Safety	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> • The proposed building entrance to the subject site is visible from Chalder Street, and thus, complies with C2 of this Part of the MDCP 2011; • The proposal seeks to add additional openings to the front façade of the existing building to assist with passive surveillance of Chalder Street; and • A Plan of Management has been provided as part of this subject application which outlines the safety and security measures in which Ester Spirits will employ as part of the operation of the expanded artisan food and drink premises. 	Yes
Part 2.10 Parking	<p><u>Car and Bicycle Parking:</u></p> <ul style="list-style-type: none"> • Part 2.10 – Parking of the MDCP 2011 requires a minimum of one (1) car space to be provided per 250sqm of GFA for customers and staff, and a minimum of one (1) bicycle parking space per 150sqm of GFA for staff. The site has a GFA of approximately 400sqm, thereby requiring a minimum of two (2) car parking spaces and three (3) bicycle parking spaces are required. The application proposes to remove the existing off-street parking space and retain the existing loading / unloading area, resulting in a shortfall of two (2) car parking spaces on-site. <p>A Traffic and Parking Impact Assessment was submitted with the application to assess the impacts of the above non-compliance. The assessment confirmed that there is a bus stop in walking distance (approximately 120m) from the subject site (on Victoria Road – immediately north of the Chalder Street intersection). In addition, the subject site is</p>	Acceptable, on merit

Control	Assessment	Compliance
	<p>also located within walking distance of Sydenham, St Peters, and Marrickville Train Stations, the closest being Sydenham Station which is 850m away from the subject site. Considering the above, the assessment has established that the site is located in an area that is well serviced by public transport.</p> <p>Additionally, the provided Traffic and Parking Impact Assessment demonstrates that the proposed development does not significantly impact on the availability of the existing on-street parking spaces in the vicinity of the site. This is because the peak patronage demand of the premises is when adjoining industrial uses have ceased trading, resulting in a greater availability of street parking along Chalder Street for patrons of the subject site to utilise.</p> <p>The application was referred to Council's Development Engineer who raised no objection to the loss in off-street parking having regard to the Traffic and Parking assessment provided.</p> <ul style="list-style-type: none"> The existing site and proposed development do not indicate any dedicated bicycle parking areas; however, given that there is sufficient area at the front and the rear of the existing building to store three (3) bicycles a condition is included in the recommendation requiring they are formally provided. <p>In light of the above assessment, the parking element of the proposal is considered consistent with the objectives contained under Part 2.10 of the MDCP 2011.</p> <p><u>Loading / Unloading:</u></p> <ul style="list-style-type: none"> According to the provided Traffic and Parking Impact Assessment, the extension of the artisan food and drink industry will not generate the need for an additional loading bay. As such, the subject site will be serviced by the proposed loading bay which will continue to consist of low frequency product deliveries that are undertaken by small trucks / vans. The available headroom at the entrance door (3.145m) is less than the AS2890.2 SRV specification of 3.5m. According to the Traffic and Parking Impact Assessment Request for Further Information Response, the deliveries will be pre-arranged, and hence the size of the delivery vehicle can be set to be accommodated within the spatial confines of the loading bay. Considering the above, no objections are raised to the proposed loading bay. 	
Part 2.12 Signage and Advertising Structures	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The scale and the location of the proposed signage of the front façade is commensurate to the existing building and is 	Yes

Control	Assessment	Compliance
	<p>of a simple design that is in keeping with the streetscape and the building to which it is affixed to;</p> <ul style="list-style-type: none"> The proposed business identification signage is displayed in a position that is clearly visible from Chalder Street to assist in identification and deliveries; and Only one (1) sign is proposed to the front elevation of the existing building and does not occupy more than 20% of the associated wall given that it is less than 0.1sqm in area. 	
Part 2.21 Site Facilities and Waste Management	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The application was accompanied by a waste management plan in accordance with the Part; and Standard conditions are recommended to ensure the appropriate management of waste during the construction of the proposal and the ongoing use of the premises. 	Yes, as conditioned

Part 6 – Industrial Development

Control	Assessment	Compliance
Part 6.1.5 Building Design and Appearance	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> The proposed changes to the front façade, such as the window on first floor, changes to the existing entry, the colours, materials and finishes, and closure of the existing roller door to accommodate a recessed bar / retail entry seek to enhance the streetscape design of Chalder Street and the immediate locality. Thus, satisfying O21 of this Part of the MDCP 2011; and The proposed openings on both ground floor and first floor address the street and highlight the non-industrial related aspects of the premises (i.e., the entries into the premises) to enhance the existing building and the appearance of the premises when viewed from Chalder Street. 	Yes
Part 6.2.1 Plan of Management	<p>The proposed development satisfies the relevant provisions of this Part as follows:</p> <ul style="list-style-type: none"> A Plan of Management (POM) was submitted with the application. The POM submitted is considered to be comprehensive and provide suitable management procedures to minimise potential amenity impacts to the surrounding locality. A condition is included in the recommendation requiring the operation of the premises to adhere to the POM submitted, as amended by any conditions of consent. 	Yes, as conditioned
Part 6.2.2 Noise and vibration generation	<p>This matter is discussed above under <i>Part 2.6 – Acoustic and Visual Privacy</i> of this report, and the development is acceptable in this regard subject to the imposition of appropriate conditions.</p>	Yes, as conditioned

Control	Assessment	Compliance
Part 6.2.4 Hours of Operation	Refer to discussion below.	Yes, as conditioned – See below discussion
<p><u>Hours of Operation:</u></p> <p>Part 6.2.4 – Hours of Operation of the MDCP 2011 contains objectives and controls relating to hours of operation. The application proposes the following hours of operation for the distillery use and the bar use of the premises:</p> <p><i>Distillery:</i></p> <ul style="list-style-type: none"> Monday to Sunday – 7:00am to 6:00pm <p><i>Bar:</i></p> <ul style="list-style-type: none"> Monday to Saturday – 12:00pm to 11:00pm Sunday – 12:00pm to 9:00pm <p>The proposal presents trading hours outside of traditional business hours. As outlined earlier in this report, an Acoustic Report was provided in which was assessed by Council's Environmental Health Team who raised no objections to the proposed hours of operation and the associated noise generated from the premises. This is because the Report demonstrates that compliance with the relevant Liquor and Gaming and Noise Policy criteria can be achieved with windows and doors of the venue open, subject to compliance with the recommendations provided in the Acoustic Report and Plan of Management which is a satisfactory outcome.</p> <p>However, given that the proposal seeks to intensify the existing distillery by adding a first-floor bar area which will be a new operation involving the consumption of alcohol on-site, venues in the surrounding area or of a similar use have been scrutinised and the most recently approved hours of operation are listed below:</p> <p><i>No. 142A Victoria Road, Marrickville (DA/2021/0320)</i></p> <ul style="list-style-type: none"> Food and Drink Premises – Monday to Sunday: 10:00am to 10:00pm Brewing – Monday to Sunday: 7:00am to 6:00pm <p><i>No. 13 Brompton Street, Marrickville (MOD/2023/0024)</i></p> <ul style="list-style-type: none"> Brewing – Monday to Friday: 7:30am to 6:00pm, Saturday: 8:00am to 7:00pm and Sunday: 9:00am to 5:00pm Tasting Bar – Monday to Friday: 12:00pm to 10:00pm and Saturday to Sunday: 10:00am to 10:00pm <p><i>No. 6 Chalder Avenue, Marrickville (DA201700474.01)</i></p> <ul style="list-style-type: none"> Manufacturing – Monday to Sunday: 7:00am to 10:00pm Industrial Retail Outlet – Monday to Sunday: 10:00am to 10:00pm <p><i>No. 92 Sydenham Road, Marrickville (DA/2024/0143)</i></p> <ul style="list-style-type: none"> Licensed Bar – Monday to Sunday: 6:00am to 10:00pm Sports Bar – Monday to Sunday: 6:00am to 10:00pm Brewery – Monday to Sunday: 6:00am to 10:00pm <p>In accordance with Council's Hotel Trading Hours Policy, any approval granted for extended trading hours would be limited to a trial period to ensure that the extended trading hours are reviewed and</p>		

Control	Assessment	Compliance
	<p>assessed in the light of the performance of the premises and to ensure that the extended trading hours do not interfere with the amenity of the locality.</p> <p>Under Council's Hotel Trading Hours Policy, the length of the trial periods are as follows:</p> <p><i>"..... new applications for extended trading hours be subject to an initial one (1) year trial period. Subject to satisfactory conduct of the premises during the initial trial period, the second trial period can be two (2) years and third trial period can be four (4) years."</i></p> <p>It is noted that this application proposes permanent trading hours which are beyond the hours of similar businesses in the vicinity of the site (being 11pm. The granting of permanent trading hours (beyond established trading times) is contrary to the Council's Hotel Trading Hours Policy which requires implementation of trial periods to ensure the management / operation of the premises does not interfere with surrounding development. It is important to note that the trial period applies to the premises, not the operator and a change in management may result in different management practices in dealing with anti-social behaviour. A trial period also allows Council to review management practices and the appropriateness of the operating hours. The regularity of the trial periods ensures that practices can be reviewed and if there are any issues, establish mechanisms to address such matters of concern which may be affecting the amenity of surrounding residences.</p> <p>Given the above, a trial period for the hours beyond 10:00pm for a period of 12 months is recommended to be imposed similar to the abovementioned previous approvals of similar development. This combined with the acoustic and amenity protection conditions as included by Council's Environmental Health Specialist (i.e., compliance with the recommendations provided under the Acoustic Report and Plan of Management), are considered to mitigate any potential adverse amenity impacts to neighbouring properties.</p>	

C. The Likely Impacts

These matters have been considered as part of the assessment of the development application. It is considered that the proposed development will not have significant adverse environmental, social, or economic impacts upon the locality.

D. The Suitability of the Site for the Development

The proposal is of a nature in keeping with the overall function of the site. The premises is in a predominantly industrial surrounding and amongst other industrial uses that are consistent with the zone.

E. Submissions

The application was required to be notified in accordance with Council's Community Engagement Strategy between 17 September 2024 to 1 October 2024.

No submissions were received.

F. 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.

This has been achieved in this instance.

6. Section 7.11 / 7.12 Contributions

Section 7.12 levies are payable for the proposal.

The carrying out of the development would result in an increased demand for public amenities and public services within the area. A contribution of \$9525.00 would be required for the development under the Inner West Local Infrastructure Contributions Plan 2023.

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

7. Housing and Productivity Contributions

The carrying out of the development would result in an increased demand for essential state infrastructure such as schools, hospitals, major roads, public transport infrastructure and regional open space. A contribution of **\$458.35** would be required for the development under Part 7, Subdivision 4 Housing and Productivity Contributions of the *EP & A Act 1979*.

A housing and productivity contribution is required in addition to any Section 7.11 or 7.12 Contribution. A condition requiring that the housing and productivity contribution is to be paid is included in the recommendation.

8. Referrals

The following internal referrals were made, and their comments have been considered as part of the above assessment:

- Development Engineer;
- Waste Management Commercial;
- Environmental Health; and
- Building Certification.

9. Conclusion

The proposal generally complies with the aims, objectives and design parameters contained in *Inner West Local Environmental Plan 2022* and Marrickville Development Control Plan 2011.

Subject to compliance with the recommended conditions, the development will not result in any significant impacts on the amenity of the adjoining premises and the streetscape and is considered to be in the public interest.

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

10. Recommendation

- A. In relation to the proposal by the development in Development Application No. DA2024/0729 to contravene the development standard in 4.4- Floor Space Ratio of Inner West Local Environmental Plan 2022 the Panel is satisfied that the Applicant has demonstrated that:
 - (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.
- B. That the Inner West Local Planning Panel exercising the functions of the Council as the consent authority, pursuant to s4.16 of the *Environmental Planning and Assessment Act 1979*, grant consent to Development Application No. DA/2024/0729 for alterations and additions to an artisan food and drink premise including internal fit out and extension of hours of operation at No. 31 Chalder Street, MARRICKVILLE subject to the conditions listed in Attachment A below.

