



**ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER**

**DAC 18/10/22 – 142 DARBY STREET COOKS HILL–  
SUPPLEMENTARY REPORT - DA2021/00962 - HOTEL - EXTENSION  
OF TRADING HOURS**

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**DAC 18/10/22 – 142 DARBY STREET COOKS HILL –  
SUPPLEMENTARY REPORT - DA2021/00962 - - HOTEL -  
EXTENSION OF TRADING HOURS**

**ITEM-18**      **Attachment A:**      Development Assessment Committee  
Assessment Report – Meeting 16/8/22

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**ITEM-11**                    **DAC 16/08/22 - 142 DARBY STREET, COOKS HILL - DA2021/00962 - HOTEL - EXTENSION OF TRADING HOURS**

**APPLICANT:**            **DAVID RIPPINGILL**  
**OWNER:**                **THE DELANEY UNIT TRUST & THE NEW WINDSOR HOTEL UNIT TRUST**  
**REPORT BY:**            **GOVERNANCE**  
**CONTACT:**             **DIRECTOR GOVERNANCE AND CHIEF FINANCIAL OFFICER / MANAGER REGULATORY, PLANNING AND ASSESSMENT**

### PART I

#### PURPOSE

A Development Application has been received seeking consent for the extension of trading hours for the Delaney Hotel at 142 Darby Street, Cooks Hill.

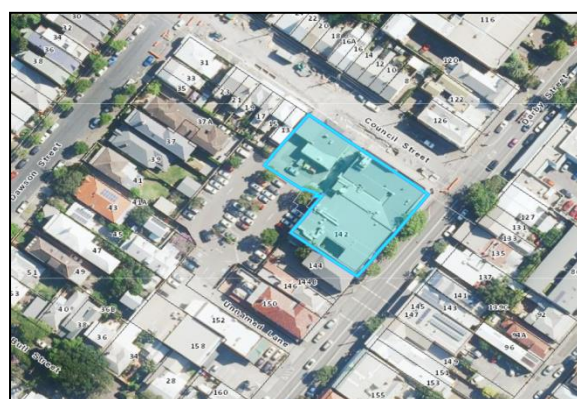
The proposed extension to trading hours is for a trial 12-month period. This is to allow for the assessment of the impact of the trading hours extension on the amenity of surrounding properties.

The submitted application was assigned to Senior Development Officer, Gareth Simpson, for assessment.

The application is referred to the Development Applications Committee (DAC) for determination, due to the application being called in by Councillor Church & Councillor Elliot.

The application was publicly notified in accordance with City of Newcastle's (CN) Community Participation Plan (CPP) for 14 days between 29 July and 12 August 2021 during which time 19 submissions were received. An additional five late submissions were also received after the notification period ended.

The concerns raised by the objectors in respect of the proposed development include impact on the Cooks Hill Heritage Conservation Area, increased noise, increased anti-social behaviour, regulatory history of the Delaney Hotel, proximity of the hotel to residential properties, lack of security, lack of acoustic assessment and insufficient documentation.



**Subject Land:** 142 Darby Street Cooks Hill

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The proposal was considered at a Public Voice Committee meeting held on 16 May 2022. The issues raised included the number of patrons likely to use the hotel, acoustic impacts from the proposal, increased pedestrian activity, increased anti-social behaviour in the locality around the hotel, increased vehicle movements late at night, concern with enforcement of plan of management and insufficient acoustic assessment.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Planning Assessment at Section 5.0.

### Issues

- 1) Matters raised in the submissions including noise impacts, increased anti-social behaviour, increased vehicular traffic, impact on surrounding residential area.

A copy of the Staged Shutdown Plan is at **Attachment A** and Plan of Management for the proposal is at **Attachment B**.

### Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under section 4.15(1) of the *environmental planning and assessment act 1979* (EP&A Act) and is considered to be acceptable subject to compliance with appropriate conditions.

### RECOMMENDATION

#### *Vote by division*

- A. That DA2021/00962 for an extension to the trading hours of the Delaney Hotel be approved and consent granted for a period of 12 months, subject to compliance with the conditions set out in the Draft Schedule of Conditions at **Attachment C**; and
- B. That those persons who made submissions be advised of City of Newcastle's determination.

### Political Donation / Gift Declaration

Section 10.4 of the *Environmental Planning and Assessment Act 1979* requires a person to disclose "*reportable political donations and gifts made by any person with a financial interest*" in the application within the period commencing two years before the application is made and ending when the application is determined.

The following information is to be included on the statement:

- a) all reportable political donations made to any local Councillor of Council; and
- b) all gifts made to any local Councillor or employee of that Council.

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The applicant has answered **NO** to the following question on the application form:  
*Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

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### PART II

#### 1.0 THE SUBJECT SITE

The subject property comprises Lot 20 of DP 1038322, Lot 13 and Lot 15 of DP 1009613, 142 Darby Street, Cooks Hill and is an L shaped site of approximately 1,685 square metres in size. The site has frontages to Darby Street (approximately 40m) and Council Street (approximately 51m). The site is relatively level with a slight fall towards Council Street.

The subject site consists of three buildings, the original two storey hotel building at the corner of Darby and Council Street, a two-storey commercial building at 140-142 Darby Street, and a single storey building operating as a bottle shop in the north-west of the site. The hotel premises consists of a bistro, general bar area, lounge, TAB, gaming room and beer garden. The Premises also has a function room and accommodation rooms. Entry to the hotel is via entrances on Darby Street and Council Street. All deliveries and waste removal are serviced from a loading dock in the car park to the west of the site.

The land is zoned B4 Mixed Use Zone and is in close proximity to a R3 Medium Density Residential zone to the west.

The locality is mixed use in nature with a range of retail, commercial and food and drink premises located on Darby Street with areas of residential accommodation surrounding the street.

#### 1.1 PLANNING APPROVAL HISTORY

The subject site has a comprehensive planning approval history which is as follows:

**DA 1982/0316** approved on 14 October 1982 permitted alterations and additions to the Premises.

**DA 1985/0237** approved on 4 November 1985 permitted alterations and additions to the Premises. A modification approved on 12 December 1985 modified the architectural plans in relation to car parking.

**DA 1986/0128** approved on 19 July 1986 permitted alterations and additions to the Premises, including re-roofing of the gaming area and construction of a new brick storeroom.

**DA 1986/0364** approved on 6 November 1986 permitted works to convert part of the Premises accommodation into a professional chamber.

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**DA 1989/0303** approved on 24 October 1989 permitted alterations and additions to the Premises for the detached bottle shop and car parking facilities.

**DA 1990/0109** approved on 24 June 1990 permitted alterations and additions to the Premises. Works including a new restaurant, outdoor restaurant and garden. A modification to DA 1990/0109 to extend trading hours was refused on 1 October 1997

**DA 1998/1715** approved on 24 July 1998 regularised the Premises operating hours. The hours of operation permitted the Premises to operate between 10am and 12 midnight Monday to Saturday, and between 10am and 10pm Sunday. The bottle shop is permitted to operate between 10am and 11pm Monday to Saturday, and between 10am and 10pm Sunday.

**DA 2004/1725** approved on 15 June 2007 permitted alterations and additions to the Premises. The hours of operation permitted the ground floor lounge, first floor lounge and kitchen to operation between 10am and 12 midnight Monday to Saturday, and between 10am and 10pm Sunday. The ground floor restaurant and kitchen is permitted to operate between 7am and 12 midnight Monday to Saturday, and between 7am and 10am Sunday. Entertainment on first floor is limited to piano and singer only.

**DA 2008/0644** approved on 29 August 2008 permitted alterations and additions to the Premises including a 2-storey extension on the southern side of the building. The trading hours were between 10am and 12 midnight Monday to Saturday, and between 10am and 10pm Sunday. The ground floor restaurant was restricted to hours between 7am and 12 midnight Monday to Saturday and between 7am and 10pm Sunday.

**DA 2019/01000** approved on 22 May 2020 for alterations and additions including partial demolition of the ground floor façade and awning. Internal alterations were proposed to ensure compliance with the Smoke Free Environment Act 2001 in part of the Premises

### **1.2 NIGHT-TIME ECONOMY STAGE 2 RELAXATION OF NEWCASTLE LIQUOR LICENCE CONDITIONS TRIAL**

The Trial was announced on 31 March 2021 by the Minister for Digital and Customer Service, the Minister for Planning and Public Spaces, and the Minister for Police and Emergency Services, and included relaxation of:

- i) Lockout conditions, so patrons can enter licenced venues after 1am until closing time;
- ii) Liquor trading hours to be extended from 3am to 3.30am, provided development consent is in place to allow the venue to stay open; and
- iii) Restrictions to be lifted on the types of drinks that may be served, including neat spirits and shooters, which currently come into effect from 10pm.

These conditions related to 22 venues, which accepted the NSW government's invitation to participate in the Trial. The Trial commenced on 9 July 2021 and runs until October 2022.



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The Hotel Delaney was not one of the 22 venues that met the required conditions and therefore was not invited to participate in the trial.

### 2.0 THE PROPOSAL

The applicant seeks the following amendments to the existing operation of the Delaney Hotel:

#### Hours of Operation

The application seeks to increase the opening hours of the Hotel for 2 hours on Monday to Sunday with the operating hours as follows:

Day	Existing Operating Hours	Proposed Operating Hours
Monday to Saturday	10am to 12 midnight	10am to 2am
Sunday	10am to 10pm	10am to 12 midnight

The application has been made on the basis a 12-month trial period only. This is to allow sufficient time for CN and other relevant bodies to assess the impact of the amended operating hours on the amenity of adjoining properties. Should the applicant seek a further extension to trading hours, this impact will be considered as part of the assessment of the future development application.

#### Staged Shutdown

During Monday to Saturday, this application proposes a staged shutdown of the premises to manage the number of patrons on site for the proposed additional operating hours. The Hotel does not currently operate a staged shutdown.

The maximum approved capacity of the premises is 990 persons

- i) Between 12 midnight and 1am the Premises' capacity would be reduced to 300 persons along with the closure of the first floor.
- ii) Between 1am and 2am the Premises capacity would be reduced to 120 persons only. The Lounge Bar and gaming room on the ground floor would operate only after 1am.
- iii) At 10pm the doors facing Council Street will be closed to patrons entering and existing the premises however will remain useable as emergency egress. At 12 midnight, patrons in excess of the maximum 300 person capacity will be directed to leave the premises via Darby Street (using Door 3 as indicated on the Staged Shutdown Plan) and queue to re-enter the premises via Darby Street (using Door 1 as shown on the Staged Shutdown Plan).

## Plan of Management

The Hotel does not currently have a CN approved Plan of Management (PoM). As part of this application, the applicant has prepared a comprehensive PoM that provides the operational details of the Hotel including security arrangements, opening and closing procedures, waste management, CCTV, noise minimisation and anti-social behaviour management.

A condition of consent is proposed to ensure the requirements of the PoM are adhered to and any changes to the PoM are required to be approved by CN.

This application is for a 12-month period in order to allow an assessment of the impact of the extended operating hours on the amenity of the surrounding area.

A copy of the staged shutdown plan and PoM is at **Attachment A & B** respectively.

The various steps in the processing of the application to date are outline in the Processing Chronology at **Attachment D**.

### 3.0 PUBLIC NOTIFICATION/PUBLIC VOICE COMMITTEE

The application was publicly notified for a period of 14 days between 29 July 2021 to 12 August 2021 in accordance with CN's Community Participation Plan. A total of 19 submissions were received in response. In addition, five late submissions were received following the closure of the notification period.

The concerns raised by the objectors in respect of the proposed development are summarised as follows:

#### a) Statutory and Policy Issues

- i) Heritage Conservation - Adverse impacts on the character of the Cooks Hill Heritage Conservation Area.

#### b) Amenity and Social Issues

- i) Noise – Increased operating hours will result in more noise from patrons leaving the premises at night.
- ii) Anti-social behaviour – Increased patronage and hours of operation will result in more anti-social behaviour, such as litter, property damage, fighting and other alcohol related behaviour.
- iii) Increased use of the car park at night as a result of the extension to trading hours.

#### c) Miscellaneous

- i) Hours of operation – the proposed hours of operation will impact on the amenity of the surrounding residential area.

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- ii) The extension in trading hours will set a precedent for other premises in the area.
- iii) Insufficient documentation provided with development application.

The objectors' concerns are addressed under the relevant matters for consideration in section 5.8 of this report.

### Public Voice Committee

The proposal was considered at a meeting of the Public Voice Committee held on 16 May 2022. Residents raised concerns with regards to the impact of the development on:

- i) Noise to surrounding properties
- ii) Anti-social behaviour
- iii) Increased vehicular traffic
- iv) Safety and security of surrounding area
- v) Management of patrons entering and existing the Hotel
- vi) The number of patrons approved in the Hotel

An assessment of these issues is provided in Section 5.8 of the report.

A copy of the staged shutdown plan and PoM is at **Attachment A & B** respectively.

The various steps in the processing of the application to date are outlined in the Processing Chronology at **Attachment D**.

## 4.0 INTEGRATED DEVELOPMENT

The proposal is not identified as '*integrated development*' pursuant to Section 4.46 of the EP&A Act.

## 5.0 PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of section 4.15(1) of the EP&A Act, as detailed hereunder.

### 5.1 Provisions of any environmental planning instrument

#### State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

SEPP 55 provides that prior to granting consent to the carrying out of any development on land the consent authority is required to consider whether the land is contaminated

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and, if the land is contaminated, whether the land is suitable for the purpose of the development or whether remediation is required.

The subject land is being used as a pub and no change of use is proposed. Further, CN's records do not identify any past contaminating activities on the site. The proposal is considered to be acceptable having regard to this policy.

### **State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)**

*State Environment Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP)* works together with the *Biodiversity Conservation Act 2016* and the *Local Land Services Amendment Act 2016* to create a framework for the regulation of clearing of native vegetation in NSW. The Vegetation SEPP seeks to protect the biodiversity values of trees and other vegetation in non-rural areas of the state, and to preserve the amenity of non-rural areas of the state through the appropriate preservation of trees and other vegetation.

The proposed development does not propose the removal of trees or vegetation from the site.

### **Newcastle Local Environmental Plan 2012 (NLEP 2012)**

The following summarises an assessment of the proposal against the provisions of the NLEP 2012 that are primarily relevant to the proposed development:

#### Clause 1.3 – Land to which Plan applies

The NLEP 2012 applies to land identified on the 'Land Application Map'. The subject development occurs on land shown on the map.

#### Clause 2.1 - Land Use Zones

The subject property is included within the B4 Mixed use zone under the provisions of the NLEP 2012, within which zone the proposal is permissible with CN's consent as a form of commercial premises (Hotel - food and drink premises).

The proposed development is consistent with the objectives of the B4 Mixed Use zone, which are:

- i) To provide a mixture of compatible land uses.
- ii) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- iii) To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

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The proposed development results in a compatible use located in an accessible location in proximity to public transport. The Hotel is considered to support the commercial area of Darby Street without adversely impacting on the viability of Darby Street and supports the wider Newcastle City centre.

**Clause 5.10 – Heritage Conservation**

The site is within the Cooks Hill Heritage Conservation Area (HCA). Accordingly, a heritage statement within the Statement of Environmental Effects was submitted with the application. The proposal will not have an adverse impact on the character of the HCA as no physical changes are proposed to the existing buildings on site

An assessment of the proposal against the relevant provisions of the clause is provided below:

**1) *Objectives***

The proposal is consistent with the objectives of the Cooks Hill HCA.

**2) *Requirement for consent***

Clause 5.10(2) is satisfied as the application is seeking consent for the development.

**3) *When consent not required***

Consent is required and is being sought by the application.

**4) *Effect of proposed development on heritage significance***

The proposed development will not have any adverse impact on the heritage significance of the Cooks Hill HCA as no physical changes are proposed to the existing buildings on site.

**5) *Heritage assessment***

The development application includes an assessment of the potential impact of the proposal on the HCA

**6) *Heritage conservation management plans***

A conservation management plan (CMP) has not been prepared for the site, however, it is not required in this instance.

**7) *Archaeological sites***

The site is not an identified archaeological site.

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### 8) *Aboriginal places of heritage significance*

An Aboriginal Heritage Information Management System search found no Aboriginal sites or Aboriginal Places within a 50m curtilage of the site.

### 9) *Demolition of nominated State heritage items*

The site is not a nominated State heritage item.

### 10) *Conservation incentives*

The application does not seek to utilise this clause.

Having regard to clause 5.10 (4) it is considered the proposed development would not have an adverse impact upon the heritage significance of the Cooks Hill HCA as no changes are proposed to the physical appearance of the existing buildings on site.

### Clause 6.1 – Acid Sulfate Soils (ASS)

The site is affected by Class 4 acid sulphate soils and the proposed development is considered satisfactory in this regard. The proposal will not result in any changes to the existing building structure and will therefore not be affected by acid sulfate soils.

### Clause 6.5 - Public safety—licenced premises

As the proposed development is to be undertaken on land containing a licenced premise, the provisions of this clause apply.

The proposal has been assessed by NSW Police, CN's Licenced Premises Reference Group (LPRG) and CN's Social Planner.

Both the LPRG and CN's Social Planner support the proposal subject to the imposition of a 12-month trial period for the approval. The NSW Police have confirmed they object to the proposal however have provided recommended conditions of consent should the development be approved.

The NSW Police have raised the following comments in respect of the proposal:

#### **1. Saturation of Licensed Premises**

**Comment:** There are a high number of restaurants, Cafes and Hotels in the vicinity of the licensed premise.

**Response:** it is noted there are a number of licensed premises in the vicinity of the Premises. Darby Street is one of a number of areas within the Newcastle LGA where a variety of food and drink premises are approved. Darby Street has been termed 'East Street' as part of promotional material produced by CN. This application does not seek approval for a new licensed premises but rather an extension to the trading hours of the existing premises only.

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### 2. Stage Two of the Liquor Licence Trial in Newcastle

**Comment:** The Delaney Hotel is part of the Stage Two Liquor Licence Trial in Newcastle which will cease on 8<sup>th</sup> July 2022. The NSW Police believe that no changes should be made to the trading hours of the Hotel until the completion of the liquor trial in October 2022.

**Response:** From CN's records, a total of 22 premises took part in the Liquor Licence Trial in Newcastle, Stage Two. The Delaney Hotel was not one of the premises that accepted the invitation to take part in the trial.

### 3. Plan of Management

**Comment:** The PoM does not include provision for sufficient security staff to assist with removing patrons during the staged shutdown. The proposed headcount that will occur at 11pm will be an estimate only and not accurate whilst the Police do not believe 15 minutes is enough time to remove the required patrons prior to the 12pm staged shutdown. Fire exit doors were identified as being locked and fire exit signs not working.

**Response:** These comments are noted and agreed with. As part of the conditions of consent, the applicant will be required to amend the PoM to provide for additional security arrangements, a more robust means of undertaking a headcount and providing additional time to clear patrons prior to the 12pm staged shutdown. In addition, a condition of consent requires that any further changes to the Plan of Management will be required to be put before CN for approval.

In respect of the fire doors, this is a building regulations matter and is not required to be assessed as part of this application.

### 4 The Impact of Later Trading Hours for Australian Public Houses (Hotels) on Levels of Violence

**Comment:** Concerns are raised in respect of the impact of later trading hours on increasing violence in the locality. There are limited public transport options for patrons leaving the premises at 2:00 am, resulting in the potential for more street violence.

**Response:** Given the location of the Hotel in the Newcastle CBD, it is considered there are a range of transport options for patrons including taxis, public transport and walking. Further information is provided in respect of the transport options for patrons in Section 5.8 of this report.

In respect of the impact of later opening hours on violence, it is noted that currently, the Hotel do not operate under a CN approved PoM. As part of this application, a comprehensive PoM has been provided that covers areas such as closure procedure, noise mitigation and management, security arrangements, CCTV etc. This document has been reviewed and is considered satisfactory. In addition, the current approved Hotel does not have a staged shutdown procedure. As such, a large number of patrons are required to exit the Hotel at the same time, resulting in an increased potential for

violence and anti-social behaviour. This proposal includes the staged shutdown of the Hotel which is considered to reduce the potential for anti-social behaviour.

Notwithstanding the objections outlined above, the NSW Police have recommended conditions of consent should the proposal be approved. These have been incorporated into the conditions of consent.

In addition, the proposal has been assessed by CN's Environmental Services Unit in respect of noise impacts. The proposal has been found to be acceptable in respect of increased noise during the additional opening hours.

Recommended conditions of consent (**Attachment C**) have been imposed on the draft consent, noting that some conditions recommended by NSW Police and those by CN's Environmental Services Team cover similar issues and the latter have generally been applied as being appropriate to manage the relevant impact.

## **5.2 Any draft environmental planning instrument that is or has been placed on public exhibition**

Several draft State Environmental Planning Policies or updates have been exhibited or are under consideration by the Department of Planning, Industry and Environment, however, three are considered relevant to the subject application.

### **Draft State Environmental Planning Policy (SEPP) Remediation of Land**

The Draft Remediation of Land SEPP will replace the existing SEPP 55 Remediation of Land. The proposed development is consistent with the Explanation of Intended Effect (EIE) for the new SEPP and complies with the existing SEPP 55 Remediation of Land requirements.

## **5.3 Any development control plan**

### **Newcastle Development Control Plan 2012 (NDCP 2012)**

The main planning requirements of relevance in the NDCP 2012 are discussed below.

#### Section 3.10 - Commercial

##### 3.10.01 Height of Buildings

The proposal results in no change to the existing height of the buildings on site.

##### 3.10.02 – Density – floor Space Ratio

The proposal results in no change to the existing floor space ratio of the buildings on site.



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### 3.10.03 – Streetscape and Front Setbacks

The proposal does not result in a change to the existing setbacks on Darby Street and Council Street.

### 3.10.04 - Side and rear setbacks

The proposal seeks no change to the existing approved building setbacks.

### 3.10.05 - Street activation

The Hotel is considered to achieve the requirements of this control in that it provides an active street frontage to both Darby Street and Council Street. In addition, the Hotel has three entrances to Darby Street and one entrance to Council Street.

### 3.10.06 - Building design and appearance

The proposal does not seek to amend the existing building form of the buildings on site. No changes are proposed to the rhythm of the buildings and setbacks and therefore this control is not considered to apply to the proposal.

### 3.10.07 - Views and privacy

The proposal does not seek to amend the existing height of buildings on site, as such there is no impact considered to occur to existing views around the site.

In respect of privacy, the existing buildings on site are in excess of the minimum separation distances to the windows of habitable of facing dwellings with the closest part of the Hotel approximately 21m from the nearest window to a dwelling.

### 3.10.08 - Fencing and walls

The proposal does not seek to install any fencing or walls.

### 3.10.09 - Utilities and services

The site is adequately serviced in respect of utilities. The proposal does not seek to amend current waste management procedures with waste bins placed on Darby Street for pickup up to 30 minutes prior to the waste truck arrival and immediately returned to the designated waste bin area to the west of the site after waste collection.

Details of the waste management procedures are provided in the Plan of Management.

## Safety and Security – Section 4.04

### 4.04.01 - Crime Prevention through Environmental Design (CPTED) Principles

The applicant has provided a Crime Risk Assessment in addition to a Social Impact Assessment and PoM as part of the development submission. It is noted there is currently no Council approved PoM in place for the premises.

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The proposal achieves the CPTED principles in the following ways:

### Territorial Reinforcement

Entry to the Premises is clearly delineated through the access points via the main entries from Darby Street and Council Street and the rear entrance from the carpark to the north-west of the site. In addition, the boundary of the site is also clearly marked by the built form. Back-of-house areas that are restricted from patron access will be clearly identified as staff only areas and restricted to authorised persons. This includes the kitchen, storage areas (freezer, coolroom, stores, keg room) and office.

### Surveillance

Surveillance is achieved through measures such as CCTV, help points and mirrored building panels. CCTV will operate at a number of locations within and around the premises to ensure adequate surveillance is provided at all times.

Internally, the venue is broken up into smaller, more manageable areas so as to be more readily supervised by staff and reduce the feeling of anonymity through passive surveillance between patrons.

Externally, passive surveillance will be provided by patrons inside the Hotel and security staff. Security personnel will be provided at the premises in accordance with the PoM during the extended trading hours in order to reduce the potential for adverse impacts to surrounding sensitive land uses.

### Access Control

All back-of-house areas are locked as entry for staff only.

### Space/Activity Management

The applicant has provided a PoM which details how the premises will be managed during opening hours. This includes details of staff numbers, security numbers, patron numbers, staged closure of premises, management of noise etc.

### Harm Minimisation Strategies

The Hotel will be required to have security guards to minimise anti-social behaviour from the Hotel. All staff involved with the sale and supply of liquor or security are required to be trained in the responsible service of alcohol.

This will require the Hotel to enforce appropriate patron behaviour, i.e. doing all they reasonably can do to prevent patrons from becoming intoxicated or behaving in a manner that could be described as indecent, violent or quarrelsome.

#### 4.04.02 General principles

The applicant has provided a Crime Risk Assessment in accordance with this control.

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The proposed extension in trading hours does not result in any changes to the existing built form of the premises. There is existing lighting around the premises to reduce the opportunity for vandalism and anti-social behaviour. The entrances to the premises are clearly defined and the proposal includes details of security staff that will manage patrons entering and exiting the premises.

An assessment against these acceptable solutions is provided below:

### Exterior design and layout

There are no changes proposed to the existing entry/exit points from Darby Street and Council Street or to the external appearance of the building. The proposal includes a staged shutdown of the premises from 12 midnight onwards which will result in the closure of the existing doors on Council Street and Darby Street with only one door at the corner of Darby Street and Council Street remaining open.

### Surveillance and sightlines

As part of the PoM, CCTV surveillance cameras are proposed to be installed, operated and maintained throughout the Premises, with particular focus on the following areas:

- i) Principal entrances and exits;
- ii) all areas within the Premises occupied by the public (excluding toilets); and
- iii) areas within a 10m radius external to the public entrance(s) to the Premises.

All CCTV recording equipment and cameras will be of high-grade digital quality and all CCTV recordings are proposed to be retained for 30 days before being reused, destroyed or deleted.

The CCTV recording equipment will be capable of reproducing a copy of recorded footage on demand of CN or Police Officers either immediately or within 24 hours of the request being made.

### Lighting

In relation to lighting:

- i) Appropriate day and night lighting to the building and adjoining public domain exists.
- ii) External lighting across the ground level of the venue is proposed.
- iii) The lighting is located so there is no spillage to neighbouring residential properties.

The proposed extended operating hours will utilise the same lighting arrangement as currently exists.