Attachment A – Recommended Conditions of Consent

CONDITIONS OF CONSENT

GENERAL CONDITIONS

	Condition
1.	<p>Noise – Consultant's Recommendations</p> <p>All noise emission criteria, assumptions and recommendations contained in the Licensed Venue Noise Emission Assessment prepared by GHD Pty Ltd, reference 12638481 Revision 1, dated 01 November 2024, must be implemented and complied with at all times.</p> <p>Reason: To protect the amenity of the neighbourhood and ensure that the development is carried out in accordance with the consent.</p>
2.	<p>Food Premises Registration</p> <p>The food premises are required to be registered with Council's Environment Health Team in accordance with the <i>Food Act 2003</i>.</p> <p>Reason: To ensure the premises operate in accordance with the relevant legislation.</p>
3.	<p>Food Premises Certification</p> <p>The food premises design, construction and operation is in accordance with the following:</p> <ol style="list-style-type: none"> 1. Food Act 2003; 2. Food Regulation 2010; 3. Australia and New Zealand Food Standards Code; 4. Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises); 5. Australian Standard AS 1668 Part 1 – 1998; and 6. Australian Standard AS 1668 Part 2 – 2012. <p>Reason: To ensure compliance with the relevant food premises code and Australian Standards.</p>
4.	<p>Mechanical Ventilation System Certification</p> <p>The mechanical ventilation systems are to be designed, constructed and operated in accordance with the following:</p> <ol style="list-style-type: none"> 1. Australian Standard AS 1668 Part 1 – 1998; 2. Australian Standard AS 1668 Part 2 – 2012; <p>The system must be located in accordance with the approved plans and/or within the building envelope, design and form of the approved building. Any modifications to the</p>

	<p>approved plans required to house the system must be the subject of further approval from Council.</p> <p>Reason: To ensure compliance with the relevant Australian Standards.</p>
5.	<p>Boundary Alignment Levels</p> <p>Alignment levels for the site at all pedestrian and vehicular access locations must match the existing back of footpath levels at the boundary unless levels are otherwise approved by Council via a S138 approval.</p> <p>Reason: To allow for pedestrian and vehicular access.</p>
6.	<p>Stormwater Drainage System – Simple</p> <p>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 existing site drainage system.</p> <p>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.</p> <p>If any component of the existing system is not in good condition and /or not operating satisfactorily and/or impacted by the works and/or legal rights for drainage do not exist, the drainage system must be upgraded to discharge legally by gravity to the kerb and gutter of a public road.</p> <p>Reason: To ensure adequate disposal of stormwater.</p>
7.	<p>Permits</p> <p>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:</p> <ul style="list-style-type: none"> • 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; • A concrete pump across the roadway/footpath; • Mobile crane or any standing plant; • Skip Bins; • Scaffolding/Hoardings (fencing on public land); • Public domain works including vehicle crossing, kerb & guttering, footpath, stormwater, etc.; • Awning or street veranda over the footpath; • Partial or full road closure; and • Installation or replacement of private stormwater drain, utility service or water supply. <p>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.</p> <p>Reason: To ensure works are carried out in accordance with the relevant legislation.</p>

8.	<p style="text-align: center;">Insurances</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>																																
9.	<p style="text-align: center;">Loading/unloading on site</p> <p>All loading and unloading are to be conducted within the site at all times. Any designated loading bay/dock area is to remain available for loading/unloading purposes at all times. No storage of goods or parking of cars is to be carried out in these areas.</p> <p>Reason: To ensure that any designated loading dock is available for servicing the site at all times.</p>																																
10.	<p style="text-align: center;">Documents related to the consent</p> <p>The development must be carried out in accordance with plans and documents listed below:</p> <table><tr><th>Plan, Revision and Issue No.</th><th>Plan Name</th><th>Date Issued/Received</th><th>Prepared by</th></tr><tr><td>23145.2-Access, Issue 2</td><td>Accessibility Assessment Report</td><td>30/04/2024</td><td>Nest Consulting Group</td></tr><tr><td>23145.2-BCA, Issue 2</td><td>BCA Assessment Report</td><td>30/04/2024</td><td>Nest Consulting Group</td></tr><tr><td>12638481, Rev 1</td><td>Licensed Venue Noise Emission Assessment</td><td>01/11/2024</td><td>GHD Pty Ltd</td></tr><tr><td>Unknown</td><td>Plan of Management for the operation of a distillery by Ester Spirits P/L at 31 Chalder Street, Marrickville NSW 2204</td><td>31/10/2024</td><td>Unknown</td></tr><tr><td>1.01, Rev B</td><td>FLOOR PLAN_Ground Floor</td><td>14/11/2024</td><td>Mather Beere</td></tr><tr><td>0.02, Rev A</td><td>SITE_Site Plan</td><td>30/10/2024</td><td>Mather Beere</td></tr><tr><td>1.02, Rev A</td><td>FLOOR PLAN_Level 1</td><td>30/10/2024</td><td>Mather Beere</td></tr></table>	Plan, Revision and Issue No.	Plan Name	Date Issued/Received	Prepared by	23145.2-Access, Issue 2	Accessibility Assessment Report	30/04/2024	Nest Consulting Group	23145.2-BCA, Issue 2	BCA Assessment Report	30/04/2024	Nest Consulting Group	12638481, Rev 1	Licensed Venue Noise Emission Assessment	01/11/2024	GHD Pty Ltd	Unknown	Plan of Management for the operation of a distillery by Ester Spirits P/L at 31 Chalder Street, Marrickville NSW 2204	31/10/2024	Unknown	1.01, Rev B	FLOOR PLAN_Ground Floor	14/11/2024	Mather Beere	0.02, Rev A	SITE_Site Plan	30/10/2024	Mather Beere	1.02, Rev A	FLOOR PLAN_Level 1	30/10/2024	Mather Beere
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	1.03, Rev A	FLOOR PLAN_Roof Level	30/10/2024	Mather Beere
	2.01, Rev A	SECTION_AA	30/10/2024	Mather Beere
	2.02, Rev A	SECTION_BB	30/10/2024	Mather Beere
	2.03, Rev A	SECTION_CC	30/10/2024	Mather Beere
	3.01, Rev A	ELEVATION_South	30/10/2024	Mather Beere
	3.02, Rev A	ELEVATION_East	30/10/2024	Mather Beere
	3.03, Rev A	ELEVATION_North	30/10/2024	Mather Beere
	4.01, Rev A	FINISHES SCHEDULE_TBD	30/10/2024	Mather Beere
	As amended by the conditions of consent.			
	Reason: To ensure development is carried out in accordance with the approved documents.			
11.	Works Outside the Property Boundary			
	This development consent does not authorise works outside the property boundaries on adjoining lands.			
	Reason: To ensure works are in accordance with the consent.			
12.	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.			
	Reason: To protect pedestrian safety.			
13.	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 <i>Environmental Planning and Assessment Act 1979</i> .			
	Reason: To ensure compliance with legislative requirements.			
14.	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.			
	Reason: To ensure compliance with legislative requirements.			
15.	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:			

	<p>i. The name and licence number of the principal contractor; and</p> <p>ii. The name of the insurer by which the work is insured under Part 6 of that Act.</p> <p>b. In the case of work to be done by an owner-builder:</p> <p>i. The name of the owner-builder; and</p> <p>ii. If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.</p> <p>Reason: To ensure compliance with legislative requirements.</p>
16.	<p>Lead-based Paint</p> <p>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.</p> <p>Reason: To protect human health.</p>
17.	<p>Asbestos Removal</p> <p>Hazardous and industrial waste arising from the use must be removed and / or transported in accordance with the requirements of the NSW Environment Protection Authority (EPA) and the New South Wales WorkCover Authority.</p> <p>Reason: To ensure compliance with the relevant environmental legislation.</p>
18.	<p>Car Parking</p> <p>The development must provide and maintain within the site:</p> <ul style="list-style-type: none"> • 3 Bicycle spaces within the site; and • 1 Loading dock/bay. <p>Reason: To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.</p>

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

	Condition
19.	<p>Resource Recovery and Waste Management Plan - Demolition and Construction</p> <p>Prior to the commencement of any works (including any demolition works), the Certifying Authority is required to be provided with a "Waste and Recycling Waste</p>

	<p>Management Plan - Demolition and Construction" in accordance with the relevant Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected during construction.</p>
20.	<p>Bin Storage Area</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a Waste and Recycling Management Plan that demonstrates that the bin storage area will accommodate the number of bins required for all waste and recycling generated by a development of this type and scale.</p> <p>The area must also include 50% allowance for manoeuvring of bins. The bin storage area is to be located away from habitable rooms, windows, doors and private useable open space, and to minimise potential impacts on neighbours in terms of aesthetics, noise and odour.</p> <p>The bin storage area is to meet the design requirements detailed in the Development Control Plan.</p> <p>Reason: To ensure resource recovery is promoted and local amenity protected.</p>
21.	<p>Waste Transfer Route</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with plans demonstrating that the path of travel between the bin storage area/bulky waste storage area and the designated waste/recycling collection point has a minimum 1200mm wall-to-wall clearance, is slip-proof with a hard surface, free of obstructions and at no point has a gradient exceeding 1:14 for 240L bins, and 1:40 for 660L bins.</p> <p>If the path of transfer exceeds this gradient, a bin tug, suited to the inclination, and which meets Australian Standards in Health, Safety, Environment and Quality is to be used to move waste and recycling bins, or bulky household waste, from the basement to ground level.</p> <p>Reason: To require details of measures that will protect residents and staff or tenants during the operational phase of the development.</p>
22.	<p>Food Premises – Additional Sinks and Hand Wash Basins</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended scale plans confirming the position of all sinks and hand wash basins within the food premises in accordance with Australian Standard AS 4674 – 2004 (Design, construction and fit-out of food premises) and Australia and New Zealand Food Standards Code.</p> <p>Reason: To ensure compliance with the food premises code and the relevant Australian Standards.</p>

23.	<p>Noise – Acoustic Certification (Prior to CC)</p> <p>Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant to be in accordance with the requirements of the DA acoustic report (prepared by GHD Pty Ltd, reference 12638481 Revision 1, dated 29 October 2024) and must be consistent with the approved plans. An acoustic certification report demonstrating this must be provided to the satisfaction of the Certifying Authority.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>				
24.	<p>Food Premises Waste Storage Area</p> <p>Prior to the issue of a construction certificate, a detailed plan showing the design and location of the waste storage area must be submitted to the Principal Certifier. The designated waste and recyclable storage area must be in accordance with the following requirements:</p> <ol style="list-style-type: none"> The area must be fully enclosed, suitably sized to contain all waste and recyclable material generated by the premises, adequately ventilated and constructed with a concrete floor and concrete or cement rendered walls; The floor must be graded and drain to sewer in accordance with Sydney Water requirements; A tap with a supply of warm running water shall be provided within the room. <p>Reason: To ensure compliance with the relevant Australian Standard.</p>				
25.	<p>Security Deposit - Custom</p> <p>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.</p> <table border="1" data-bbox="435 1182 1198 1263"> <tr> <td>Security Deposit:</td><td>\$9520.00</td></tr> <tr> <td>Inspection Fee:</td><td>\$389.90</td></tr> </table> <p>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.</p> <p>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.</p> <p>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</p>	Security Deposit:	\$9520.00	Inspection Fee:	\$389.90
Security Deposit:	\$9520.00				
Inspection Fee:	\$389.90				

	<p>recover, in any court of competent jurisdiction, any costs to Council for such restorations.</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure required security deposits are paid.</p>
26.	<p>Dilapidation Report – Pre-Development – Minor</p> <p>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.</p> <p>Reason: To ensure Council assets are protected.</p>
27.	<p>Public Domain Works – Prior to Construction Certificate</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with a public domain works design, prepared by a qualified practising Civil Engineer and evidence that the works on the Road Reserve have been approved by Council under Section 138 of the Roads Act 1993 incorporating the following requirements:</p> <ol style="list-style-type: none"> The public domain along all frontages of the site must be reconstructed and upgraded in accordance with the Street Tree Master plan and the Public Domain Design Guide or scheme. The construction of heavy-duty vehicular crossing to the vehicular access location and removal of all redundant vehicular crossings to the site. The vehicular crossing and driveway ramp to the site shall be designed to satisfy the ground clearance template for a B99 vehicle using dynamic ground clearance software. A long section, along both sides of the vehicular crossing and ramp, drawn at a 1:20 or 1:25 natural scale, shall be provided for review. The long section shall begin from the centreline of the adjacent road to a minimum of 3 metres into the property. The long section shall show both existing and proposed surface levels including information including chainages. New concrete footpath and kerb and gutter along the frontage of the site. The kerb type (concrete or stone) must be consistent with the majority of kerb type at this location as determine by the Council Engineer. Cross sections are to be provided at the boundary at a minimum distance of every 5m and at all pedestrian and vehicular access locations. <p>All works must be completed prior to the issue of an Occupation Certificate.</p> <p>Reason: To ensure public domain works are constructed to Council's standards</p>

28.	<p>Long Service Levy</p> <p>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 0.25% of the total cost of the work to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more.</p> <p>Reason: To ensure the long service levy is paid.</p>
29.	<p>Structural Certificate for retained elements of the building</p> <p>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.</p> <p>Reason: To ensure the structural adequacy of the works.</p>
30.	<p>Sydney Water – Tap In</p> <p>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.</p> <p>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.</p> <p>Reason: To ensure relevant utility and service provides requirements are provided to the certifier.</p>
31.	<p>Acoustic Report – Aircraft Noise</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans detailing the recommendations of an acoustic report prepared by a suitably qualified Acoustic Engineer demonstrating compliance of the development with the relevant provisions of Australian Standard AS 2021:2015 Acoustics – Aircraft noise intrusion – Building siting and construction.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>