### Signage / Wayfinding

The development includes the incorporation of signage around the curtilage of the existing building for wayfinding. Signs are also displayed around the building advising that the building is under 24-hour camera surveillance.

Overall, the building design and functionality of the street frontage curtilage allows surveillance of all surrounding footpath areas through the presence of CCTV and physical security along both Council and Darby streets.

#### *4.04.03 Principles for specific uses*

The existing use is maintained as a pub with ancillary restaurant. The premises can be categorised as a food and drink premises under NLEP 2012.

The following controls are applicable to this section:

*Buildings have an active frontage to the public domain.*

The proposed change to operating hours does not impact on the existing active frontage of the premises.

*Pedestrian access and onsite parking are clearly defined, incorporate good lighting, and have direct access to buildings from areas likely to be used at night.*

The development does not propose to amend the existing approved pedestrian access and onsite car parking arrangements.

*Natural and/or mechanical surveillance provided (as required by Council and/or Police).*

As noted in the submitted Plan of Management, the proposal includes both passive and mechanical surveillance (CCTV) in respect of the additional operating hours.

*Plan of Management (PoM) is submitted to Council which identifies/addresses safety and crime impacts. Note: PoM to include details on alcohol management (if applicable), hours of operation, patron movement, capacity numbers, safety and security measures and parking etc.*

In summary, the application has been supported by a PoM. The PoM identifies and addresses safety and security impacts of the development. The plan will be periodically updated to account for changing conditions of the venue in collaboration with operators and residents of surrounding land uses. A condition is included to ensure approval by NSW Police and CN.

The venue is to be used and operated in accordance with the PoM for the lifetime of the development. A condition has been included within the draft schedule of conditions referencing the PoM.

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### Social impact – Section 4.05

#### 4.05.01 - Social impact

The aims of this section are:

- i) To provide clear guidelines as to the level of assessment required for a development application.*
- ii) To consider both positive and negative social impacts in achieving socially sustainable development through an evidenced based approach.*
- iii) To ensure consultation is undertaken with the community, stakeholders and relevant groups to identify public values and concerns.*
- iv) To consider how potential social impacts of change can be best managed and mitigated.*

The proposal includes a comprehensive Social Impact Assessment (SIA) which notes that the use allows for social opportunities including improved levels of service for guests and choices for dining. In addition, the report provides a response to public interest and social impact, noting that additional opening hours promotes employment. The additional SIA information details that the Hotel is vital to Newcastle's growth by attracting people to the area like other large coastal cities.

The submitted PoM addresses the responsible service of alcohol by stating that the licensee will ensure that all staff involved in the sale and supply of liquor has completed an approved NSW Responsible Service of Alcohol (RSA) Course and holds a valid NSW Competency Card and / or interim certificate.

The PoM also demonstrates that staff are trained in identifying and preventing intoxication, verifying proof of age. The PoM also details the deployment of Designated RSA Advisor in accordance with the *Liquor Regulation NSW 2018*.

The PoM demonstrates external management will be the responsibility of a nominated supervisor to ensure security personnel comply with the duties outlined in the PoM. Further, it is acknowledged that the applicant will also be required to provide a Community Impact Assessment for the application for a liquor licence to Liquor and Gaming NSW prior to any amended liquor licence being approved.

The potential impacts of the development are considered acceptable and can be adequately addressed through conditions of consent. Conditions regarding hours of operation, CCTV management, maximum patron capacity and a PoM are included in the recommend development consent conditions (**Attachment C**).

### Soil Management - Section 5.01

The proposal does not include any works and therefore soil management is not required to be achieved.

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### Land Contamination - Section 5.02

The site is not identified as being on CN's contamination register. Furthermore, no works or buildings are proposed as part of this development.

### Vegetation Management - Section 5.03

The State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) is one of a suite of Land Management and Biodiversity Conservation (LMBC) reforms that commenced in New South Wales on 25 August 2017. The Vegetation SEPP (the SEPP) works together with the Biodiversity Conservation Act 2016 and the Local Land Services Amendment Act 2016 to create a framework for the regulation of clearing of native vegetation in NSW. Part 3 of the Vegetation SEPP contains provisions similar to those contained in cl.5.9 of NLEP 2012 (now repealed) and provides that NDCP 2012 can make declarations with regards to certain matters, and further that Council may issue a permit for tree removal.

The proposed development does not propose the removal of trees and therefore this control is not considered applicable.

### Aboriginal Heritage - Section 5.04

Reference to the Aboriginal Heritage Information Management System confirmed that there are no sites of Aboriginal significance recorded on the site.

### Archaeological Management - Section 5.06

The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or NLEP 2012 as an '*Archaeological Site*'.

### Traffic, Parking and Access - Section 7.03

The proposal does not result in an increase in floorspace or parking demand and therefore does not require an increase in car parking associated with the development.

Existing access will be maintained to the premises.

### Stormwater and Water Efficiency – Section 7.06

The proposal does not result in a change to the impervious area of the existing buildings on site. As such, no stormwater management is provided with this application.

### Waste Management – Section 7.08

Bins are proposed to be brought to the waste collection point on Darby Street for collection up to 30 minutes prior to collection and returned to the waste area at the west of the site after collection. The proposal does not seek to amend the existing waste collection arrangements with the additional waste from the increased operating hours managed by the existing waste operator.

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Based on the submitted information, the development application is considered acceptable and complies with Section 7.08.

### Development Contributions

The EP&A Act enables CN to levy contributions for public amenities and services. The development does not attract a development contribution to CN.

#### **5.4 Planning agreements**

No planning agreements are relevant to the proposal.

#### **5.5 The regulations (and other plans and policies)**

The application has been considered pursuant to the provisions of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. In addition, a requirement to comply with AS2601 – Demolition of Structures will be included in the conditions of consent (refer to **Attachment C**) for any demolition works.

#### **5.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality**

Impacts upon the natural and built environment have been discussed in this report in the context of all relevant policies, including NLEP 2012 and NDCP 2012 considerations.

### Acoustic Impacts

Having regard to potential acoustic impacts arising from the extension to operating hours on Monday to Sunday, a detailed assessment of the proposal has been undertaken including consideration of the Noise Impact Assessment prepared by Acoustic Logic (February 2021).

The acoustic report is noted to have assessed the noise impacts of the proposed development on the nearby residential receivers and concludes that the development can be compliant with noise guidelines subject to the implementation of the noise control recommendations contained in the report.

In conjunction with the submitted PoM, both reports outline how potential additional noise is proposed to be managed which consists of the following:

### Building controls:

- i) All louvred windows surrounding the development are to be of Breezeway 6mm toughened glass and 6mm aluminium extension (Breezeway DualAir, minimum Rw of 35).

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- ii) Doors accessing the internal and external areas are to be fitted with a closing mechanism to ensure that they are not left open. Doors should be fitted with full perimeter acoustic seals.
- iii) Prominent notices shall be placed at the entry and exit to the level 1 outdoor dining area to remind patrons that a minimum amount of noise is to be generated whilst in the outdoor area.
- iv) Patrons should be managed by the premise to ensure noise generation is minimised.
- v) All void openings are to be acoustically lined with two layers of 50mm thick Echosoft (total 100mm) with perforated timber/metal facing.

### Management controls:

#### Level 1 Indoor and Outdoor Dining Area

- i) Patron capacity to be limited to a total of 16 patrons with no more than 6 patrons occupying the outdoor area at one time.
- ii) All doors and windows are to be kept closed.
- iii) Only background music within this space is to be played at a maximum sound pressure level of 65 dB(A)L10.

#### Ground Floor Dining Areas

- i) Patron capacity to be limited to a total of 220 patrons.
- ii) All doors and windows are to be kept closed.
- iii) A noise limiter is to be installed to ensure that the sound pressure level from the operation of the sound reinforcement system or amplified band does not exceed 80 dB(A)L10 when measured within the space.

#### Gaming Room

- i) Coin payouts on poker machines are not permitted.
- ii) Patron capacity is to be limited to a total of 80 patrons.
- iii) Gaming machines are to have volumes set to no more than 65 dB(A) L10 at 1 metre from the machine.

#### Additionally overall capacity of the venue will progressively reduce after midnight:

- i) Before midnight - 990 persons,
- ii) Midnight to 1am - 300 persons and
- iii) 1am to 2am - 120 persons.



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The acoustic assessment predicts that with these building and management controls in place, the venue should not exceed appropriate noise criteria as a result of plant and equipment, amplified music and patron noise from within the venue.

The acoustic impact assessment is considered to be comprehensive and of an adequate standard of reporting.

In addition, the PoM addresses external anti-social and noise impacts to a limited extent, discussing such matters as signage and security monitoring areas immediately adjacent to the premises.

In this respect, the subject acoustic report appears to comply with appropriate guidelines and standards in respect to acoustic impacts.

### Conclusion

In summary, with the above proposed measures implemented, the venue should not exceed appropriate noise criteria as a result of plant and equipment, amplified music and patron noise from within the venue. Furthermore, the measure outlined within the PoM for management of external patrons are considered appropriate.

### **5.7 The suitability of the site for the development**

The site is zoned B4 Mixed Use zone, and the proposed extension to approved trading hours of the Hotel is permitted with consent. The development provides for additional employment opportunities that will cater for the existing services and businesses in the locality without impacting on the viability of those centres.

### **5.8 Any submissions made in accordance with this Act or the regulations**

The application has been notified in accordance with CN's Community Participation Plan. The application was notified for 14 days between 29 July 2021 and 12 August 2021. A total of 19 submissions were received during the notification period and five late submissions were received after the closure of the notification period. A Public Voice meeting for the proposal was held on 17 May 2022.

The key issues raised within the submissions and Public Voice have been discussed throughout this report. The following table provides a summary of the issues raised and a response to those issues.

<b>Concerns/Issues</b>	<b>Response</b>
<b>Adverse impacts on the character of the Cooks Hill Heritage Conservation Area.</b>	<p>The subject site is located within the Cooks Hill Heritage Conservation Area (HCA). This HCA is described as follows:</p> <p><i>'Cooks Hill Heritage Conservation Area is culturally significant on a number of levels. As a residential and commercial precinct it is regarded for its special historical character, liveable streetscapes, diverse range of historic residential and commercial buildings and several tree lined streets. The age of the suburb, relative to other suburbs of Newcastle, is</i></p>

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Concerns/Issues	Response
	<p><i>apparent in the style and form of buildings and eclectic street layout.'</i></p> <p>The proposal seeks approval for a change in hours of the existing Hotel Delaney only. No physical changes are proposed to any buildings on site. As such there is no impact on the character of the HCA.</p>
<p><b>Increased patronage and hours of operation will result in more anti-social behaviour, such as litter, property damage, fighting and other alcohol related behaviour.</b></p>	<p>Currently, the Hotel does not have a CN approved PoM. This proposal incorporates a comprehensive PoM that provides details of how patrons leaving the Hotel will be managed. The applicant is proposing that a combination of security staff, the staged shutdown of the Hotel and clear signage will ensure that any effects from patrons leaving the premises at night will be minimised and to a higher standard to what is required currently.</p> <p>Currently, the Hotel has a maximum patron capacity of 990 patrons and no approved staged shutdown. As such, all patrons normally leave the Premises within 30 minutes of each other at closing time. This creates a significant number of people leaving the premises at the same time which is difficult for staff to manage.</p> <p>As part of this proposal, the Hotel will be required to undertake a staged shutdown, reducing patrons numbers to 300 at midnight and 120 at 1am which results in a similar number of patrons as would be approved for a small bar.</p> <p>By staging the shutdown of the Hotel, security staff and the duty manager will be able to ensure greater control over Patrons leaving the Hotel thereby reducing potentially anti-social behaviour.</p> <p>In addition to this, it is noted this application is for a 12 month trial of the extending opening hours only. During this 12 month trial period, if issues arise in respect of noise or anti-social behaviour, this will be considered as part of the assessment of an extended trial period.</p>
<p><b>The extension in trading hours will set a precedent for other premises in the area</b></p>	<p>Every DA is assessed on its own merits with every proposal required to be adequately justified prior to approval.</p> <p>Should any licenced premises in the surrounding area seek to extend their trading hours, they will be required to submit a DA for assessment.</p> <p>In addition, it is noted that this application seeks approval for a 12 month trial of extended trading hours only.</p>