32.	<p data-bbox="438 309 853 331">Housing and Productivity Contribution</p> <p data-bbox="470 333 1279 387">a. The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with condition (b), is required to be made</p> <table data-bbox="491 400 1110 607"> <tr> <th data-bbox="499 405 911 459">Housing and productivity contribution</th><th data-bbox="919 405 1102 427">Amount</th></tr> <tr> <td data-bbox="499 472 911 526">Housing and productivity contribution (base component)</td><td data-bbox="919 472 1102 495">\$458.35</td></tr> <tr> <td data-bbox="499 539 911 593">Total housing and productivity contribution</td><td data-bbox="919 539 1102 562">\$458.35</td></tr> </table> <p data-bbox="470 611 1279 687">b. The amount payable at the time of payment is the amount shown in condition (a) as the total housing and productivity contribution adjusted by multiplying it by:</p> <p data-bbox="582 703 798 725"><i>Highest PPI number</i></p> <p data-bbox="582 745 805 768"><i>Consent PPI number</i></p> <p data-bbox="491 788 566 810">Where:</p> <p data-bbox="491 831 1279 907"><i>highest PPI number</i> is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made, and</p> <p data-bbox="491 925 1279 978"><i>consent PPI number</i> is the PPI number last used to adjust HPC rates when consent was granted, and</p> <p data-bbox="491 994 1279 1070"><i>June quarter 2023</i> and <i>PPI</i> have the meanings given in clause 22 (4) of the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p data-bbox="491 1086 1279 1140">If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.</p> <p data-bbox="470 1155 1279 1279">c. The HPC must be paid before the issue first construction certificate in relation to the development, or before the commencement of any work authorised by this consent (if no construction certificate is required). However, if development is any of the kinds set out in the table below, the total housing and productivity contribution must be paid as set out in the table:</p> <table data-bbox="491 1294 1212 1574"> <tr> <th data-bbox="499 1299 837 1321">Development</th><th data-bbox="845 1299 1204 1321">Time by which HPC must be paid</th></tr> <tr> <td data-bbox="499 1339 837 1415">Development consisting only of residential subdivision within the meaning of the HPC Order</td><td data-bbox="845 1339 1204 1393">Before the issue of the first subdivision certificate</td></tr> <tr> <td data-bbox="499 1433 837 1563">High-density residential development within the meaning of the HPC Order for which no construction certificate is required</td><td data-bbox="845 1433 1204 1487">Before the issue of the first strata certificate</td></tr> </table>	Housing and productivity contribution	Amount	Housing and productivity contribution (base component)	\$458.35	Total housing and productivity contribution	\$458.35	Development	Time by which HPC must be paid	Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate	High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate
Housing and productivity contribution	Amount												
Housing and productivity contribution (base component)	\$458.35												
Total housing and productivity contribution	\$458.35												
Development	Time by which HPC must be paid												
Development consisting only of residential subdivision within the meaning of the HPC Order	Before the issue of the first subdivision certificate												
High-density residential development within the meaning of the HPC Order for which no construction certificate is required	Before the issue of the first strata certificate												

	Development that consists only of residential strata subdivision (within the meaning of the HPC Order) or only of residential strata subdivision and a change of use of an existing building	Before the issue of the first strata certificate	
	Manufactured home estate for which no construction certificate is required	Before the installation of the first manufactured home	
	<p>In the Table, <i>HPC Order</i> means the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i>.</p> <p>d. The HPC must be paid using the NSW planning portal (http://pp.planningportal.nsw.gov.au/).</p> <p>e. If the Minister administering the <i>Environmental Planning and Assessment Act 1979</i> agrees, the HPC (apart from any transport project component) may be made, instead of as a monetary contribution, in the following ways:</p> <ul style="list-style-type: none"> a. the dedication or provision of land for the purpose of regional infrastructure in the region in which the development will be carried out, b. the carrying out of works for the purpose of regional infrastructure in the region in which the HPC development will be carried out. <p>If the HPC is made partly as a monetary contribution, the amount of the part payable is the amount of the part adjusted in accordance with condition (b.) at the time of payment.</p> <p>f. Despite condition (a.), a housing and productivity contribution is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the <i>Environmental Planning and Assessment Act 1979</i> to the development, or the <i>Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023</i> exempts the development from the contribution. The amount of the contribution may also be reduced under the order, including if payment is made before 1 July 2025.</p> <p>Reason: To ensure payment of the required development contribution.</p>		
33.	<p>Section 7.12 Development Contribution Payments</p> <p>In accordance with section 7.12 of the <i>Environmental Planning and Assessment Act 1979</i> and the Inner West Local Infrastructure Contribution Plan 2023 (the Plan), a monetary contribution of \$9525.00 shall be paid to Council for the purposes of the provision, extension or augmentation of local infrastructure identified in the Plan.</p> <p>At the time of payment, the monetary contribution payable will be adjusted for inflation in accordance with indexation provisions in the Plan in the following manner:</p> <p>$C_{\text{payment}} = C_{\text{consent}} \times (CPI_{\text{payment}} \div CPI_{\text{consent}})$</p> <p>Where:</p>		

	<ul style="list-style-type: none"> • Cpayment = is the contribution at time of payment • Cconsent = is the contribution at the time of consent, as shown above • CPIconsent = is the Consumer Price Index (All Groups Index) for Sydney at the date the contribution amount above was calculated being 139.8 for January 2025.. • CPIpayment = is the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics that applies at the time of payment <p>Note: The contribution payable will not be less than the contribution specified in this condition.</p> <p>The monetary contributions must be paid to Council (i) if the development is for subdivision – prior to the issue of the subdivision certificate, or (ii) if the development is for building work – prior to the issue of the first construction certificate, or (iii) if the development involves both subdivision and building work – prior to issue of the subdivision certificate or first construction certificate, whichever occurs first, or (iv) if the development does not require a construction certificate or subdivision certificate – prior to the works commencing.</p> <p>It is the professional responsibility of the principal certifying authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.</p> <p>Council's Plan may be viewed at www.innerwest.nsw.gov.au or during normal business hours at any of Council's customer service centres.</p> <p>Please contact any of Council's customer service centres on 9392 5000 or council@innerwest.nsw.gov.au to request an invoice confirming the indexed contribution amount payable. Please allow a minimum of 2 business days for the invoice to be issued.</p> <p>Once the invoice is obtained, payment can be made via (i) BPAY (preferred), (ii) credit card / debit card (AMEX, Mastercard and Visa only; log on to www.innerwest.nsw.gov.au/invoice; please note that a fee of 0.75 per cent applies to credit cards), (iii) in person (at any of Council's customer service centres), or (iv) by mail (make cheque payable to 'Inner West Council' with a copy of your remittance to PO Box 14 Petersham NSW 2049).</p> <p>The invoice will be valid for 3 months. If the contribution is not paid by this time, please contact Council's customer service centres to obtain an updated invoice. The contribution amount will be adjusted to reflect the latest value of the Consumer Price Index (All Groups Index) for Sydney.</p> <p>Reason: To ensure payment of the required development contribution.</p>
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34.	<p>Design Change</p> <p>Prior to the issue of a Construction Certificate, the Certifying Authority must be provided with amended plans demonstrating the following:</p> <p>a. The provision of a lift for patrons from the ground to first floor complying with AS1428 – Design for Access and Mobility.</p> <p>Reason: To ensure that equitable access is provided to patrons to the first floor</p>
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BEFORE BUILDING WORK COMMENCES

	Condition
35.	<p>Erosion and Sediment Control</p> <p>Prior to the issue of a commencement of any works (including any demolition works), the Certifying Authority must be provided with an erosion and sediment control plan and specification. Sediment control devices must be installed and maintained in proper working order to prevent sediment discharge from the construction site.</p> <p>Reason: To ensure resource recovery is promoted and local amenity is maintained.</p>
36.	<p>Construction Fencing</p> <p>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.</p> <p>Reason: To protect the built environment from construction works.</p>

DURING BUILDING WORK

	Condition
37.	<p>Construction Hours – Class 2-9</p> <p>Unless otherwise approved by Council, excavation, demolition, construction or subdivision work must only be permitted during the following hours:</p> <p>7:00am to 6:00pm, Mondays to Fridays, inclusive (with demolition works finishing at 5pm); 8:00am to 1:00pm on Saturdays with no demolition works occurring during this time; and at no time on Sundays or public holidays.</p> <p>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.</p> <p>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.</p> <p>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.</p>

	<p>Activities generating noise levels greater than 75dB(A) such as rock breaking, rock hammering, sheet piling and pile driving must be limited to 8:00am to 12:00pm, Monday to Saturday; and 2:00pm to 5:00pm Monday to Friday.</p> <p>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.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>
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BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

	Condition
38.	<p>Noise – Acoustic Report</p> <p>Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant must prepare an acoustic verification report to the satisfaction of the Principal Certifier that confirms that all recommendations and criteria contained in the approved acoustic report (prepared by GHD Pty Ltd, reference 12638481 Revision 1, dated 29 October 2024) have been implemented and are being complied with.</p> <p>Reason: To ensure compliance with the relevant Australian Standard.</p>
39.	<p>Food Premises Grease Trap – Trade Waste Agreement</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with certification confirming that the grease trap has been installed to the premises in accordance with Australian Standard AS 3500 and the National Plumbing and Drainage Code. A copy of the Sydney Water Trade Waste Agreement must also accompany the certification.</p> <p>Reason: To ensure works are in accordance with the relevant Sydney Water requirements, Australian Standard and National Construction Code (Building Code of Australia).</p>
40.	<p>No Encroachments</p> <p>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.</p> <p>Reason: To maintain and promote vehicular and pedestrian safety.</p>
41.	<p>Protect Sandstone Kerb</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that any stone kerb, damaged as a consequence of the work that is the subject of this development consent has been replaced.</p> <p>Reason: To ensure Council assets are protected.</p>

42.	<p>Public Domain Works</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must be provided with written evidence from Council that the following works on the Road Reserve have been completed in accordance with the requirements of the approval under Section 138 of the Roads Act 1993 including:</p> <ul style="list-style-type: none"> a. Heavy duty concrete vehicle crossing at the vehicular access location; b. The redundant vehicular crossing to the site must be removed and replaced by kerb and gutter and footpath. Where the kerb in the vicinity of the redundant crossing is predominately stone (as determined by Council's Engineer) the replacement kerb must also be in stone; c. The existing concrete footpath across the frontage of the site must be reconstructed; and d. Other works subject to the Roads Act 1993 approval. <p>All works must be constructed in accordance with Council's standards and specifications and AUS-SPEC#2-"Roadworks Specifications".</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>
43.	<p>Redundant Vehicle Crossing</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that all redundant vehicular crossings to the site have been removed and replaced by kerb and gutter and footpath paving in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications". Where the kerb in the vicinity of the redundant crossing is predominantly stone the replacement kerb must also be in stone.</p> <p>Reason: To ensure Council assets are protected, and that works that are undertaken in the public domain maintain public safety.</p>
44.	<p>Heavy Duty Vehicle Crossing</p> <p>Prior to the issue of an Occupation Certificate, the Principal Certifier must ensure that heavy duty concrete vehicle crossing/s, in accordance with Council's Standard crossing and footpath specifications and AUS-SPEC#2-"Roadworks Specifications" has been constructed at the vehicular access locations.</p> <p>Reason: To ensure that suitable vehicle access has been provided.</p>
45.	<p>Aircraft Noise –Alterations and Additions</p> <p>Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), the Principal Certifier must be provided with a report from a suitably qualified person demonstrating that each of the commitments listed in Aircraft Noise Assessment Report required by this consent has been satisfied.</p> <p>Reason: To ensure all noise attenuation is in accordance with the relevant Australian Standard.</p>