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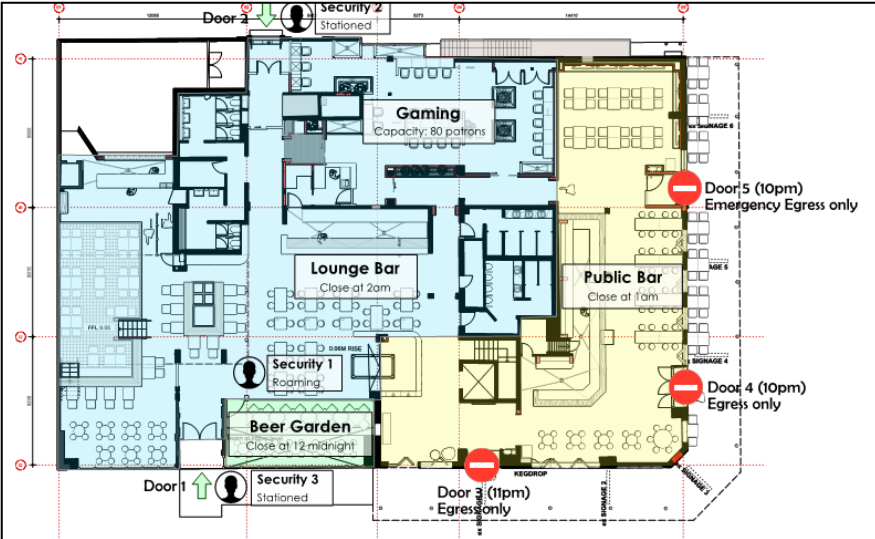
Concerns/Issues	Response
<b>Insufficient documentation provided with development application</b>	The development application has provided sufficient documentation to ensure a complete and detailed assessment of the proposal. The DA submission includes a Statement of Environmental Effects, Plan of Management, Social Impact Assessment and Acoustic Impact Assessment.
<b>Does the acoustic report assess 990 patrons to 2am?</b>	<p>The Acoustic Report assesses a maximum 300 patrons from midnight to 2am. The proposal is for a maximum 300 patrons past midnight, to reduce the potential adverse impact to the surrounding sensitive land uses. The Hotel also proposes a further decrease to 120 patrons at 1am.</p> <p>In response to comments raised at the Public Voice, the applicant has provided additional shutdown procedures within an amended PoM. All patrons within the Hotel areas closing in excess of the maximum capacity will be required to leave the Hotel onto Darby Street where they may queue for re-entry or depart the area.</p> <p>Patron counts conducted by the Hotel indicate that the peak capacity on a Saturday night is 500 to 600 patrons at 11pm. The total number of patrons within the Hotel on quieter days are typically below 100 at any given time. Based on the above, it is unlikely that the number of patrons would be much, if at all, above the proposed 300 patrons when the staged shutdown commences at 12 midnight.</p>
<b>Pedestrian activity will increase and be there for an additional 2 hours – where are these patrons going when they leave the hotel? Council Street or Darby Street?</b>	<p>All doors along Council Street will be closed at 10pm under the proposed Plan of Management. Door 4 (in the north-east corner of the Council Street façade) will remain operational as the doors also serves as a fire door and therefore cannot be locked.</p> <p>Signage will be placed on the doors to remind patrons to exit via Darby Street after 10pm. During the extended trading hours, all patrons will be directed to leave via Darby Street or to the rear carpark at midnight, 1am and 2am.</p> <p>The current Hotel operation permits a capacity of 990 patrons, that it is understood generally depart within a 30 minutes period at closing time. The applicant has noted that the departure of a high number of patrons can be difficult and can lead to street noise and frustration as patrons try to obtain transport to leave the area.</p> <p>By extending the trading hours with a staged shutdown, the intensity of the departure of patrons is likely to be lowered.</p>

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Concerns/Issues	Response
	<p>When the Hotel closes at 2am there will be up to 120 patrons which is more manageable than up to 990 patrons. With less people trying to seek taxis or ubers to alternate venues, the potential for adverse acoustic impact and altercation is likely to be lower.</p>
<p><b>Smokers where are they to go after midnight if beer garden closes?</b></p>	<p>Smoking patrons can utilise the outdoor gaming area after midnight when the beer garden closes. Whilst patrons can also opt to smoke on the streets, if they leave the premises they will have to queue up to enter again should the Hotel be at capacity. It is therefore unlikely that patrons would be exiting the Hotel to smoke, which will limit the potential for adverse acoustic impact on surrounding residents.</p>
<p><b>Has an increase in vehicular traffic been considered?</b></p>	<p>Provision of off-street parking does not form part of the application is not required to be assessed as the proposal does not seek an increase in floor area or change to patron numbers.</p> <p>The staggered reduction of capacity to 300 persons after midnight and 120 persons after 1am is not expected to result in any additional demand for parking. The staggered close may also assist in spreading traffic impacts.</p> <p>In respect of potential noise from patrons leaving the premises to vehicles, the PoM confirms that security will be patrolling the internal and the external areas of the Hotel, until 30 minutes after the closing time. Security stationed at the carpark exit (door 2) will have direct sight of vision to patrons returning to their cars. Signage will be erected to remind patrons to leave quietly and security will also be providing corrective advice if necessary.</p> <p>Security will be deployed to Darby Street from at least 11pm. Staff and Duty Manager will be monitoring and assist with dispersing of patrons at 12 midnight and 2am.</p>
<p><b>Can the side doors to Council Street be closed after 10pm?</b></p>	<p>The relevant door number is provided in Fig. 2 below.</p> <p>Condition 28 of DA 2019/01000 requires Door 5 along the north-western part of the Council Street facade to be closed by 10pm. Door 4 will be closed from 10pm, but is required to remain operational. It is noted that the doors along Council Street are all fire doors therefore cannot be locked from the inside of the Hotel.</p> <p>Signage will be placed on the Council Street doors to remind patrons that the doors are not to be used after 10pm. A provision has been added to the PoM to require a strobe light</p>

Concerns/Issues	Response
	<p>to be installed on the doors to alert staff if the door has been opened after midnight.</p>  <p><b>Fig 2. Staged shutdown plan showing door numbering</b></p>
<p><b>How will patron numbers as set out in the Plan of Management be managed?</b></p>	<p>Concerns were raised at Public Voice regarding the enforcement of the PoM, particularly, with regard to maximum patron numbers and Responsible Service of Alcohol (RSA) obligations. Two issues were identified regarding the enforceability of the PoM; Firstly, the maximum patron numbers after midnight were to be reached by closing areas of the Hotel and then by natural attrition if necessary. Secondly, Part 5 of the PoM notes those provisions may be amended or abandoned at anytime.</p> <p>The PoM is required to be adhered to as a condition of consent as set out in the draft consent conditions (<b>Attachment C</b>) and will also be referred to on the Hotel's liquor licence should the application be approved.</p> <p>In response to these issues, the PoM has been amended to remove reliance on attrition to reduce the patron numbers after midnight. The new provisions added to the PoM will require greater warnings to patrons about the closure of areas, a recount of capacity and for any patrons in excess of that figure to be directed to queue for re-entry or to depart the area.</p> <p>These new provisions are located under Part 2.5 Staged Shutdown of the revised PoM.</p> <p>Part 4 of the PoM contains the Hotel's RSA obligations as required to be observed under the Liquor Act.</p>

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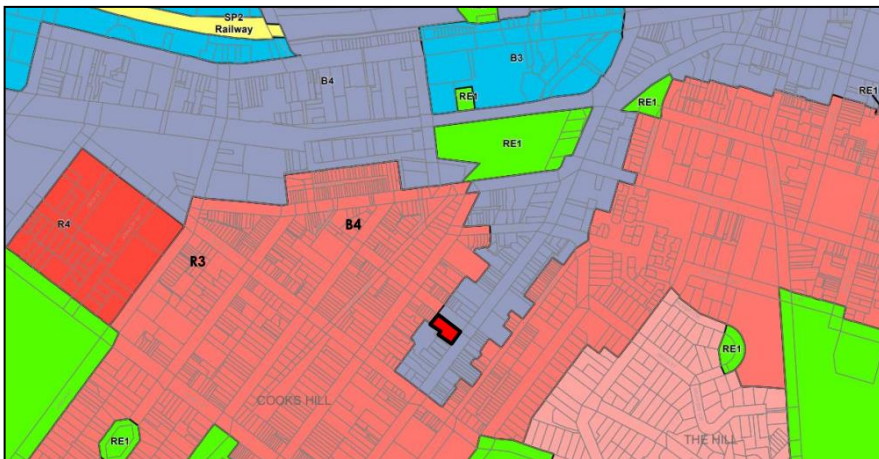
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Concerns/Issues	Response
	<p>Notwithstanding the above, the extended operating hours will be subject to a 12 month trial period should the application be approved. This will provide the opportunity to NSW Police, CN and residents to monitor any impacts as a result of the extended operating hours which will assist in determining whether a further extension of the trial will be approved or not.</p>
<p><b>Where are taxi and uber drop off points?</b></p>	<p>There is a designated taxi zone immediately adjacent to the main entrance of the Hotel on Darby Street as shown in Fig. 3 below. The kerbside immediately adjacent to the Hotel Delaney is an all day taxi zone, and the remaining frontage is a loading zone between 7am and 5pm, and a taxi zone outside those hours.</p>  <p><b>Fig 3.</b> Graphic indicating taxi zone on Darby Street outside Hotel Delaney (Source Social Impact Assessment)</p>
<p><b>Pedestrian traffic from the premises in the neighbourhood will go from 11pm to 2am</b></p>	<p>It is firstly noted that there would be pedestrians walking along Darby Street and surrounding streets even if the Hotel is not operating later hours. Pedestrian traffic is expected to increase with CN's promotion of the late-night economy and the introduction of the Shared Street Trial from September 2022 with additional seating and activation along Darby Street.</p> <p>In additional to the above, small bars are specifically encouraged businesses in the Newcastle After Dark and residents should be expecting a consequential increase in pedestrians late at night consistent with that strategy.</p> <p>Given that Darby Street is a well-known Eat Street in Newcastle, it is considered that the additional pedestrian traffic is reasonable and will not cause a noticeable increased impact.</p> <p>There is no licensed premises nor active frontages along Council Street, people are unlikely to be heading northwest along Council Street to access other venues after leaving the Hotel. Patrons would exit the Hotel on Darby Street and are likely to either head into the CBD or head home.</p>

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Concerns/Issues	Response
	<p>The Hotel will also be closing the doors located on the Council Street façade at 10pm, and restricting entry access to rear carpark or Darby Street during the proposed extended trading hours. With such restrictions in place, patrons will be less likely to use Council Street.</p>
<p><b>It is a residential area</b></p>	<p>It was suggested in the Public Voice that the Hotel is located in a residential area.</p> <p>Under the NLEP 2012, Hotel Delany is located within a B4 Mixed Use zone that extends from and is connected to the Newcastle CBD to the north. The use as a pub is permitted with a B4 mixed use zone.</p> <p>The objective of a B4 Mixed Use is to provide a mixture of compatible land uses, to integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling; and to support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.</p> <p>The hotel is located on Darby Street, identified by CN as 'Eat Street' and a vibrant collection of food and drink premises amongst other commercial uses.</p> <p>Whilst it is recognised the Hotel is located in proximity to residential accommodation, the Hotel is within a zoned and established commercial area.</p>  <p><b>Fig 4.</b> Zoning map showing site in red and Br commercial zone in purple</p>
<p><b>How will noise be managed? Security 6pm to</b></p>	<p>The Acoustic Report concludes that the Hotel is capable of complying with the relevant acoustic criteria, subject to the recommended acoustic treatment.</p>



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Concerns/Issues	Response
<p><b>30min past closing./ Increased noise impacts from the extended hours</b></p>	<p>The operation of the Hotel will generate two sources of noise, one being the internal noise break out during the use of the premises and the other when patrons depart the premises.</p> <p>The internal noise break out is proposed to be managed through mitigation measures including:</p> <ul style="list-style-type: none"> <li>i) Installation of noise limiters to control the output of amplified music;</li> <li>ii) Building upgrade to include toughened glass, acoustic seals on doors and acoustic lining for voids;</li> <li>iii) Staff to monitor behaviour of patrons and provide corrective advice if necessary;</li> <li>iv) Formal surveillance by security guards from 6pm until 30 minutes after closing time; and</li> <li>v) Conditions of consent listed in the PoM including closing of windows, doors and operable facades by 10pm.</li> </ul> <p>To manage the source of noise when patrons depart, security and staff will assist where required.</p> <p>Security will be deployed at a minimum of 1 to 100 patrons in accordance with best practice. As a minimum, Section 2.5 'Staged Shutdown' in the PoM requires security to be stationed at the Hotel's main entry on Darby Street and rear entry to the carpark from 11pm to monitor patron behaviour and patron numbers.</p> <p>At 12 midnight and 1am, security and the Duty Manager will be stationed at designated locations to assist shutdown and patrons departing the Hotel via the remaining open door on Darby Street.</p> <p>Signage will be erected adjacent to all points of egress, requesting that patrons depart the Premises in a manner respectful of the surrounding area. External staff and security will also intervene to provide corrective advice to any patron at the Premises or its immediate vicinity that is behaving in a manner likely to disturb the amenity of nearby residents.</p>
<p><b>Small bar licence or proposing gaming options</b></p>	<p>Hotel Delany will continue to operate under a Hotel's licence and the existing gaming room will operate during the proposed extended trading hours.</p>



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Concerns/Issues	Response
	The proposed capacity limited at 120 patrons from 1am is consistent with the capacity of a small bar. Other than the ability to provide gambling facilities, the primary purpose of a pub, the sale and supply of liquor, is the same as a small bar.
<b>Will gaming be provided for the additional 2 hours?</b>	<p>Gaming will be provided during the proposed extended trading hours.</p> <p>As detailed in the Social Impact Assessment, the impacts associated with gaming machines are prohibited from being considered under the <i>Environmental Planning &amp; Assessment Act 1979</i> pursuant to <i>s. 209 of the Gaming Machines Act 2001</i>.</p> <p>This means that CN is prohibited from refusing development consent or imposing conditions on any consent issued because of the proposed presence of gaming machines.</p>
<b>Darby Street CN trial includes drop off and pick up locations – can these be used?</b>	<p>The Hotel has access to the all-day taxi zone immediately adjacent the main entry, and a taxi zone outside 7am to 5pm along the frontage of the Hotel on Darby Street.</p> <p>There is currently no information on Darby Street Shared Spaces Trial for an additional proposed drop off and pick up location, as none of the plans show its location.</p>
<b>What are the details of waste pickup?</b>	This application only deals with the impact of waste from the additional to hours of operation each day. The waste of the Hotel is collected by contractors from the rear carpark twice a week with bins being brought to the waste pickup area up to 30 minutes prior to pickup and returned immediately to the waste bin area after pickup.

All submissions received have been considered, and as such concerns raised in the submissions do not warrant the refusal of the application in its current form or necessitate any further amendments.

The proposed development has been found to be consistent with outcomes of all relevant controls of NLEP 2012 and NDCP 2012 as assessed within this report.

## 5.9 The Public Interest

The proposed development is consistent with the aims and design parameters contained in the NLEP 2012 and NDCP 2012 and other relevant Environmental Planning Instruments discussed within this report. The development is consistent with the objectives of the B4 Mixed Use zone.

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The proposed development will not have any adverse impact on the natural or built environments and will not result in any significant impacts on the amenity of adjoining premises and the streetscape including anti-social behaviour, noise, parking or traffic impacts. The proposed development is in the public interest as it provides for additional services within a commercial area. In addition, the proposal is consistent with CN's urban consolidation objectives, making more efficient use of the established public infrastructure and services.

The proposed development is satisfactory having regard to the principles of ecologically sustainable development. Furthermore, the proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

**6.0 CONCLUSION**

The proposal is acceptable against the relevant heads of consideration under section 4.15(1) of the EP&A Act and is supported on the basis that the recommended conditions in **Attachment C** are included in any consent issued.

**ATTACHMENTS**

**Item 11 Attachment A:** Staged Shutdown Plan – 142 Darby Street, Cooks Hill

**Item 11 Attachment B:** Plan of Management – 142 Darby Street, Cooks Hill

**Item 11 Attachment C:** Draft Schedule of Conditions – 142 Darby Street, Cooks Hill

**Item 11 Attachment D:** Processing Chronology – 142 Darby Street, Cooks Hill

**Items 11 Attachments A - D distributed under separate cover**



**ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER**

**DAC 16/08/2022 – 142 DARBY STREET COOKS HILL –  
DA2021/00962 – PUB – EXTENSION OF TRADING HOURS**

<b>PAGE 3</b>	<b>ITEM-11</b>	<b>Attachment A:</b>	Staged shutdown Plan
<b>PAGE 6</b>	<b>ITEM-11</b>	<b>Attachment B:</b>	Plan of Management
<b>PAGE 44</b>	<b>ITEM-11</b>	<b>Attachment C:</b>	Draft Schedule of Conditions
<b>PAGE 52</b>	<b>ITEM-11</b>	<b>Attachment D:</b>	Processing Chronology

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**ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER**

**DAC 16/08/2022 – 142 DARBY STREET COOKS HILL –  
DA2021/00962 – PUB – EXTENSION OF TRADING HOURS**

**ITEM-11      Attachment A:      Staged shutdown Plan**

**DISTRIBUTED UNDER SEPARATE COVER**



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# Staged Shutdown Plan for Hotel Delany

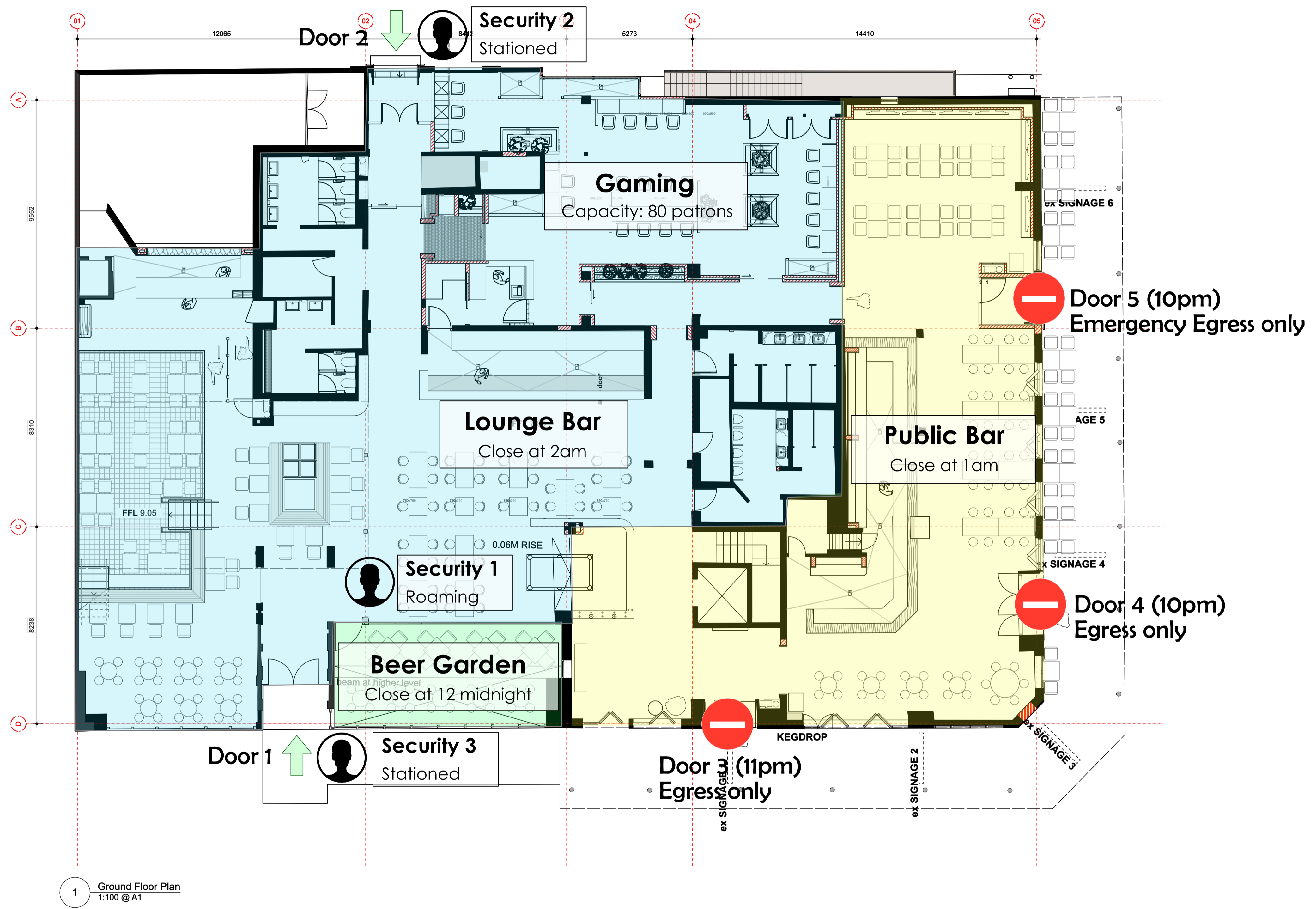
## 10pm to 2am Monday to Saturday

**KEY**

- Close at 12 midnight
- Close at 1am
- Close at 2am
- Security Guard
- Entrance
- Closed

**CAPACITY**

- Prior Midnight - 990 patrons
- Midnight to 1am - 300 patrons
- 1am to 2am - 120 patrons
- Gaming Room - 80 patrons



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VERIFY ALL DIMENSIONS ON SITE.

ALL WORKS TO BE IN ACCORDANCE WITH THE BUILDING CODE OF AUSTRALIA (BCA), AUSTRALIAN STANDARDS (AS), AND RELEVANT AUTHORITIES' REQUIREMENTS.

ANY DISCREPANCIES, DIMENSIONAL INCONSISTENCIES OR THE NEED FOR CLARIFICATION MUST BE REPORTED TO LUCHETTI KRELLE & CONSULTANTS IMMEDIATELY.

THIS DRAWING IS TO BE READ WITH ALL LUCHETTI KRELLE & PROJECT DOCUMENTATION, INCLUDING SPECIFICATIONS, SCHEDULES, DRAWINGS & REPORTS.

ALL AREAS YIELDS & CALCULATIONS ARE PRELIMINARY & INDICATIVE ONLY & SUBJECT TO DETAILED & FURTHER SURVEY, DESIGN & CLIENT AND CONSULTANT INPUT & ADVICE.

Rev	Description	Date
A	Issue for PCA Review	2/10/20

**Delany Hotel**

20021  
134 Darby St  
Cooks Hill  
Newcastle NSW 2300

Tilley & Wills

**Overall Plan - Ground Floor**

Date: 30.09.2020  
Scale: 1:100 @ A1  
Drawn: SK

Scale 1:100@A1 metres

**PRELIMINARY**

DRAWING NO.  
**D.100**

REVISION  
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**DAC 16/08/2022 – 142 DARBY STREET COOKS HILL –  
DA2021/00962 – PUB – EXTENSION OF TRADING HOURS**

**ITEM-11**      **Attachment B:**      Plan of Management – 142 Darby Street, Cooks Hill

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# THE DELANY HOTEL

## PLAN OF MANAGEMENT

FOR HOTEL DELANY  
134 DARBY STREET, COOKS HILL NSW





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# Plan of Management

## Hotel Delany

134-142 Darby Street, Cooks Hill NSW



Prepared By

Design Collaborative Pty Ltd.

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Revisions				
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181261.12P2	December 2021	First Revision	DT	DR
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Appendices			
Appendix	Title	Prepared / Issued	Date
A	Prevention of Intoxication on Licensed Premises Guidelines (GL4002)	Liquor & Gaming NSW	18 November 2020
B	Identification of Intoxication Guidelines	Liquor & Gaming NSW	25 March 2020
C	Promotion of Liquor Guidelines	Liquor & Gaming NSW	26 March 2019
D	Development Consent		
E	Liquor Licence LIQH400117426	Liquor & Gaming NSW	19 January 2021
F	Acoustic Report	Acoustic Logic	10 June 2021
G.	Staged Shutdown Plan, Crowd Management at 12 midnight, Crowd Management at 1am	Design Collaborative	June 2022

### Abbreviations

DC – Designates requirement of specific Development Consent

LL – Designates requirement of Liquor Licence

AR – Designates requirement of an Acoustic Report approved by Council

DCP – Designates requirement of a Council Development Control Plan

LR – Designates requirement of the *Liquor Regulation 2018*

*\*Number behind abbreviations indicates the number of the clause, section, or condition*



## 1. Introduction

- 1) The purpose of this Plan of Management (*the Plan*) is to establish performance criteria for the operation of Hotel Delany (*the Premises*) at 134 Darby Street, Cooks Hill, having regard to the relevant matters under the *Environmental Planning and Assessment Act 1979*, the *Liquor Act 2007* and any relevant Regulation under that legislation.
- 2) The Plan also establishes performance criteria to demonstrate compliance with the Prevention of Intoxication on Licensed Premises Guidelines, dated April 2017 issued by Liquor and Gaming New South Wales (**Appendix A**).
- 3) Prior to commencing work at the Premises, all staff involved with the sale and supply of liquor including management, floor staff, bar staff and security shall be made familiar with this Plan, including the Prevention of Intoxication on Licensed Premises Guidelines, the Intoxication Identification Guidelines (**Appendix B**) and the Liquor Promotion Guidelines (**Appendix C**) and how the guidelines are to be complied with during day-to-day tasks.
- 4) All staff made familiar with this Plan are to sign a register stating they have been made familiar with this Plan and its Guidelines and received instruction on how this Plan is to be enforced. That register is to be kept with this Plan.
- 5) A copy of this Plan shall be available on site at all times and immediately produced for inspection, upon request by Police or Council Officers or Special Inspectors. Copies of the Development Consent (**Appendix D**) and Liquor Licence (**Appendix E**) will be kept on site and produced upon request by Police or Council Officers or Special Inspectors. Staff shall be advised of the acoustic guideline required for trade past 12 midnight in (**Appendix F**).
- 6) **Appendix G** is a floor plan which displays the staged shutdown areas of the Premises and changes to capacity.
- 7) The provisions of this Plan must be adhered to at all times during the execution of the duty of all members of staff and security. Disregarding the provisions of this Plan may lead to on-the-spot dismissal.
- 8) Reference in this Plan to the Duty Manager is a reference to the most senior management person on duty at the Premises unless the role of Duty Manager has been delegated by the Licensee.



- 9) An obligation or responsibility under this Plan assigned to a Duty Manager may be undertaken by another member of staff, as delegated by the relevant manager.

## 2. Operational Details

### 2.1 The Premises

- 10) The Premises comprises the building titled 'Hotel Delany' at 134 Darby Street, Cooks Hill. It is a two-storey pub, located at the corner of Darby and Council Streets. The ground floor provides typical hotel facilities including a beer garden to Darby Street, restaurant areas, kitchen, public bar and gaming facilities.
- 11) The first floor of the Hotel provides a further bar / function space which benefits from its own outdoor area. The remainder of the first floor provides the Hotel's back of house and office facilities and storage.
- 12) A Council owned carpark is located to the rear of the Hotel. It is used by patrons of the Hotel and nearby retail shops along Darby Street. Residential houses also back toward the carpark. Access to the Hotel is provided by a door to the car park. Entrances are also provided to the Hotel on both Council and Darby Street.

### 2.2 The Police and the Community

- 13) The Licensee is a member of the Newcastle Liquor Accord and will continue to maintain that membership.
- 14) The Licensee of the Premises will meet with the Licensing Unit of the NSW Police Force, Newcastle City Police District from time to time. Matters that will be discussed will range from the management of upcoming events, any recent incidents and where improvements could be made with respect to security and management procedures. Management procedures and this Plan are to be reviewed at those meetings to address on-going matters as they arise and to ensure contingency plans are in place.
- 15) This Plan incorporates a community complaint section to deal with any complaints as to noise or the behaviour of patrons or staff. See Section 3.2 of this Plan for more information.