OCCUPATION AND ONGOING USE

	Condition																						
46.	<p>Plan of Management - Operation</p> <p>The operation of the premises must comply at all times with the approved Plan of Management (titled 'Plan of Management for the operation of a distillery by Ester Spirits P/L at 31 Chalder Street, Marrickville NSW 2204', dated 31 October 2024). The Plan of Management is not to be further amended without the prior written approval of the Council. If there is any inconsistency between the Plan of Management and the conditions of this consent, the conditions of consent shall prevail to the extent of that inconsistency.</p> <p>Reason: To protect the amenity of the neighbourhood.</p>																						
47.	<p>Trial Hours</p> <p>a. The hours of operation of the premises must not exceed the following:</p> <table><tr><th>Use</th><th>Day</th><th>Hours</th></tr><tr><td rowspan="2">Bar</td><td>Monday to Saturday</td><td>12:00pm to 10:00pm</td></tr><tr><td>Sunday</td><td>12:00pm to 9:00pm</td></tr></table> <table><tr><th>Use</th><th>Day</th><th>Hours</th></tr><tr><td>Distillery</td><td>Monday to Sunday</td><td>7:00am to 6:00pm</td></tr></table> <p>b. For a period of not more than 12 months from the issue of the Final Occupation Certificate for the artisan food and drink premises (bar use) approved in this consent, the hours of operation of the premises must not exceed the following:</p> <table><tr><th>Use</th><th>Day</th><th>Hours</th></tr><tr><td rowspan="2">Bar</td><td>Monday to Saturday</td><td>12:00pm to 11:00pm</td></tr><tr><td>Sunday</td><td>12:00pm to 9:00pm</td></tr></table> <p>Reason: To protect the amenity of the neighbourhood.</p>	Use	Day	Hours	Bar	Monday to Saturday	12:00pm to 10:00pm	Sunday	12:00pm to 9:00pm	Use	Day	Hours	Distillery	Monday to Sunday	7:00am to 6:00pm	Use	Day	Hours	Bar	Monday to Saturday	12:00pm to 11:00pm	Sunday	12:00pm to 9:00pm
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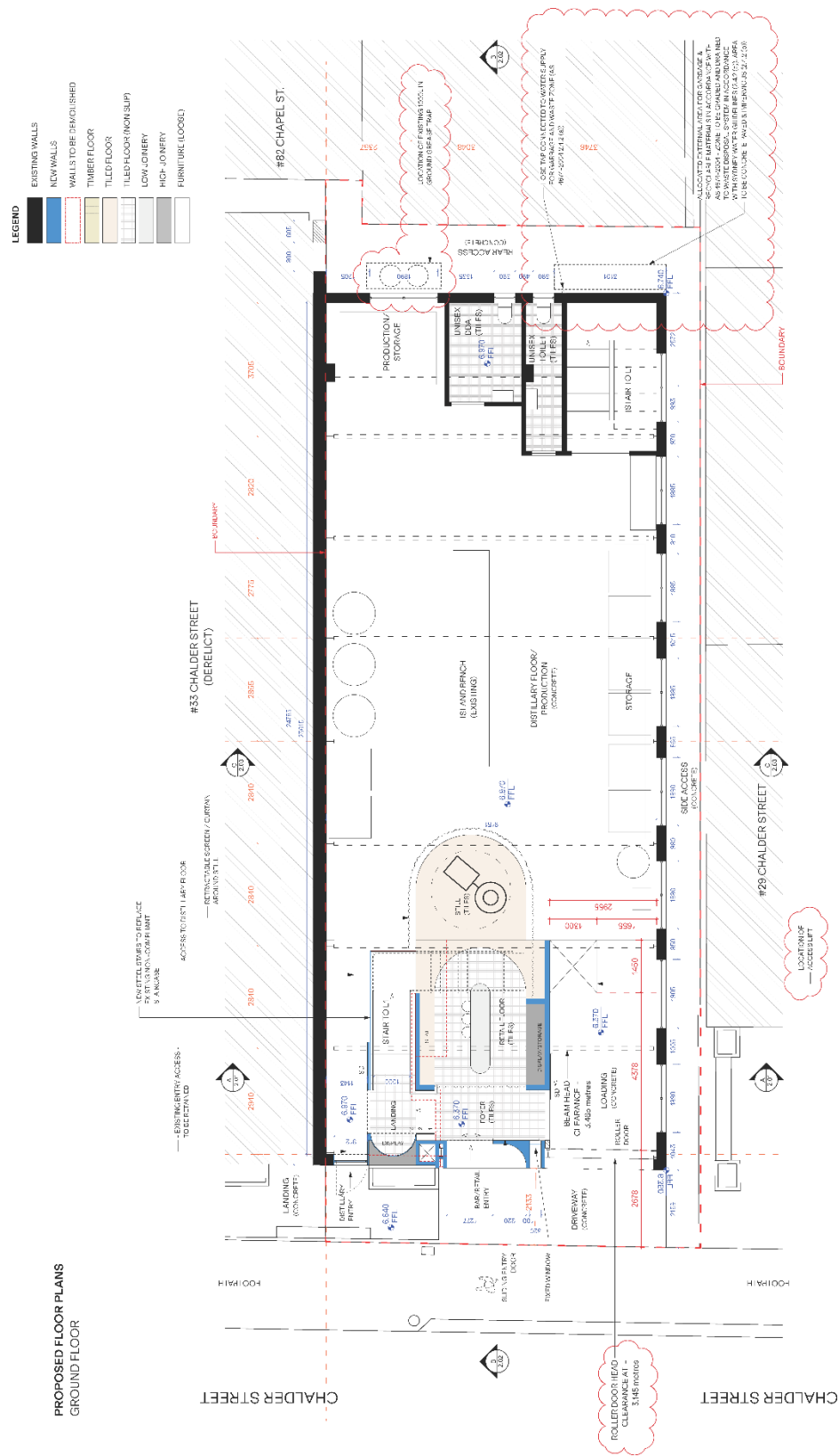
DEMOLITION WORK

BEFORE DEMOLITION WORK COMMENCES

	Condition
48.	<p>Hoardings</p> <p>The person acting on this consent must ensure the site is secured with temporary fencing prior to any works commencing.</p> <p>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</p>

	<p>property. An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property.</p> <p>Separate approval is required from the Council under the Roads Act 1993 to erect a hoarding or temporary fence or awning on public property.</p> <p>Reason: To ensure the site is secure and that the required permits are obtained if enclosing public land.</p>
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Attachment B – Plans of Proposed Development



1032 J. K. Kim, S. H. Kim, S. H. Kim
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31 Chalder Street, Marrickville
ESTER SPIRITS
FLOOR PLAN Ground Floor

doi:10.1371/journal.pone.0127294.g002

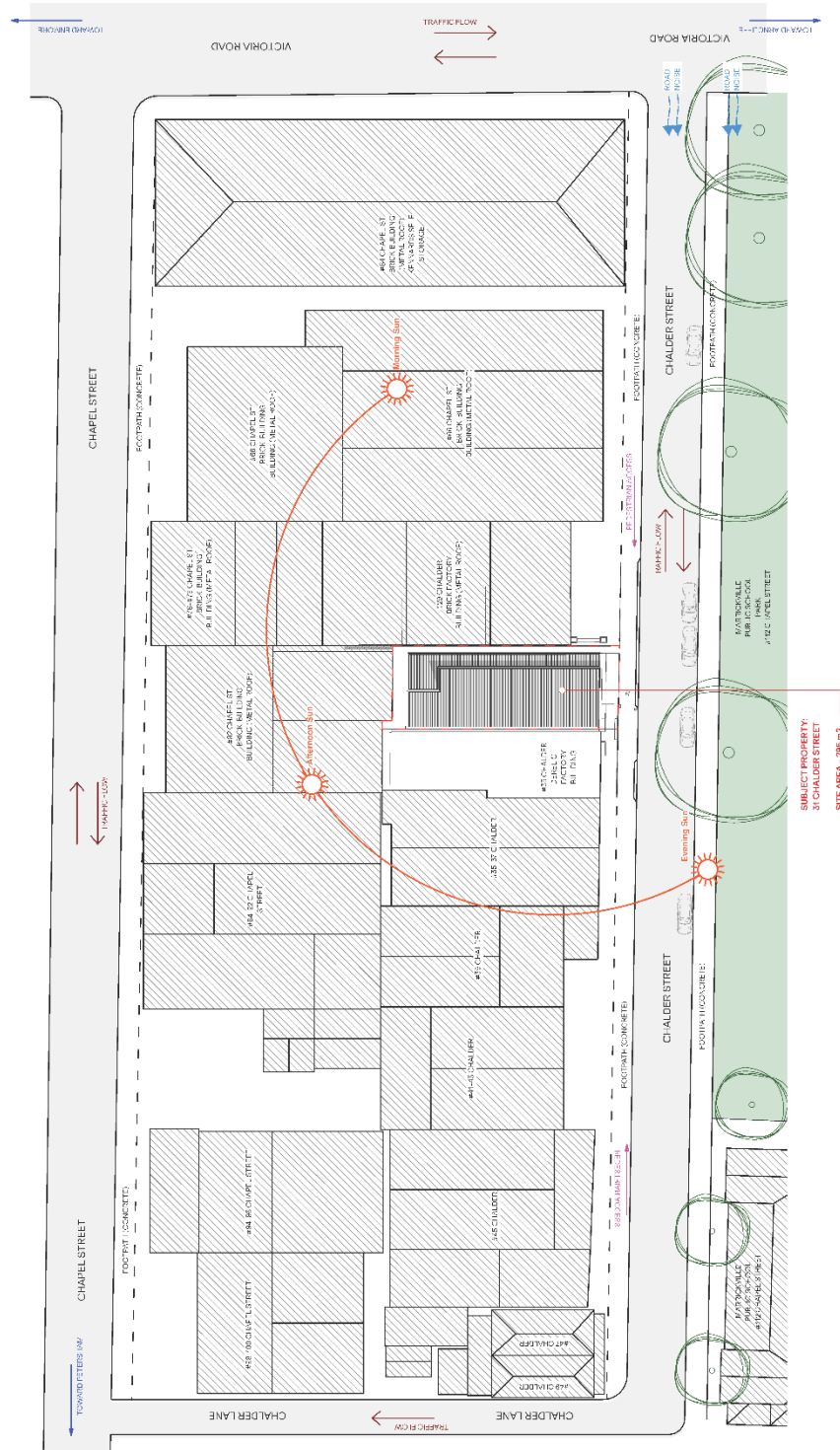
2017-18



As part of a larger project to develop a new kind of social contract for the 21st century, the authors are currently working on a book titled "The New Social Contract: A New Vision for the 21st Century". The book is currently in the final stages of editing and is expected to be published in the near future. The authors are also working on a series of articles for a journal on the same topic. The book and articles will provide a comprehensive overview of the new social contract and its implications for the future of society.

11. *Journal of the American Statistical Association*, 82(399), 100-104.

SITE SITE PLAN & ANALYSIS



WILLIAMSON, who was the first to suggest that the Chinese government should open up its market to foreign investment, has been a leading proponent of the idea. He has been a vocal critic of the government's policy of "opening up" the economy, and has been a strong advocate of the "one country, two systems" proposal. Williamson has been a leading voice in the debate over the future of Hong Kong, and has been a strong advocate of the "one country, two systems" proposal. He has been a vocal critic of the government's policy of "opening up" the economy, and has been a strong advocate of the "one country, two systems" proposal.

CHESTER **BOSTON** **BRIDGE**

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781-679-0075

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15. *Journal of the American Medical Association*, 2000; 283: 2686-2692.

Keywords: child sexual abuse; disclosure; legal system; police; social workers

THE CH. JOHNSON &
SONS CO., 1000 12TH
ST. N., MINNAPOLIS, MN 55403

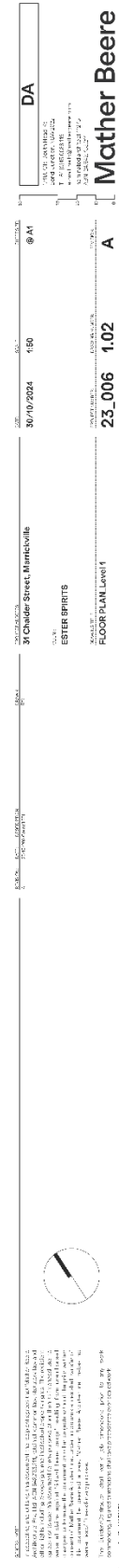
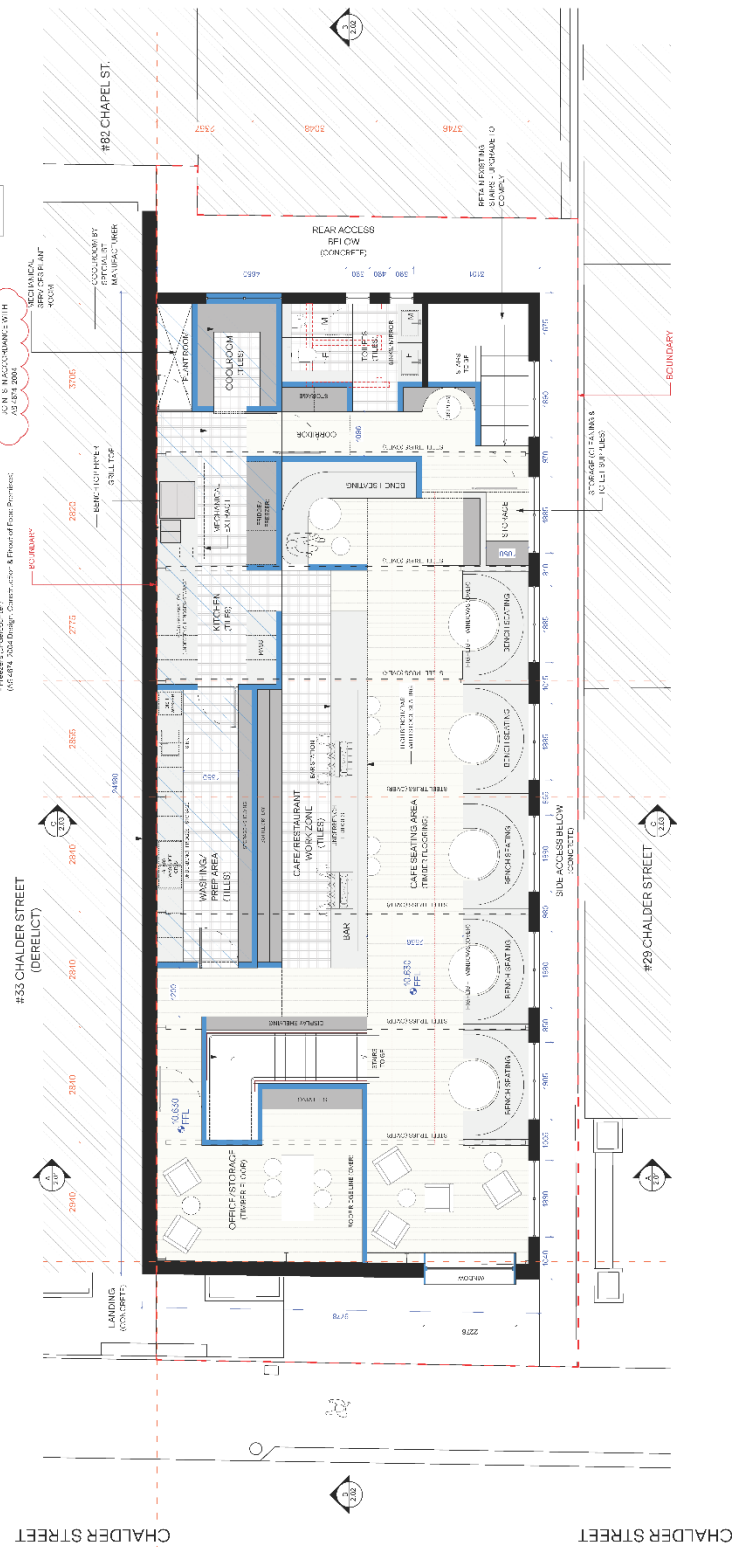
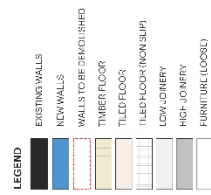
SITE Site Plan

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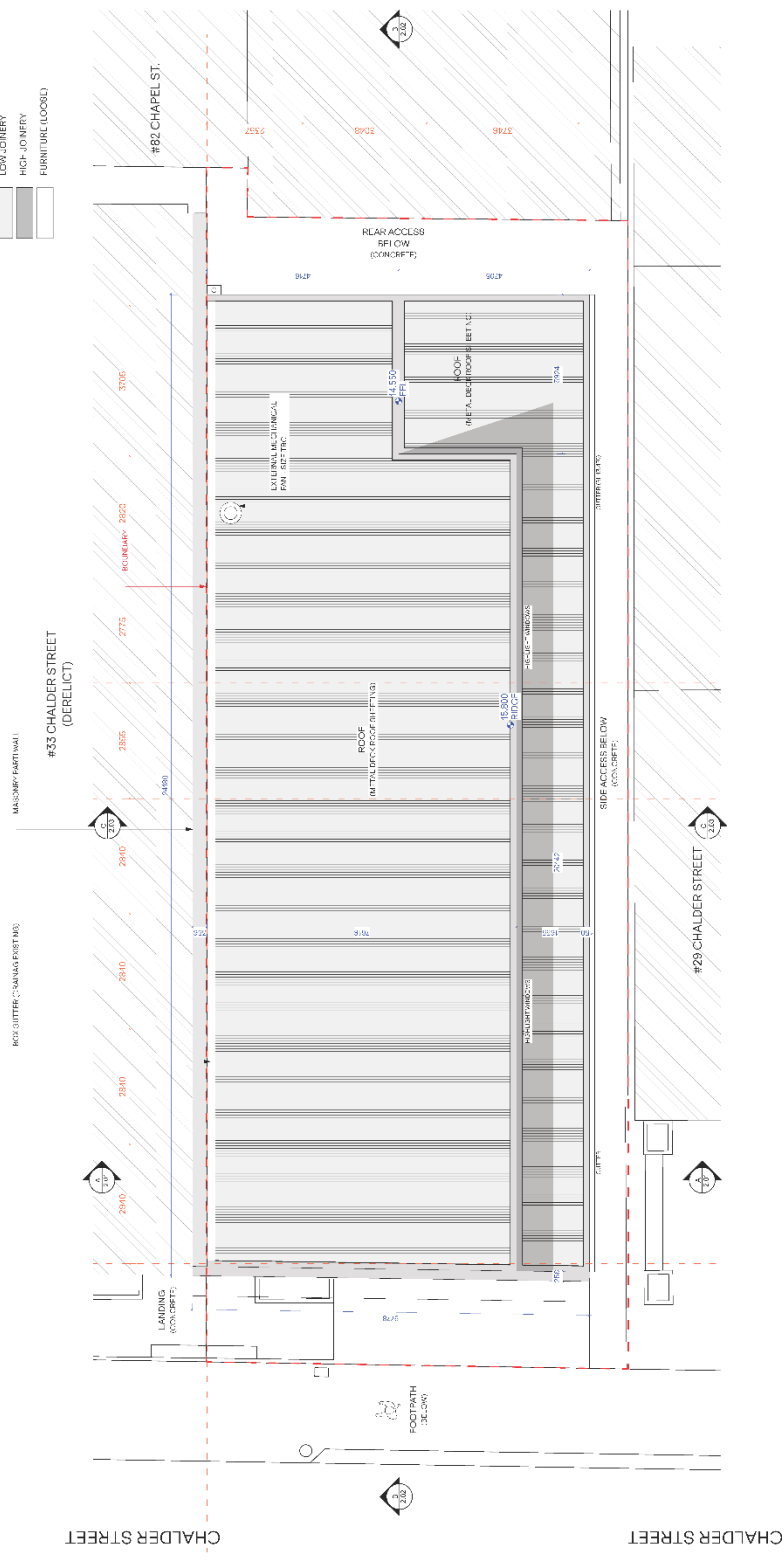
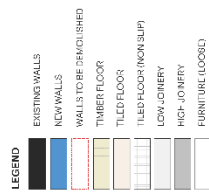
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PROPOSED FLOOR PLANS
LEVEL 1



PROPOSED FLOOR PLANS
ROOF PLAN



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34 Chalder Street, Marickville

30/10/2024 12:39

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DA



Mather Beere

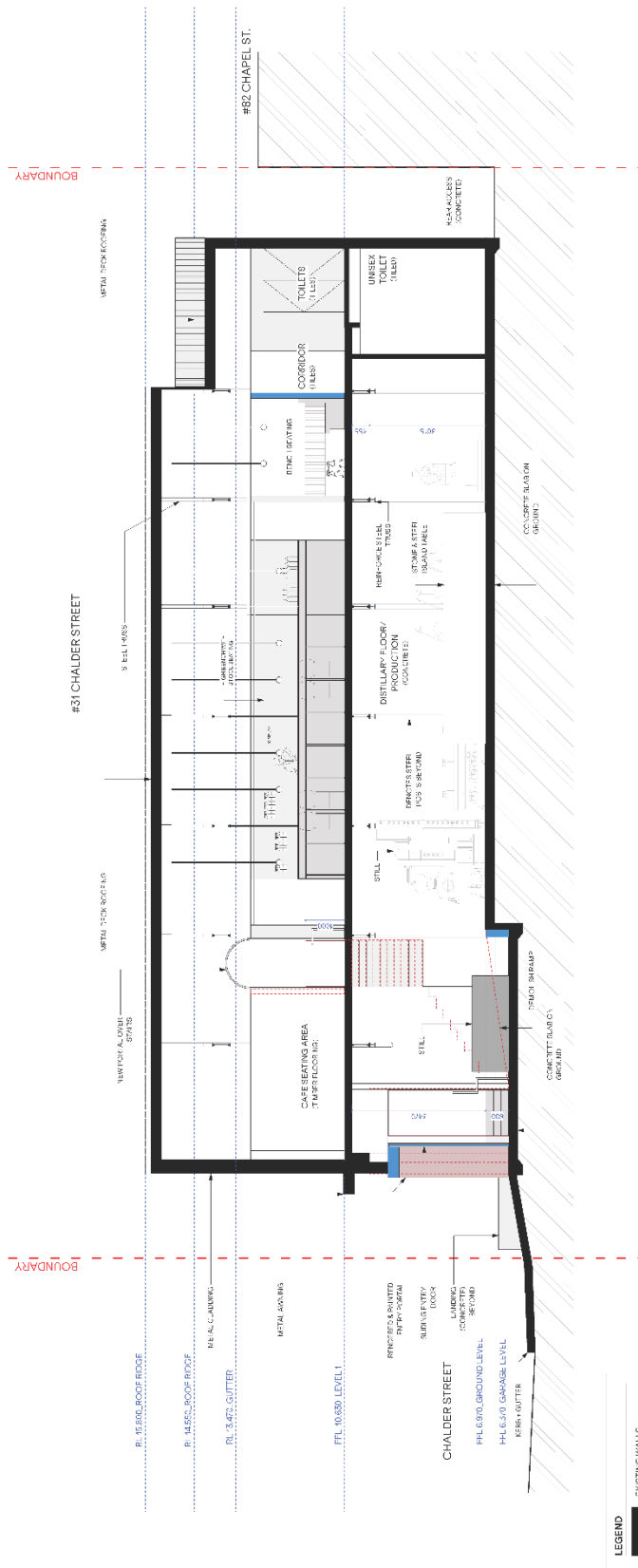
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FLOOR PLAN_Roof Level

FLOOR PLAN_Roof Level

PROPOSED SECTION
LONG SECTION BB



LEGEND

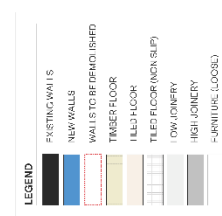
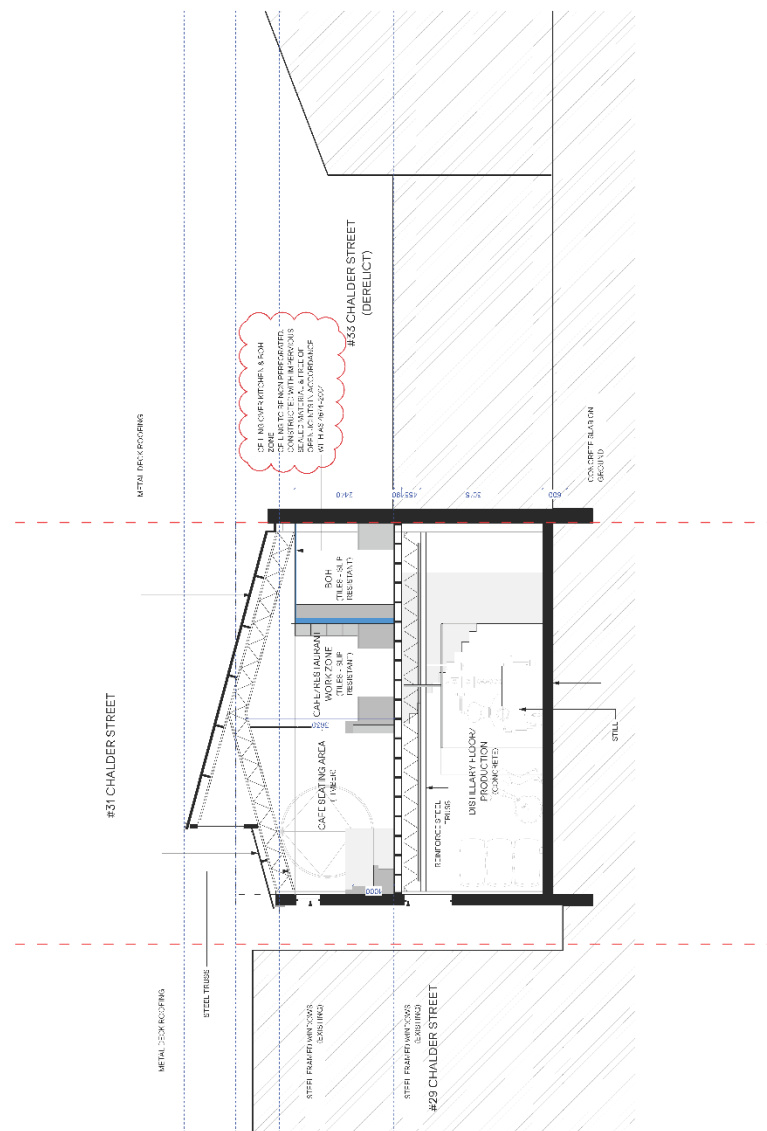
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	NEW WALLS
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	HIGH JOINTERY
	FURNITURE (LOOSE)

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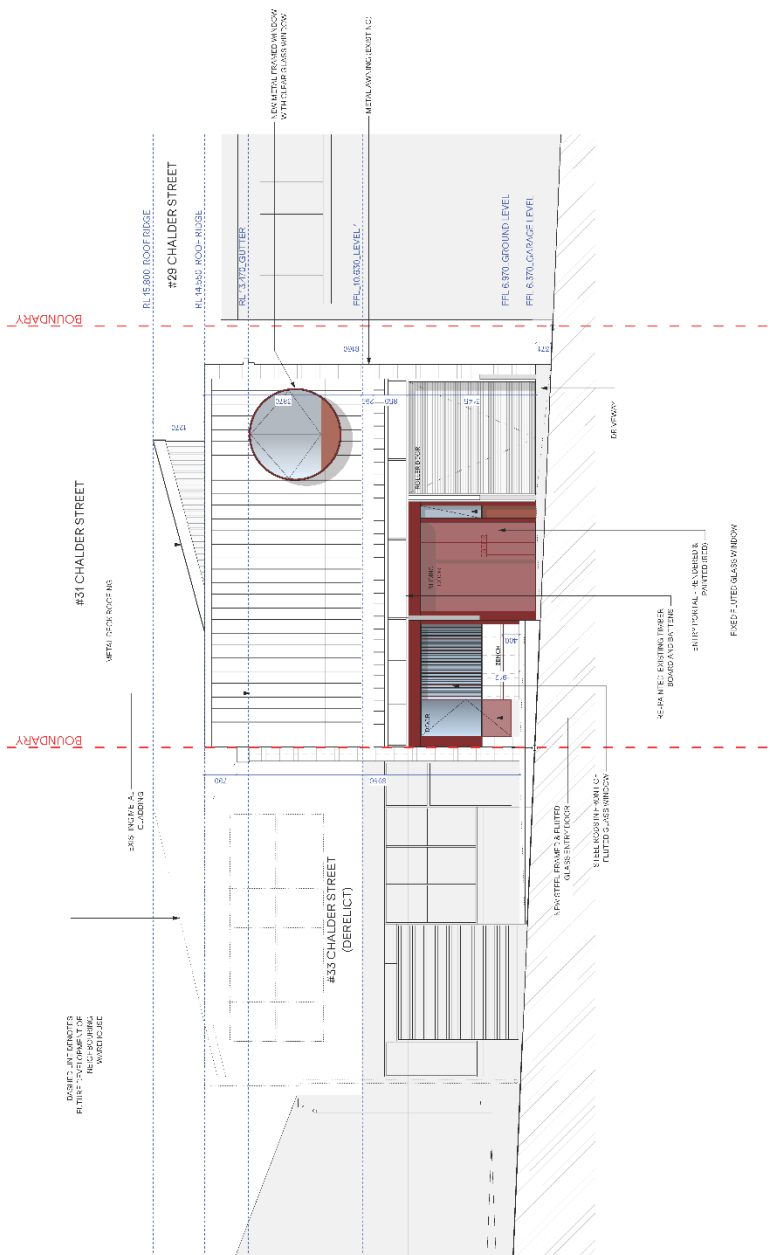
Mather Beere