## 2.3 Hours of operation

16) The use of the Premises as a pub may operate under the following hours of operation.

- a) 10am to 2am the following morning Mondays to Saturdays;
- b) 10am to 12 midnight for Sundays;
- c) Public Holidays: (LL 101)
  - i) Good Friday: 12 noon to 10pm
  - ii) Christmas Day: 12 noon to 10pm (Liquor can only be served with or ancillary to a meal in a dining area)
  - iii) New Year's Eve/New Year's Day: normal closing time or 2am on New Year's Day, whichever is later.

17) Notwithstanding the above, staff may undertake pre-works and clean-up of the Premises up to one hour before and after trading hours have commenced/ceased.

## 2.4 Capacity

18) The maximum capacity of the Premises is 990 patrons.

19) After midnight, the maximum capacity of the Premises will be reduced to:

- a) 300 patrons between midnight and 1am; and
- b) 120 patrons between 1am and 2am.

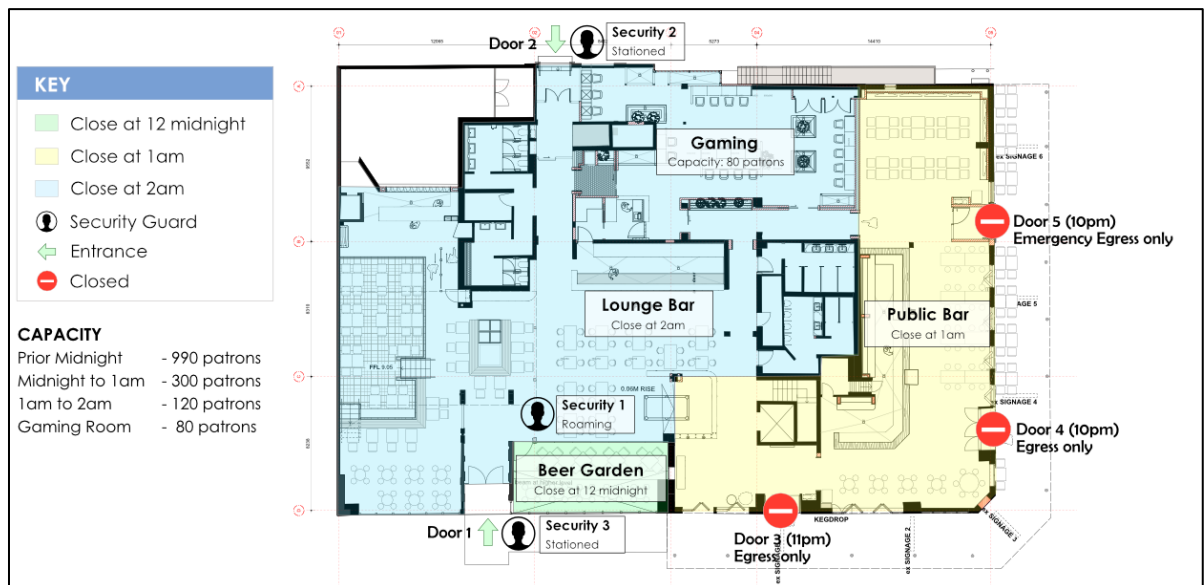
Of which, no more than 80 patrons may be present within the gaming room. (AR)

20) By using a mechanical/electronic counter, having established a base population level, an entry/exit count will be initiated to maintain an accurate patron total at the Premises.

21) At a time, dictated by patron number or observation of the Duty Manager an assessment of the bar areas will take place and if necessary, a controlled migration will be implemented.

## 2.5 Staged Shutdown

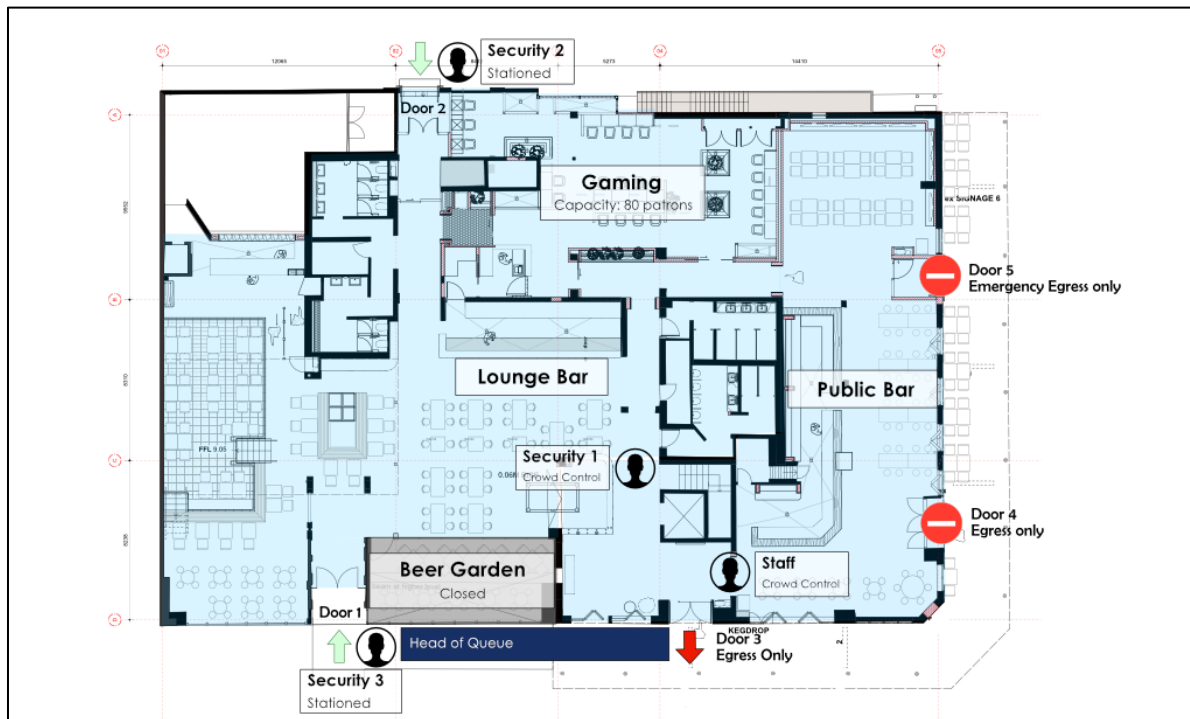
- 22) If there is more than 300 patrons between 11pm and 12 midnight, security will be deployed as follows, or otherwise at discretion of the Duty Manager.
- 23) This subsection is to be read in unison with **Appendix G - Staged Shutdown** extracted in the images below. It details how the Premises will prepare for, and shutdown, key areas of the Premises at various times in order to reduce patronage to meet capacity requirements from Mondays to Saturdays. These actions are as follows:



- 24) Between 11pm and 12 midnight, the following actions are required:
- By 11pm, the secondary entrance on Darby Street (Door 3) is to be closed but may remain operational for egress only. Patrons will be directed to use Door 1 or Door 2.
  - At 11pm, security will perform a head count of the patrons within the ground floor.
  - Based on the headcount, security will monitor and allow or restrict entry to the Hotel to meet post-midnight capacity targets of 300 listed in Section 2.4.
  - At 11:30pm, an announcement will be made at the first floor notifying patrons that this level will close at midnight and the maximum capacity of the Hotel will be reduced to 300 patrons within the ground floor.

- e) At 11:45pm,
  - i) The first floor will commence pre-closure procedure. Lighting is to be turned up and music turned off. Staff will cease serving customers, announce to patrons the area is closing and for patrons to leave.
  - ii) Security will perform a head count of the patrons within the ground floor.
  - iii) If the capacity exceeds 300 patrons, security will be stationed at the base of the stairs (see **Figure 2**) to direct patrons to exit via Door 3 (see **Figure 2**).
  - iv) All patrons on the first floor will be directed to leave by staff via the stairs/lift and any patrons in excess of the 300 patron capacity must exit the Premises using Door 3 (see **Figure 2**) and join the Door 1 queue on Darby Street if they wish to re-enter the Premises.

25) **Figure 2** below illustrates the above crowd management provisions if there are more than 300 patrons at 12 midnight. The figure marks the location of security and staff, entry and exit points, and also highlights closed areas in grey and queuing area in dark blue.



**Figure 2** – Crowd Management at 12 midnight

26) Between 12 midnight and 1am, the following actions are required:

- a) At 12 midnight,
    - i) The Duty Manager must monitor and assist the departure of patrons until at least 12:15am.
    - ii) The Beer Garden area facing Darby Street (identified in grey in figure above) is to be cleared of patrons.
  
  - b) At 12:45pm,
    - i) The Public Bar will commence pre-closure procedure. Lighting is to be turned up and music turned off. Staff will cease serving customers, announce to patrons the area is closing and for patrons to leave the venue.
    - ii) Security will perform a head count of the patrons within the Lounge Bar and Gaming Room.
    - iii) If the patron capacity is in excess of 120 patrons, security and staff will be stationed at the access point to the gaming room and at the base of the stairs (see **Figure 3**) to direct patrons outside to queue for re-entry or depart to alternate location. Patrons can only move to Lounge Bar area if the Hotel is under the capacity of 120 patrons on head count.
    - iv) All patrons within the public bar in excess of the 120 patron capacity will be directed to leave by staff via Door 3. All patrons must join the Door 1 queue on Darby Street if they wish to re-enter the Premises.
- 27) **Figure 3** below illustrates the above crowd management provisions if there are more than 120 patrons at 1am. The figure marks the location of security and staff, entry and exit points, and also highlights closed areas in grey and queuing area in dark blue.

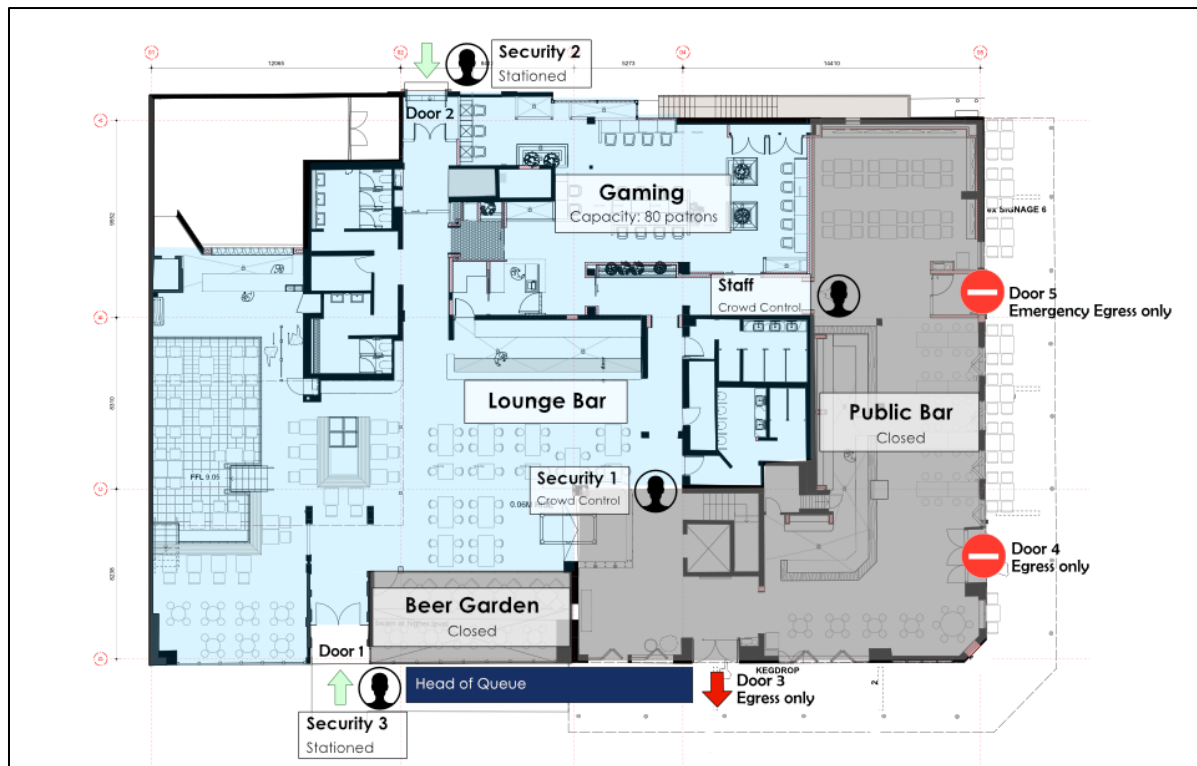


Figure 3 – Crowd Management at 1am

- 28) Between 1am and 2am, the follow actions are required:
- At 1:45am, the Hotel will commence pre-closure procedure. Staff will cease serving liquor, lights will be turned on and announcements will be made of the closure of the Hotel at 2am. All patrons will be reminded to leave the neighbourhood in a quiet and orderly manner.
  - At 2am, the Hotel will close and any remaining patrons must vacate the Hotel by 2:15am.
  - The Duty Manager will monitor and assist departure of patrons in the public domain.

### 3. Management Measures

#### 3.1 General Amenity

- 29) Staff shall intervene to provide corrective advice to any patron at the Premises or its immediate vicinity that is behaving in a manner likely to disturb the amenity of nearby

residents. Any patron whose behaviour is extreme or repeatedly objectionable may be refused service, asked to leave and barred for a period determined by the Licensee.

- 30) The Duty Manager shall ensure that the entry points and immediate vicinity are kept clean and tidy during the Premises' hours of operation.
- 31) Following the close of the Premises, the Duty Manager shall ensure that the entry points and immediate vicinity of the Premises are cleaned with all signs of rubbish or waste removed.
- 32) When patrons are leaving, if requested, they are to be advised of the transport options from the Premises including bus routes along Darby Street.
- 33) The Duty Manager shall:
  - a) Ensure that persons entering the Premises are suitably attired in accordance with the Premises' dress code, which shall require patrons, at least, to be neatly dressed in casual wear, with footwear and to be clean. No person wearing clothing, jewellery or accessories of an outlaw motorcycle organisation is to be permitted entry.
  - b) Prevent any person, detected as intoxicated, entering the Premises. Any person at the Premises who might be considered to be in, or approaching a state of intoxication will be notified that they are required to leave.
  - c) Prevent patrons removing glass or open containers of alcohol from the Premises. Bottles of wine purchased to be consumed with a meal may be removed if they are re-sealed.
  - d) Monitor patron behaviour in, and in the vicinity of the Premises until all patrons have left, taking all practical steps to ensure the quiet and orderly departure of patrons.
  - e) Collect any rubbish in the vicinity of the Premises that may be associated with the Premises' business.
  - f) Co-operate with Police and any private security personnel operating in the vicinity of the Premises.
- 34) For the purpose of this Plan of Management, the description, "the vicinity of the Premises" or the "immediate vicinity" shall be the publicly accessible walkways and parking areas adjoining the Premises.

- 35) The capacity of the Premises shall be monitored by the Duty Manager having regard to the number of chairs that are available.
- 36) At the cessation of trade, staff should actively discourage loitering near the bar to minimise any potential impacts on the surrounding amenity.

### 3.2 Complaints and the Incident Register

- 37) The Licensee or manager shall ensure that details of the following are recorded in the Premises' Incident Register:
  - a) Any incident involving violence or anti-social behaviour occurring on the Premises;
  - b) Any incident of which the Licensee or management is aware, that involves violence or anti-social behaviour occurring in the immediate vicinity of the Premises and that involves a person who has recently left, or been refused admission to, the Premises;
  - c) Any incident that results in a person being turned out of the Premises under Section 77 of Liquor Act 2007; viz:
    - i) for being intoxicated, violent, quarrelsome or disorderly;
    - ii) whose presence on the licensed premises renders the Licensee liable to a penalty under the Liquor Act, e.g., minors within a non-authorised area such as the gaming room;
    - iii) who smokes within an area of the Premises that is a smoke-free area; or
    - iv) who uses, or has in his or her possession, while in the Hotel any substance suspected of being a prohibited plant or prohibited drug.
  - d) Any incident that results in a patron of the Premises requiring medical assistance;
  - e) Any incidents that occurred either in the Premises or in the immediate vicinity, which involved the committing of a crime or required the intervention of security;
  - f) Any complaints made directly to the management or staff of the Premises by local residents or business people, about the operation of the Premises or the behaviour of its patrons; and
  - g) Any visit by any NSW Police Officer, Liquor and Gaming NSW Special Inspector or Council Officer noting their agency or department, reason for the visit and result of the visit.
- 38) The Licensee shall make the Incident Register available to any NSW Police Officer or L&G NSW



Special Inspector on request. Copies of the Incident Register will be provided to NSW Police Officers and L&G NSW Special inspectors within seven (7) days of receipt of a written request for copies.

- 39) The Incident Register is to be reviewed regularly by the Licensee to ensure that complaints, where possible, are being dealt with appropriately.
- 40) Persons who wish to make a complaint about the Premises to management should contact (02) 4929 1627. Calls to this number must be answered when feasible during trading hours and for at least 30 minutes after closing time. Any missed calls are to be promptly returned. Any staff member answering such a call must do so in a polite, sympathetic and courteous manner. Where possible, action shall be immediately taken to address any complaint so made, including follow-up action, such as returning the complainant's call to let them know what has been done to address the concerns/complaints expressed. All complaints are to be responded to by the Premises management within 48 hours of a complaint being made.
- 41) The following details of complaints made to the Premises are to be recorded in the Incident Register:
- a) Date and time of the incident that led to the complaint;
  - b) Nature of the complaint;
  - c) Address and contact details of the complainant;
  - d) Any actions proposed to deal with the complaint; and
  - e) The actions taken and the time and date when that was reported to the complainant.
- 42) Management is to provide a contact phone number that residents can use to contact the Premises, in order to make a complaint whilst it is operating. Any staff member answering such a call must do so in a polite, sympathetic and courteous manner. The Duty Manager is to be informed immediately of any complaint. Where possible, action shall be immediately taken to address any complaint so made, including follow-up action, such as returning the resident's call to let them know what has been done to address the concerns/complaints expressed.
- 43) Any recurring complaints should be dealt with, if attributable to the Premises, through new management procedures and incorporated into this Plan.



### 3.3 Technical Noise Criteria

- 44) The LA<sub>10</sub> noise level emitted from the Premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and 12.00 midnight and 0dB past midnight at the boundary of any affected residence.
- 45) Between 12.00 midnight and 7am, noise from the operation of the Hotel is required to be inaudible in habitable rooms of residential dwellings.
- 46) Notwithstanding the above, the Premises' operations must not give rise to "offensive noise" as defined under the *Protection of the Environment Operations Act 1997*. Here, offensive noise means noise.
- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
- i) is harmful to (or is likely to be harmful to) a person who is outside the Premises from which it is emitted, or,
- ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the Premises from which it is emitted, or,
- iii) that is of a level, nature, character or quality prescribed by the regulations of the *Protection of the Environment Operations Act 1997* or that is made at a time, or in other circumstances, prescribed by the regulations under that Act.
- 47) The existing noise mitigation measures and any noise limiting devices must not be altered or modified unless on the advice of or by a qualified acoustic consultant. Council must promptly receive written notification from the Premises' management of any such changes.

### 3.4 Acoustic Recommendations

- 48) From 10pm, the following actions are required:
- a) All windows, operable facades, Door 4 and 5 are to be kept closed. Door 4 will remain operational and patrons will be reminded to use Door 1 or Door 2.
- b) All windows and doors and operable facades in the beer garden will close. (DC, DA 2019/01000, 29)

- 49) The following are to be implemented by the management of the Premises in order to maintain acoustic compliance from 12 midnight until 2am (as recommended in **Appendix F**)
- a) All doors and windows into the Premises are to be kept closed. Doors may be opened to allow patron ingress and egress and should be closed after.
    - i) Doors accessing internal and external areas should be fitted with a closing mechanism and an acoustic seal.
  - b) Notices should be placed at the entry and exit to the **Level 1 Outdoor Dining Area** to remind patrons that no excessive noise should occur in this area. This should be monitored by management.
  - c) Gaming machine volume is limited to a maximum of 65 dB(A) at 1 metre from the machine.
  - d) No coin payout for gaming machines.
  - e) Louvred windows surrounding the development are to be Breezeway 6mm toughened glass and 6mm aluminium extension.
  - f) Void openings are to be acoustically lined with two layers of 50mm thick echosoft with perforated timber and metal facing.

### 3.5 Signage

- 50) The Licensee shall be responsible to ensure all signage required under this part is erected and maintained in a clear and prominent position.
- 51) Signage adjacent to all points of egress, requesting that patrons depart the Premises in a manner respectful of the surrounding area (or wording to that effect) must be erected.
- 52) Signage on points of egress (Door 3, Door 4 and Door 5) to remind patrons to refrain using these exits after 10pm (Door 4 and 5) and 11pm (Door 3).
- 53) Signage and promotion of non-alcoholic and low strength alcoholic beverage options is to be provided at the point of purchase of alcohol beverages.



- 54) The Licensee shall be responsible to ensure all signage required under the *Liquor Act 2007* and the Regulation, is displayed and maintained in a prominent position, in accordance with those legislative requirements; including:
- a) Signage at the entrance stating the licence name, type of licence number and the name of the Licensee.
  - b) Signage at the entrance stating the times during which liquor is authorised to be sold or supplied at the Premises and any other times during which the Premises is authorised to be open for business.
  - c) Signage obtained from Liquor and Gaming NSW erected at any bar area stating: NO ALCOHOL CAN BE SOLD OR SUPPLIED TO ANYONE UNDER 18. ITS AGAINST THE LAW.

### 3.6 Waste Management and Deliveries

- 55) Deliveries to the Premises are to occur between the hours of 6.30am and 7pm Monday to Sunday.
- 56) Waste collection is to occur between the hours of 7am and 7pm Monday to Saturday and 8am to 7pm Sunday.
- 57) Waste receptacles are to be left at the designated collection point up to 30 minutes prior to the scheduled waste collection time. Upon collection, bins are to be washed and returned to the waste storage area by a member of staff.
- 58) Recyclable waste is to be sorted and stored in appropriate waste receptacles within the waste storage area of the Premises.
- 59) Staff shall keep the waste storage area clean and wash bins frequently
- 60) The duty manager will monitor bins and adjust collection frequencies as required.

### 3.7 Post Midnight Drink Restrictions

- 61) The following restrictions in relation to the service of alcohol will be enforced after midnight
- a) No shots, bombs or any other alcoholic drinks designed for the rapid consumption of alcohol.



- b) Cocktails containing more than 2 standard drinks.
- c) Any ready to drink beverage (such as a bottle or can) containing more than 5% alcohol by volume of content.
- d) Any drink containing more than 50% spirits or liquor.

## 4. Responsible Service of Alcohol

62) All provisions within this Section 4.0 'Responsible Service of Alcohol' are subject to change at the discretion of Licensee or following legislative change. If any of the following operational restrictions are amended, removed or withdrawn from the Liquor Act, Liquor Regulation 2018 or Guidelines from Liquor and Gaming NSW or at the discretion of the Licensee, they will no longer be required to be observed and may be taken to have been amended or deleted (as the case may be) from this Plan of Management without the need for further development consent.

### 4.1 What is the Law?

- 63) It is unlawful for a licensee or staff member to sell or supply liquor to a person who is intoxicated on a licensed premise.
- 64) It is unlawful for a licensee to permit intoxication on licensed premises.
- 65) A person is considered to be intoxicated if:
  - a) The person's speech, balance, co-ordination or behaviour is noticeably affected, and
  - b) It is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.
- 66) The law requires the licensee or staff to form a reasonable belief that the person is intoxicated as a result of alcohol. Refusal of service to a person on the basis of this belief is acceptable, even if the licensee or staff member refusing service is incorrect.
- 67) Reasonable grounds for a belief that a person is intoxicated are what a reasonable person would believe in the circumstances, considering the relevant knowledge and facts presented. The licensee and/or staff member should be sure of their reasons for refusal of service and these reasons should not be discriminatory, for example due to race, sex or disability.

- 68) A licensee is deemed to have permitted intoxication if an intoxicated person is on the licensed premises, unless the licensee can prove that the licensee or staff:
- a) Asked the intoxicated person to leave the Premises, and
  - b) Contacted or attempted to contact, the police for assistance in removing the person from the Premises, and
  - c) The person was refused further service of liquor, or
  - d) The licensee or a staff member had taken the steps set out in guidelines issued by the Secretary of the Department of Industry under section 73(5A) of the *Liquor Act 2007*, or
  - e) The intoxicated person did not consume liquor on the licensed premises.
- 69) Liquor and Gaming New South Wales has issued Guidelines to assist in the identification of intoxicated persons which are provided at **Appendix B**. Bring to the attention of the Duty Manager any person considered to be in, or approaching, a state of intoxication.

## 4.2 Harm Minimisation Measures

- 70) The licence attached to the Premises shall be exercised – at all times – in accordance with the provisions of the *Liquor Act 2007* and *Liquor Regulation 2018* and the Licence (**Appendix E**). The following operational policies for the Responsible Service of Alcohol shall apply;
- a) All staff involved in the sale and supply of liquor, security or RSA supervisory duties shall have first completed an approved course in the Responsible Service of Alcohol;
  - b) All staff who hold an RSA Competency Card are required to have that readily available at all times when working. Failure to produce RSA Certification at the request of Police or Inspector is an offence under the *Liquor Act 2007* with a maximum penalty of \$550 for any staff member that fails to produce.
  - c) The Licensee shall not permit the Premises to engage in any liquor promotion that is likely to promote irresponsible service of liquor. Liquor must not be sold or supplied in a manner that is inconsistent with the Liquor Promotion Guidelines at **Appendix C**.
  - d) Alcohol shall not be served to any person who is intoxicated.
  - e) Any person who is intoxicated shall be denied entry to the Premises.

- f) All staff and security are responsible to ensure that intoxication or any indecent, violent or quarrelsome conduct by patrons in the Premises is brought to the attention of the Duty Manager. Any person causing such a disturbance shall be refused service and asked to leave the Premises. Any patron whose behaviour is either extreme or repeatedly objectionable may be barred from entering the Premises for a period determined by the Licensee.
- g) No person under the age of 18 years shall be served liquor. Production of photographic identification will be required where age is an issue. The only acceptable proofs of age identification shall be:
  - i) Australian or Foreign Government Driver or Rider's licence
  - ii) NSW Digital Driver Licence;
  - iii) Australian or Foreign Government Passport;
  - iv) NSW Photo card;
  - v) Australian State issued proof of age card; or
  - vi) Australian Post issued Keypass Identity Card.
- h) Low alcohol beer and non-alcoholic beverages shall be available at all times when full strength liquor is available. Patrons are to be made aware by staff of non-alcoholic options offered at the Premises.
- i) Free drinking water must be made available to patrons in the same method that alcohol is sold or supplied.