2025 30/10/2024 1:50 @ A1
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 2025 30/10/2024 1:50 @ A1
 JF Chandler Street, Mankleville

PROPOSED SECTION
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PROPOSED ELEVATIONS
SOUTHERN ELEVATION

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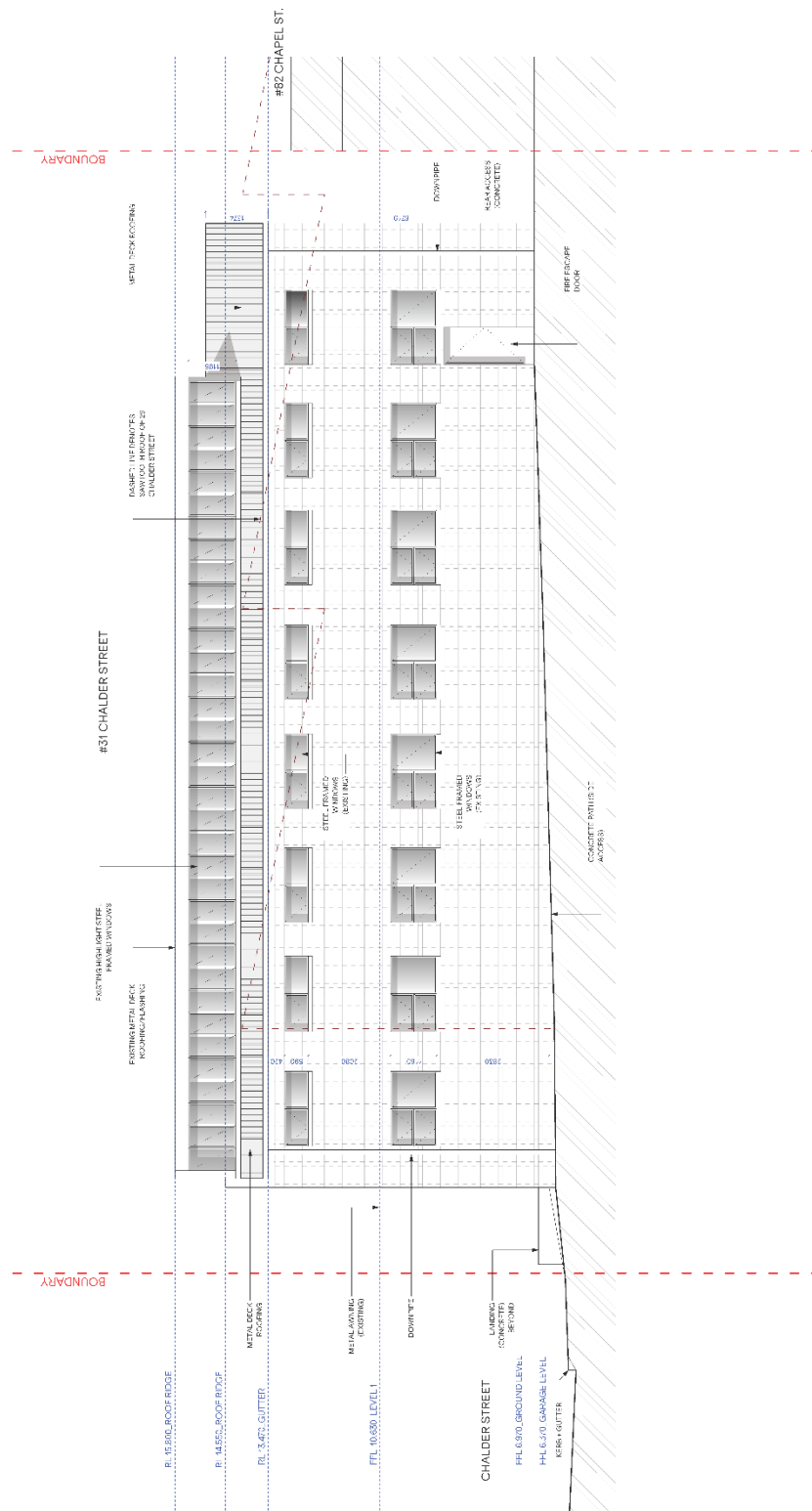
DA

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PROPOSED ELEVATIONS
EASTERN ELEVATION

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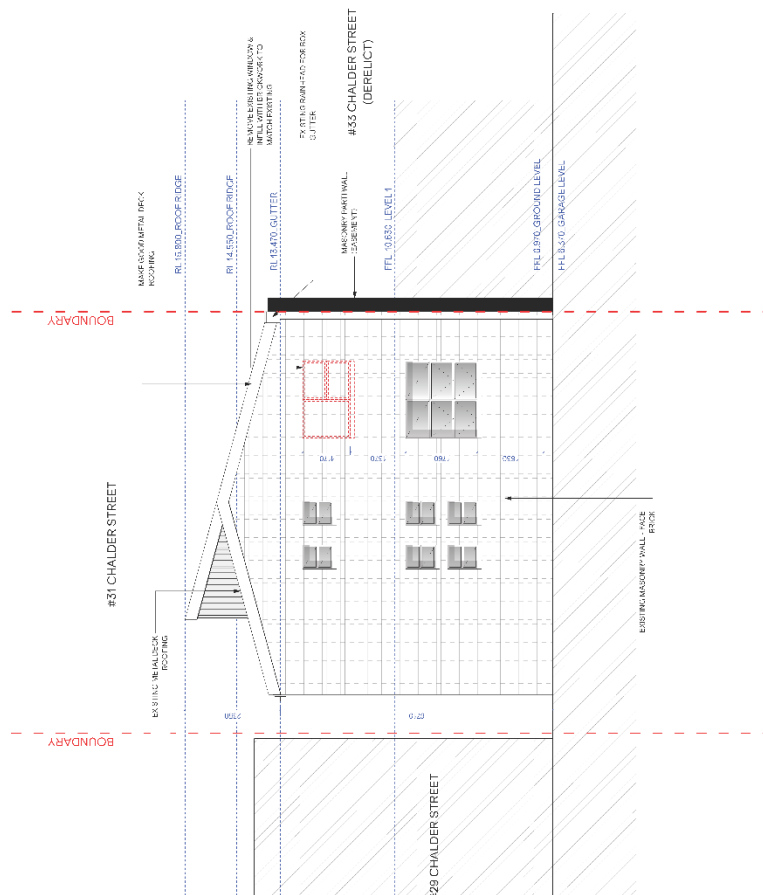
37 Chader Street, Manickville
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ESTER SPIRITS
3.02
ELEVATION, East
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800-445-6222 ext. 211
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PROPOSED ELEVATIONS
NORTHERN ELEVATION

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Mather Beere

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34 Chalder Street, Marnickville
ESTER SPIRITS
ELEVATION, North

Attachment C – Section 4.6 Exception to Development Standards

Clause 4.6 Exceptions to development standards: Written variation request – Floor space ratio

Expansion of an existing artisan food and drink industry and extension of operating hours



ESTER SPIRITS

31 Chalder Street, Marrickville
Lot 1 in Deposited Plan 1275800

Prepared for: Ester Spirits

Project No: G129

Date: 31 October 2024

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31 Chalder Street, Marrickville

October 2024

Document Control

Creative Planning Solutions works to a stringent Quality Assurance Program.

If this document has not been signed for review and approval then it is deemed a preliminary draft.

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Reviewed by:



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Authorised by:



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Clause 4.6 Written Request to Vary a Development Standard
Inner West Local Environment Plan 2022

Applicant's name	Ester Spirits
Site address	31 Chalder Street, Marrickville (Lot 1 in Deposited Plan 1275800)
Proposal	Expansion of an existing artisan food and drink industry and extension of operating hours
Environmental Planning Instrument	<i>Inner West Local Environmental Plan 2022</i>
Development standard to be varied	Clause 4.4(2) – Floor space ratio

Creative Planning Solutions (CPS) has prepared this report on the behalf of Ester Spirits, as part of a Development Application to Inner West Council (Council).

Contained within this report below is the written request relating to the proposed variation to Clause 4.4 of *Inner West Local Environmental Plan 2022* (IWLEP 2022) in accordance with the provisions of Clause 4.6 of IWLEP 2022. This written request relates to plans prepared by Mather Beere that are submitted to Council as part of a development application package.

Introduction

This written request seeks to vary the floor space ratio development standard in accordance with Clause 4.6 of the IWLEP 2022, which provides the framework for consideration of proposed variations to development standards.

This variation sought under Clause 4.6 of the IWLEP 2022 has been prepared having regard to appropriate case law, including, but not limited to, *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*.

The proposed development exceeds the maximum floor space ratio (FSR) standard when measured in accordance with the IWLEP 2022 definition of floor space ratio, which is:

*The **floor space ratio** of buildings on a site is the ratio of the gross floor area of all buildings within the site to the site area*

The definition of gross floor area (GFA) within the IWLEP 2022 is:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes—

- (a) the area of a mezzanine, and
- (b) habitable rooms in a basement or an attic, and
- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement—
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

Clause 4.6 provides flexibility to vary the IWLEP 2022 development standards where it can be demonstrated the development standard is unreasonable or unnecessary in the circumstances of the

case, and where there are sufficient environmental grounds to justify the contravention. Clause 4.6 of the IWLEP 2022 provides the following:

- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that—*
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

Note—*The Environmental Planning and Assessment Regulation 2021 requires a development application for development that proposes to contravene a development standard to be accompanied by a document setting out the grounds on which the applicant seeks to demonstrate the matters in paragraphs (a) and (b).*

The justification of the contravention of the FSR standard applicable under the IWLEP 2022 is outlined below. Of note, Clause 4.6(8) of the IWLEP 2022 does not expressly exclude Clause 4.4 from the operation of Clause 4.6 of the IWLEP 2022.

Definition of a Development Standard

Clause 1.4 ‘Definitions’ of the *Environmental Planning and Assessment Act 1979* (the Act) provides the following definition of a development standard.

development standards means provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of—

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*

- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed.*

Emphasis added.

The proposed variation to the FSR under Clause 4.4 of the IWLEP 2022 satisfies the definition for a development standard under the Act, meaning the provisions of Clause 4.6 of the IWLEP 2022 is applicable.

Floor Space Ratio Standard

Clause 4.4 of IWLEP 2022 prescribes the maximum FSR for land to which the plan applies. The relevant provisions of clause 4.4 are reproduced below:

4.4. Floor Space Ratio

- (1) The objectives of this clause are as follows —*
 - (a) to establish a maximum floor space ratio to enable appropriate development density,*
 - (b) to ensure development density reflects its locality,*
 - (c) to provide an appropriate transition between development of different densities,*
 - (d) to minimise adverse impacts on local amenity,*
 - (e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.*
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

The FSR Map (**Figure 1**) prescribes a maximum FSR to the subject site.

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Figure 1 Excerpt from FSR Map with the Subject Site Delineated in Red (Source: NSW Legislation)

Proposed Variation

The existing gross floor area (GFA) of the building is 371.6m². As the site area is 295m², the existing FSR is 1.25:1. The GFA is increasing due to the existing areas currently excluded from the GFA calculations (car parking) is being converted to an entry foyer and retail sales area. The development does not seek to expand the building footprint in terms of reducing setbacks to boundaries or increasing the height of the building.

Taking into account areas being excluded as GFA on the first floor (plant room), the proposed development results in a total GFA of 400.6m² (refer to Figure 2 and Figure 3). As such, the proposed FSR is 1.36:1. This non-compliance would result in a 35.8% variation to the development standard. As indicated above, the site currently does not comply with the development standard by 25.97%, therefore, the development seeks an additional variation of 9.8%.

A written request to vary the development standard has been prepared by CPS in accordance with Clause 4.6 of the IWLEP 2022. It is submitted that a degree of flexibility to the development standards is reasonable in this instance.

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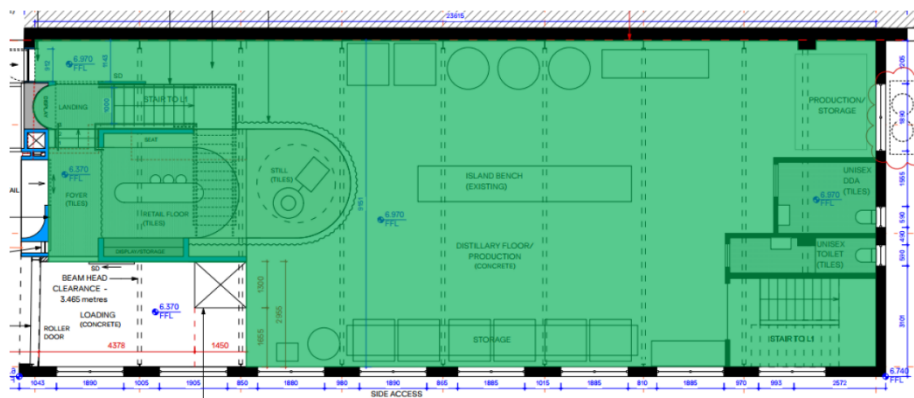


Figure 2 Ground Floor GFA calculation plan, with areas included as GFA highlighted in green.

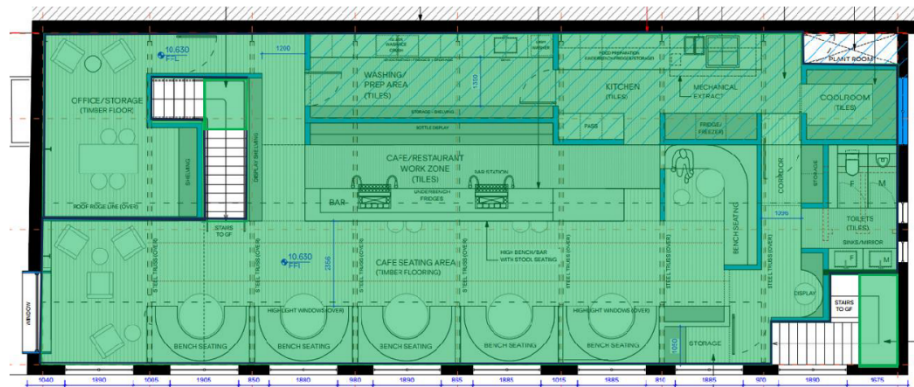


Figure 3 Ground Floor GFA calculation plan, with areas included as GFA highlighted in green.

Clause 4.6(3)(a) – Is the development standard unreasonable or unnecessary?

In *Wehbe v Pittwater Council* (2007) NSW LEC 827, Preston CJ set out the following 5 different ways in which an objection (variation) may be well founded.

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

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5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

Emphasis added.

It is generally understood that Clause 4.6(3) can be satisfied if it is established that a development satisfies one or more of the above points, and the first point is discussed below.

The objectives of the standard are achieved notwithstanding non-compliance with the standard.

The objectives of the FSR standard under clause 4.4 of the IWLEP 2022 are provided below, followed by a response on how that objective is achieved notwithstanding noncompliance with the standard:

- (a) to establish a maximum floor space ratio to enable appropriate development density,*

Comment: The subject site is located within the 'Victoria Road Precinct' which covers in and around the Victoria Road corridor. The Marrickville Development Control Plan (MDCP 2011) describes the precinct as being dominated by industrial land uses. There are some larger industrial sites however many have been fragmented into smaller sites, such as the subject site. More specifically, the site is located within the Chapel Street Sub-precinct, the vision for which is provided below:

The Chapel Street Sub-precinct is a transitional area that will provide a buffer between the heavy industries to the east, and the commercial strip along Victoria Road. The sub-precinct will encourage modern forms of light industrial uses that will minimise the land use conflicts between surrounding uses. This will enable the sub-precinct to progressively evolve to cater for more modern employment industries whilst minimising potential land use conflicts.

The proposed development seeks to modernise an old industrial building allowing for improved operations of an existing artisan food and drink industry. The variation to Clause 4.4 is a consequence of removing an internal car space to improve the building entrance and retail component for Ester Spirits.

Despite the increase in GFA by 9.6m², the built form of the development remains unchanged and continues to respect the existing pattern of development within the area. The proposal repurposes areas that are currently underutilised without changing the bulk of the building, therefore ensuring the proposed density is responsive to the locality.

- (b) to ensure development density reflects its locality,*

Creative Planning Solutions Pty Limited | Clause 4.6 Variation – Floor Space Ratio

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Comment: The proposal seeks alterations to an existing building within an established industrial precinct. The alterations seek to revitalise a dilapidated building, without significantly impacting the local context.

The non-compliance with Clause 4.4 is an outcome of substituting the internal car space, to an entry and retail area. The development does not seek to reduce existing setbacks, despite the alterations including modifications to the existing front building façade, and infilling a part of the roller door. The modifications to the building will result in a vast improvement from the current conditions in terms of access arrangements into the building.

Despite the development seeking an increase to GFA, there will be no substantial change to the existing density. This is on the basis that setbacks are not being reduced, the building height is not changing and existing building footprint will remain consistent with the existing conditions.

Ultimately, the development seeks to upgrade the building through a contemporary modification whilst being designed for the needs of the existing artisan food and drink industry. The proposed outcome will still main existing industrial features of the building responding it its local context.

(c) to provide an appropriate transition between development of different densities,

Comment: To the west (opposite Chalder Street) is Marrickville Public School, that is zoned SP2 Infrastructure for the purposes of an Educational Establishment. As highlighted throughout this written request, the development does not seek to reduce front setbacks or alter the existing building height. As such, the existing transition from the subject site to the land in the SP2 zone will remain unchanged. As illustrated within Figure 1, land to the east (along Victoria Road) is prescribed a FSR of 2:1. The proposed FSR of 1.36:1 provides an appropriate transition to the land to the east, and will not undermine the scale of development earmarked by the applicable development standards for sites adjoining Victoria Road.

The development as proposed, ensures that existing transition between different densities is protected.

(d) to minimise adverse impacts on local amenity,

Comment: Impacts to the local amenity will be minor given that the existing building footprint is not substantially changing in terms of height and setbacks. The proposal will result in an improved outcome for the streetscape given an existing run-down warehouse building will be modernised to accommodate the expansion of an existing artisan food and drink industry.

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The increase of GFA to accommodate the retail area and the removal of one (1) off street car parking space will allow for the reduction of roller doors presenting to Chalder Street. Currently the roller doors occupy approximately 5.832m (59%) of the building façade, whereas the proposed works will result in only 29% of the building width being occupied by the roller door.

An impact of the non-compliance will be a loss of one (1) off street car parking space. Accompanying the DA is a DA Traffic and Parking Assessment prepared by The Transport Planning Partnership which found that the removal of the car space will not have an unreasonable impact on existing car parking conditions within the area. This was based on the survey finding there is on-street car parking available within the area and the site benefits from access to nearby public transport being buses and trains.

For these reasons, the non-compliance with Clause 4.4 will not result any unreasonable adverse impacts on the immediate and surrounding locality. The expansion of the existing artisan food and drink industry will not have adverse impacts and can be mitigated through the provisions of the acoustic report.

(e) to increase the tree canopy and to protect the use and enjoyment of private properties and the public domain.

Comment: The proposal seeks an increase to the GFA due to removal of an existing internal car space. Therefore, the non-compliance will not result in a loss of existing tree canopy, nor reduce the opportunity for the future planting of trees. The reconfiguration of the existing entrance and façade of the building includes the provision of a minor landscaped area which will allow for the planting of a 'feature tree'.

The additional GFA is entirely located within the existing building and the existing building footprint is not expanding. As such, there will be no loss of open space areas within the property boundaries. Furthermore, with the exception of façade improvements the exterior of the building will appear similar to the current conditions ensuring that the proposal will have no unreasonable visual impact on the public domain when viewed from Chalder Street.

Clause 4.6(3) compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and there are sufficient environmental planning grounds to justify contravening the development standard

Compliance with the maximum FSR development standard has been determined to be unreasonable and unnecessary in the circumstances of the case, and the following outlines the environmental planning grounds for the proposed variation:

1. No parking or traffic impacts

The proposed development will substitute the existing car parking space provided on site for a new entry into the building and retail area. The reduction of car parking on site will not result in undue environmental impacts noting that the existing parking space on site is not currently utilised by patrons or staff to service the development.

The existing premises has consistently demonstrated its ability to operate without adverse parking or traffic impacts since its opening in early 2023.

Given the nature of the establishment being a licenced venue and from CPS's experience with other distilleries and breweries within the locality, it is anticipated the majority of patrons will be arriving on foot, using public transport or using ride share platforms. Ester Spirits will also encourage patrons to utilise public transport or ride share platforms to access the site and note on their website that parking is not available at the premises.

It is also acknowledged that given the proximity to other licenced venues, patrons will be traveling on foot between premises rather than driving private vehicles. Additionally, patrons of the venue are predominately locals, who will walk to the venue or rely on public transport or ride share platforms rather than driving to the premises. As such, the development is not anticipated to generate the need for on-site parking.

In addition to the above, other artisan food and drink industries within the locality have been approved with no patron car parking on site. These applications include:

- Development Application DA/2023/0001 approved by Inner West Council on 1 July 2023 for Batch Brewing Co. This consent allows for 80 patrons on site.
- Development Application DA/2021/0644 approved by Inner West Council on 21 January 2022 for Wildflower Brewing Co. The consent allows for 150 patrons on site.
- Development Application DA/2021/0545 approved by Inner West Council on 31 October 2021 for Hawke's Brewing Co. The consent allows for 300 patrons on site.

In addition to the above consents, Development Application DA201700474.01 was approved by Inner West Council on 28 November 2019. This consent included additional patron numbers and extended hours of operation for Poor Toms Gin Hall which is located at 31 Chalder Street (230m east of the subject site). This site has been approved for 110 patrons and no parking is provided on site for staff or patrons. The proposed development will have similar operating procedures to Poor Toms Gin Hall and given this establishment has been able to operate with no parking on site, the same flexibility in applying the Inner West Development Control Plan parking provisions should be

applied to the proposed development to support the contravention of the FSR development standard.

As such, it has been established that Inner West Council on several occasions have granted development consent to artisan food and drink industries without parking being provided on site. These approvals demonstrate that parking is not a requirement for the effective operation of the premises, noting that these venues, like the subject site, are well serviced by alternative means of transport which does not require car parking to be provided on site.

Historically, the site has had a parking shortfall. The Municipality of Marrickville granted development consent to Development Application No. 132/93 on 23 April 1993 for use of an existing factory building for the purpose of manufacture and assembly of dress jewellery and accessories. Condition 2 of the consent outlined that three (3) additional off-street parking spaces were required for the site; however, they were unable to be provided. Council waived the requirement for parking on the site. This precedent suggests that the parking shortfall associated with the proposed development will not result in undue parking impacts.

The reduction of car parking on site has also been supported by the assessment undertaken by TTPP which confirms the site benefits from good connections to Public Transport and that there is sufficient on street parking within the vicinity of the site. Ultimately, the removal of the existing car space will have a negligible impact on the existing parking and traffic conditions.

2. Minimal impacts on the surrounding area

The non-compliance does not create adverse and unreasonable impacts on the amenity of surrounding sites and the public domain in terms of privacy impacts, excessive solar access reduction, view loss and adverse streetscape impact.

The visual bulk of the building will not substantially change from the current conditions. Façade improvements are proposed improving the appearance of the building when viewed from Chalder Street. Furthermore, the reduction in area to the existing loading bay/car parking allows the existing roller door width to be minimised. This in turn, improves the presentation of the building to the street and assists in minimising impacts associated with the additional floor space.

There are no other impacts on the surrounding area, on the basis that the non-compliance is associated with converting an existing internal area excluded from GFA. There are no changes to the building height nor setbacks, ensuring that there is no change to the visual bulk of the building.

31 Chalder Street, Marrickville

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Furthermore, the proposed works and associated non-compliance will revitalise a dilapidated building and reutilise space within an existing building that has been vacant for an extended period of time.

3. Promote good design and amenity of the built environment

It has been established within the MDCP 2011 that Chapel Street Sub-precinct is to provide a buffer between heavier industrial uses and more sensitive uses such as the Marrickville Public School and existing residential development.

Ester Spirits has been operating from the site since 2023, and now seeks to expand operations into the first-floor area. The development also seeks to improve the appearance of the existing building through modifying front building façade, including the addition of contemporary design features.

The design response prepared by Mather Beere illustrates the that existing building as it presents to Chalder Street and Marrickville Public School will be significantly improved and will enhance the existing conditions of streetscape.

Despite the minor non-compliance with Clause 4.4 of the IWLEP 2022, the design outcome will revitalise a dilapidated building and enhance the existing streetscape through good design. The amenity impacts have been minimised through maintaining the existing building height and building footprint.

4. Improves building maintenance and protection of the health and safety of the buildings occupants.

Ester Spirits have been able to partially improve the condition of the building since their occupation in 2023, however the first floor and the exterior of the building have generally remained unchanged.

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Figure 4: Image of existing building condition at 31 Chalder Street
Source: Creative Planning Solutions

The development provides an opportunity to revitalise an older industrial building. Upgrades to the building will be undertaken as identified by the BCA and Access Report prepared by Nest Consulting Group. These upgrades will ultimately improve the safety of the building's occupants.

The proposed increase to the GFA is an outcome of the existing internal car space being removed. This area is to be converted into a retail/entrance area. Substituting the car space for additional GFA will improve the safety for patrons and pedestrians as the likelihood of conflicts with vehicles will be significantly reduced.

Conclusion

In summary, the proposed development seeks to revitalise a dilapidated industrial building, allowing the expansion of an existing artisan food and drink industry. The upgrades to the building and the minimal environmental impacts, justify why compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

The proposal consists of substituting one (1) internal car space for an entrance and retail area resulting in a minor increase to the total GFA of the building. The proposed development will improve the offerings provided by Ester Spirits, increase local employment opportunities and further contributing to the craft distilling scene within the Marrickville locality.

Further, the proposed variation to the FSR standard will have minimal adverse impact on the surrounding sites and the locality more broadly, and would not present to surrounding areas in a manner that would be inconsistent with the future character of the area. The development does not seek to expand the existing building footprint nor reduce existing setbacks to all boundaries. The minor increase to the GFA will improve the existing streetscape of Chalder Street through the modernisation of the front façade. In addition, the extent of roller doors visible from the public realm will be reduced.

The non-compliance will improve the safety of the occupiers of the building and pedestrians as conflicts with vehicles will be significantly reduced. Furthermore, building upgrades as outlined within the BCA and Access Reports will be undertaken.

As a result, the objectives of the standard are achieved notwithstanding non-compliance with the standard, and there are sufficient environmental planning grounds to justify contravention of FSR development standard. Given the above, the applicant's statutory requirements pursuant to Clause 4.6 of the IWLEP 2022 are satisfied, and the variation to the FSR development standard can be approved by Council.

Attachment D- Plan of Management

PLAN OF MANAGEMENT

For the operation of a Distillery by

Ester Spirits P/L

at

31 Chalder Street, Marrickville NSW 2204

Prepared: 31 October 2024

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Document Set ID: 39775174
Version: 1, Version Date: 01/11/2024

1. Purpose

This Plan of Management is submitted to Inner West Council as part of a Development Application (DA) by Ester Spirits P/L. The application seeks consent to extend the existing artisan food and drink industry the first floor.

The Plan of Management also seeks to provide a structured and formally agreed to scheme for ongoing procedures at site.

A Complying Development Certificate (CDC/2023/0003) for 'Change of use for the ground floor to Artisan food and drink premises and internal alterations' associated with the subject Distillery was approved by the appointed Certifier, Inner West Council, on 2 March 2023.

2. Site and Locality Details

The subject site is located within an established industrial area at 31 Chalder Street, Marrickville. The site comprises a light industrial building with at-grade car parking and loading.

Primary access to the site is via a vehicular crossover to Chalder Street located at the site's southern boundary. The approved Distillery operation is located primarily within the ground floor of the existing building.

2.1 Parking and Access

The site comprises a no on-site car parking with a loading space at the front of the existing building adjacent to Chalder Street.

2.2 Deliveries

Deliveries to and from the site shall be scheduled to limit impacts to the local road network and surrounding premises; these will typically occur between 8:00am-5:00pm Monday to Friday.

The delivery schedule will ensure vehicles are able to move through the site efficiently with no queuing or vehicular conflicts on site, or within the adjoining roadways.

Staff will be advised of the delivery schedule and additional care will be taken to ensure that no conflict occurs with the operation of the Distillery and the movement of vehicles and personnel within publicly accessible areas of the site.

3. Operational details

3.1 Hours of Operation

The hours of operation of the Distillery (producer/wholesaler purposes) are limited to:

- Monday to Sunday: 7:00am to 6:00pm

The hours of operation of the Distillery (drink on-premises purposes) are limited to:

- Monday to Saturday: 12:00pm to 11:00pm
- Sunday: 12:00pm to 9pm

It is noted that the hours of operation prescribed by CDC/2023/0003 are based on standard conditions which permit operations from 7am to 7pm Monday to Saturday and 9am to 6 pm on a Sunday or a public holiday.

Additionally, subdivision 23B 'Hours of operation and trading' of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) permits development for the purpose of an artisan food and drink industry to operate from 6am – 10pm, seven (7) days a week within the E3 Productivity Support zone in accordance with an existing development consent or complying development certificate and relevant noise policy.

The NSW Department of Planning provides additional detail on the exempt operating and trading hours provisions at this link: <https://www.planning.nsw.gov.au/-/media/Files/DPE/Guidelines/Policy-and-legislation/extended-business-hours-noise-guide.pdf?la=en>

3.2 Patron capacity

A maximum patron capacity of 80 is proposed.

3.3 Number and Type of Staff

The following staffing schedule provides a typical overview of staff numbers on site at any one time:

- Up to ten (10) manufacturing and retail staff on-site

These numbers are dependent on production and patronage demand. There will be a Manager from Ester Spirits P/L on site at all times.

3.4 Liquor Licence

Ester Spirits P/L hold a Producer/Wholesaler Licence to distil spirits and sell liquor for on-premises consumption at the subject site (LIQW880015505).

Spirits produced onsite are most commonly be sold via Ester Spirit's existing sales

channels, which includes via the company's website (<https://esterspirits.com.au/>), retail sale by other licenced stockists/venues and wholesale sales orders by phone and fax etc.

3.5 NSW Police

Details of the licence were submitted to the Local Police as part of the application process with Liquor and Gaming NSW.

3.6 Complaint Management Plan

The licensee and management will implement a complaint handling policy to properly address complaints from neighbours or other people in the surrounding areas. This policy will seek to resolve any complaints without the need to involve the local authorities unless necessary.

The methods to be adopted in the Complaint Management Plan will include:

- Maintenance of a log book which logs the date, time and nature of all complaints, name and address of complainant, details of all communication between management and complainant, actions proposed to address complaint and the date and time the action is undertaken;
- All complaints will be responded to by Ester Spirits P/L management within two (2) working days;
- Measures taken to address complaints will be incorporated into the Plan of Management to ensure repeat complaints are not received;
- The licensee and Ester Spirits P/L management will be available to meet with complainants at any time to work towards resolving any reasonable concerns that are raised;
- Provision of a telephone number (dedicated mobile phone number which the manager on duty responds to immediately) during operating hours for which Ester Spirits P/L management personnel with appropriate authority over the premises can be contacted upon if there is a complaint. Complainants will be encouraged to make any complaints to that number.

4. Amenity

The operation of the site is conducted in such a manner as to not interfere with or materially affect the amenity of the neighbourhood.

4.1 Cleanliness and Waste Management

At all times a high standard of cleanliness and orderliness is required within the site, including the front setbacks facing the public domain on Chalder Street, carpark area, and the immediate vicinity of the site. To achieve this aim:

- (a) Any waste material originating from the site is to be collected and disposed of in the site's bins;
- (b) Rubbish is not to be swept into the carpark areas within the public domain.
- (c) All garden and outdoor areas will be appropriately maintained to ensure the industrial premises presents neatly to the public domain and surrounding neighbours.

5. Security and safety

5.1 Incident report

An Incident Report will be required to be completed for all incidents that necessitate action by an emergency service, Fire Brigade, Police and maintenance called in after hours. As well, a manager of Ester Spirits P/L is required to be informed.

The incident report should contain.

- The date and time of the incident;
- The details of the incident;
- Any action(s) taken;
- Name and appointment of the person or persons notified of the incident and the time notified; and
- Instructions given to the personnel and the time the instructions were carried out.

5.2 Management and Staff responsibilities

All staff shall be made familiar with this Plan of Management. At all times there will be a manager at the site who, in conjunction with other activities, will be responsible for safety and security matters. Ester Spirits P/L management will undertake quarterly reviews to ensure that the Distillery does not cause (or contribute to) security problems in the neighbouring area.

All staff will be fully briefed on all areas inside the premises, emergency exiting procedures and the surrounding area. All staff will be required to wear appropriate footwear, and when necessary the correct safety clothing.

5.3 Safety and security measures

The premises is fire compliant, and comprises motion sensor alarms and CCTV which cover the interior of the building and the front entrance.

Fire extinguishers will be located at various points within the site which are highly prominent and easily accessible. Staff will be trained to use these safety devices. A First Aid Box will be located within the premises at all times and will be readily available to all staff and customers in the event of an emergency.

5.4 Emergency procedures

The Manager will devise a plan of action for emergency procedures and staff will be trained in the use and implementation of this plan. In accordance with fire safety regulations, the fire evacuation plan will be prominently displayed throughout the site.

6. Performance Assessment and Review

This Plan of Management should not be seen as an end point in the planning process, but rather as a flexible document and the basis for ongoing management. As outlined in the introduction, this Plan of Management is to be used as a general guide to the day-to-day operations of the proposed Distillery.

It is anticipated that the Plan of Management will be refined by Ester Spirits P/L management to suit their specific needs and internal policies. For this reason, the detail and contents of this Plan of Management should be considered adaptable.

Ester Spirits P/L management shall give consideration to a review of the Plan of Management every six (6) months to determine whether the objectives of the Plan of Management have been achieved. This is considered necessary to assess the effectiveness of the operational management plan and ensure its ongoing relevance to the day to day running of the site.

7. House Policy for the Responsible Service of Alcohol

This policy has been prepared to promote operational and staff awareness of responsibilities concerning the responsible sale and/or service of alcohol which includes, but not limited to:

- Prevention of intoxication on the licensed premises;
- Harm Minimisation;
- Signs of intoxication; and
- Strategies for prevention and management of intoxicated patrons.

Where required by relevant authorities (i.e. Council, NSW Police, Liquor & Gaming NSW, etc.), both the Plan of Management and this House Policy will be updated as necessary.

The owner is committed to a Responsible Service of Alcohol (RSA), which has been identified as a key issue by the NSW Government within the context of the NSW Drug Strategy 1993 – 1997.

Misuse of alcohol is a public health and safety issue. It contributes to issues within the community, which range from street/domestic violence to the trauma of road fatalities. Increased community concern around New South Wales has highlighted the need for the promotion of responsible serving practices and associated training.

'Responsible Service Practices' is a term that covers house policies, and will ensure that service of alcohol:

- Complies with the law;
- Helps staff deal with problem customers; and
- Maximises the profitability and the reputation of the business

EMPLOYEES' RESPONSIBILITIES

Licensees and employees have a statutory responsibility to ensure that patrons do not become intoxicated on their premises, and to prevent such patrons from entering or remaining on licensed premises. Although none of these situations are easy to deal with, management and staff may, at times, have to deal with problem customers who may:

- Be observed as being loud and/or abusive;
- Be observed as being too drunk to drive; and/or
- Not care about themselves or others around them.

It is therefore critical to have policies and practices in place to prevent intoxication.

RESPONSIBLE SERVICE OF ALCOHOL STRATEGIES

To determine intoxication, it is first necessary to have a reference point. Staff need to make an assessment of whether alcohol has been consumed prior to arrival at the premises. If none has, then the behaviour of people when they arrive can be used as a reference point.

Staff should observe and note the appearance and condition of the patron who is sold or supplied with liquor, as well as the period of time the patron has been consuming liquor on the premises. This assessment needs to consider that:

- Everyone, and their ability to be affected by alcohol, is different; and
- Physical factors such as weight, gender, height, age, health and fitness all affect the body's ability to absorb alcohol and remove it from the bloodstream.

The proposed house policy is a framework within which the business operates by outlining practices, procedures and conditions. It serves to guide the behaviour of staff to assist in serving liquor responsibly and to deal with difficult situations when they arise.

The following principles must be considered when selling or serving alcoholic products:

- Liquor is not to be sold or served to anyone under the age of 18 years. Where the age of the patron is unclear, then they are to be asked for appropriate identification (i.e. a passport, driver's licence, proof of age card, etc.);
- The signs of intoxication are to be recognised, which may include, but are not limited to, being excessively loud and/or abusive, slurring of speech, acting inappropriately or in a manner that may cause harm to themselves or others, physical illness, etc;
- Staff are to ensure free water is readily available to patrons;
- Staff are to ensure that adequate food options are provided to patrons (i.e. food truck partner or pre-packaged snacks);
- Staff are to try and not sell to or serve anyone to the point of intoxication;
- Management and staff are not to run promotions that facilitates and/or encourages the significant consumption of alcohol and/or intoxication of patrons'
- Staff are to not sell or serve alcohol to anyone who is already intoxicated;
- Try to discourage people from engaging in activities that may harm themselves or others; and
- Engage in dialogue to prevent drink driving, including offering to call a taxi or ride share services for patrons who may be too intoxicated to drive.

A tactful approach should always be employed to remove intoxicated persons from the premises. These may include:

- Verbal communication with the customer, which includes outlining any concerns followed by continual observation;
- Informing customers of the legal obligations of staff with regard to the service of liquor;
- Seeking assistance from the patron's friends;
- Intervening tactfully and peacefully;
- Consulting with the manager on duty or more experienced staff members and seeking their assistance;
- Avoiding physical contact with the patron;
- Offering to arrange safe transportation from the site; and/or
- Remaining calm and courteous at all times.

Should the person(s) become abusive and/or violent, then staff are to avoid physical confrontation with that person(s) and the police are to be called immediately by dialling 000.