### 4.3 Monitoring Liquor Consumption and Patron Behaviour

- 71) the Premises must operate under the direct supervision of the Licensee or appropriately experienced management staff. That requires management staff to have at least 6 months experience in a supervisory position in the Premises with similar operating hours and patron numbers.
- 72) Whenever the Premises is operating, the following RSA monitoring obligations will be undertaken:

- a) All staff and security are expected during the carrying out of their duties to conduct RSA monitoring. Staff are required to monitor all patrons for their levels of intoxication, consumption patterns and secondary supply having regard to how many drinks patrons have consumed and for how long patrons have been in the Premises.
  - b) At least one senior member of staff will be designated to undertake a compliance role for monitoring, among other things, compliance with Section 4 of this Plan. The name of the member of staff who has been designated this duty, the date and the duration of their shift is to be recorded in a register and kept with this Plan for a period of two (2) weeks.
- 73) If a patron is identified by staff as consuming liquor irresponsibly and in a manner that is likely to result in intoxication or is considered to be showing signs of approaching intoxication, intervention from staff is required to provide advice to the patron. That advice should be as follows:
- a) That further risky consumption or further consumption may lead to intoxication. If the person is considered to be intoxicated, he/she will immediately be asked to leave. If that occurs, they will be required to move 50 metres from the Premises and not be permitted re-entry to that area or the Premises for 24 hours.
  - b) The patron should be offered and encouraged to consume non-alcoholic beverages such as water or soft-drinks and food.
  - c) If the patron is in a group, his/her friends should be advised that the patron needs to moderate their alcohol intake.
- 74) If a patron is identified by staff as being intoxicated the following steps must be taken:
- a) Any requests for further service of liquor must be refused;
  - b) Any alcohol presently being consumed is to be removed from the patron to prevent further consumption;
  - c) The patron is to be requested to leave the Premises;
  - d) If the person refuses to leave the Premises, the Police are to be contacted or sought to be contacted to assist with the removal of the patron from the Premises; and

- 75) The following steps should be taken when refusing service to a person:
- a) Introduce yourself to the patron by telling them your name and your role and by asking them for their name;
  - b) Approach the person in a friendly and respectful manner. Patronising or authoritarian attitudes can often evoke anger and make the person more aggressive – this is a common response to threats to one's dignity and self-respect. Try not to speak to the person in front of others.
  - c) When talking to the person: use their name; use slow, distinct speech; use short simple sentences; avoid emotion and involved discussions; use appropriate eye contact.
  - d) Give a clear, concrete statement that by law they cannot be served another drink.
  - e) Notify the Duty Manager. Also notify other bar staff that you have refused service to the person. If a shift change is nearing, notify the new staff.
  - f) Give a clear instruction that the person must leave the Premises, If necessary, guide them to the exit, ensuring that they have all their personal possessions on them.
  - g) If the person refuses to leave, then you should contact police for assistance in removing the person from The Premise.
  - h) If considered necessary, the Licensee may consider imposing a short-term ban.
- 76) Any person seen consuming liquor on approach to the Premises is to be refused entry.

#### 4.4 Liquor Promotion

- 77) Any promotion and activities that surround the sale and supply of alcohol at the Premises must be conducted in accordance with the Liquor Promotion Guidelines issued by Liquor and Gaming NSW (**Appendix C**).



## 5. Security

### 5.1 Security Staff

- 78) Licensed security personnel are employed by the Premises. Security will be strategically positioned by the Duty Manager based on the needs of the Premises. This includes the exterior and interior of the Premises.
- 79) One security guard will be deployed between the hours of 6 pm until 30 minutes after closing Thursdays to Saturdays. This security guard will roam the Premises throughout the night.
- 80) One additional security guard per 100 patrons on Friday and Saturdays from 8pm until 30 minutes after closing.
- 81) One security guard will be stationed at the carpark entry (Door 2) and the other stationed at the Darby Street entrance (Door 1).
- 82) Security will be deployed as per detailed in Section 2.5 during staged shutdown.

### 5.2 Role and Responsibilities of Security

- 83) Security duties will be delegated by the Duty Manager at the beginning of the security personnel's shift.
- 84) Security must possess a current security licence, RSA and be in clearly identifiable uniforms.
- 85) Security may, if required request patron identification upon entry to the Premises if that patron looks to be under the age of 21. Identification may be requested during security sweeps of the Premises if a patron is consuming alcohol and appears to be under 21.
- 86) Security will:
  - a) Conduct themselves professionally and in accordance with the industry code of practice;
  - b) Note details of any incidents within the licensed premises or immediately outside in the incident register and to the Duty Manager;



- c) Ensure patrons awaiting admission to not cause disturbance or impede the pedestrian footway on Darby Street;
  - d) Monitor patrons indenting to enter for signs of intoxication. Those identified as intoxicated will be refused entry; and
  - e) Quickly and discretely remove patrons displaying unacceptable and/or antisocial behaviour.
- 87) Security personnel appointed to monitor the exterior and interior of the Premises will prevent loitering from patrons, limit noise/antisocial behaviour and collect rubbish when possible.
- 88) A security log is to be kept and maintained which details:
- a) Name, date, start and end time of shift for all security personnel each day they are employed; and
  - b) Any visits from law enforcement with the date, time and reason for the visit.

### 5.3 Closed-Circuit Television (CCTV)

- 89) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the Premises with particular coverage to:
- a) Principal entrances and exits;
  - b) all areas within the Premises occupied by the public (excluding toilets); and
  - c) areas within a 10m radius external to the public entrance(s) to the Premises.
- 90) All CCTV recording equipment and cameras shall be of high-grade digital quality, capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- 91) CCTV recording discs or hard drive recordings shall be retained for 30 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a copy of recorded footage on demand of Council or Police Officers either immediately or within 24 hours of the request being made.

- 92) All CCTV recording devices and cameras shall be operated a minimum of all trading hours of the Premises and for at least 1 hour after the closing time.
- 93) The CCTV recording device shall be secured within the Premises and only be accessible to senior management. There shall be at least one member of staff on duty at all times that can access the CCTV system.

## 6. Other relevant matters

### 6.1 Crime Scene Preservation Guidelines

- 85) Immediately after the Duty Manager in charge of the Hotel becomes aware of an incident involving an act of violence causing injury to a person on the Premises requiring immediate professional medical assistance, the person must:
  - a) Render any required first aid;
  - b) Immediately contact '000' or the Local Area Commander or his/her delegate and advise them of the incident;
  - c) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
- 86) Unless directed otherwise by the Local Area Commander or his/her delegate the following crime scene preservation guidelines must be observed:
  - a) Determine the crime scene and remove all persons from the area. Take all practical steps to preserve and keep intact the area where the act of violence occurred. Cordon off the area utilising bar stools, tables or tape. Consider closing off the area completely for such areas such as toilets, hallways or bars. Remember there may be multiple crime scenes.
  - b) Do not allow any persons to enter this area;
  - c) DO NOT CLEAN UP ANY CRIME SCENE. You may be destroying vital evidence;
  - d) Remember some evidence may not be visible to the naked eye such as blood, semen, skin cells, saliva, hair or fingerprints;



- e) Do not move any items that may have been involved in an offence unless absolutely necessary. Use gloves to stop transference of your DNA or fingerprints;
  - f) Notify Police if any items have been moved or removed from the crime scene. Items may include bottles, glasses, pool cues, clothing, furniture, weapons or cigarette butts;
  - g) Make notes in relation to the incident. Time, date, location, description of offender(s), vehicle(s) involved, weapons used, last known direction of offender(s), any movement of items involved in the incident;
  - h) Secure any CCTV footage and the security sign on sheets;
  - i) Obtain any details of witnesses and try to keep all witnesses separated so as to maintain the integrity of their evidence. Try to persuade witnesses from leaving the Premises before Police arrive;
  - j) Hand this information to Police on arrival; and
  - k) Be prepared to make a statement to Police regarding the incident.
- 87) Interfering with evidence may constitute an offence, leaving you liable to prosecution or disciplinary action, and/or may result in the closure of the Hotel.

## 6.2 Drugs and Drink Spiking

- 88) If any person(s) is caught dealing, purchasing or consuming drugs within the Hotel, they are to be requested to leave immediately and Hotel management and the Police must be informed of this. If the same person(s) is caught again, then they are to be barred.
- 89) Drink spiking is often difficult to detect. Below are some things to look out for and what to do:
- a) Any occurrences of a person(s) escorting out an obviously affected and lone person. Ask questions and engage in conversation with the person escorting the affected patron away, asking for their name, where they are heading to, etc. – contact management about any person who goes to length to remain anonymous.
  - b) An affected person may need medical attention, so ask them. If they are not capable of making that decision – then arrange that medical attention.

- c) Any affected person will need to get to a safe place, which may be theirs or a friends place. Ensure people who are showing signs of intoxication are looked after by their friends and not leave them in the company of the person who may have spiked their drink.
- d) Contact the Police and thoroughly document the incident in the Hotel's Incident Register.
- e) Remember the most common drug used for drink spiking is alcohol. Be aware of strange drink orders such as beer and a nip of vodka, double shots in short glasses, etc.

### 6.3 Fire safety and essential services

- 90) The Licensee shall ensure that all essential services installed at the Hotel are certified and shall ensure that they remain in good working order at all times.
- 91) In the event of any malfunctioning of any essential service the Licensee shall ensure that it is rectified as soon as possible.
- 92) Lists of the telephone numbers of all relevant emergency agencies shall be kept near all telephones.
- 93) All managers and other permanent staff shall be made aware of fire safety requirements and the procedures to be followed in the event of an emergency at the Hotel. In the event of an emergency, staff and security are to direct patrons to the exits and away from the Hotel. The Duty Manager is to engage with the supervisor for each level progressively from the top to the bottom, ensuring the Hotel is vacated.

## 7. Review of Plan

- 94) If, in circumstances where better management or improved amenity outcomes can be achieved by amendments to this Plan, such amendments can be made following consultation with both the Police and Council who shall agree to those changes in writing and they shall be provided with a copy of any modified Plan.
- 95) This Plan and its attachments are also subject to legislative changes to the *Liquor Act 2007* and *Liquor Regulation 2008*. Where publications of Liquor and Gaming NSW are revised or withdrawn from its website or where legislative changes occur from time to time, the Plan is



to be taken to reflect those changes and those changes may be made to the Plan without consultation with or approval from NSW Police or City of Sydney Council.

96) Part 4 of this Plan is for compliance with the Prevention of Intoxication Guidelines and Responsible Service of Alcohol requirements of the Liquor Act and is for internal purposes only. Provisions of this plan required to meet the relevant section of the Liquor Act will be varied from time to time to reflect industry best practice, or to reflect published changes to the Guidelines or legislation and may be varied or abandoned at the discretion of the Licensee without consultation with the Police or Council.

## 8. Licensee Statement of Understanding

The Licensee hereby acknowledges that the above provisions have been read and are understood.

Sign: .....

Date: .....



## Appendix A – Prevention of Intoxication Guidelines



## Appendix B – Identification of Intoxication Guidelines





## Appendix C – Liquor Promotion Guidelines by Liquor & Gaming NSW (GL4001)



## Appendix D – Development Consent



Appendix E – Liquor Licence LIQH400117426



## Appendix F – Acoustic Report (26 February 2021)



## Appendix G – Staged Shutdown Plan





**ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER**

**DAC 16/08/2022 – 142 DARBY STREET COOKS HILL –  
DA2021/00962 – PUB – EXTENSION OF TRADING HOURS**

**ITEM-11      Attachment C:      Draft Schedule of Conditions**

**DISTRIBUTED UNDER SEPARATE COVER**



**DISTRIBUTED UNDER SEPARATE COVER**

<b>Application No:</b>	DA2021/00962
<b>Land:</b>	Lot 13 DP 1009613 Lot 15 DP 1009613 Lot 20 DP 1038322
<b>Property Address:</b>	142 Darby Street Cooks Hill NSW 2300
<b>Proposed Development:</b>	Pub - extension of trading hours

## SCHEDULE 1

### APPROVED DOCUMENTATION AND ADMINISTRATIVE CONDITIONS

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Staged Shutdown Plan for Hotel Delaney	D100 Revision A	Luchetti Krelle	02/10/2020
Plan of Management	181261.12P2	Design Collaborative Pty. Ltd.	(as amended by conditions of consent DA 2021/00962) - June 2022
Social Impact Assessment	181261.15SIA	Design Collaborative Pty. Ltd.	April 2022
Noise Impact Assessment	20210217.1/2602A/R0/AZ	Acoustic Logic	26/02/2021

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- This consent is issued for a period of 12 months from the determination date of this consent. A further application may be lodged at least 3-months prior to the expiration of trial period for Council's consideration of the continuation of the extended hours of operation. Alternatively, where an application is not lodged and approved, the extended hours subject to the trial period will cease and this consent will lapse.

Note: Any further application seeking extension of the trial period or formalisation of the extended hours will be subject to an assessment by Council and will consider; the performance of the operator in relation to compliance with the approved Plan of Management and these conditions of consent, outcomes of acoustic monitoring required under this consent, any complaints received, and any views expressed by the NSW Police.

### CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT



3. The hours of operation or trading of the premises are to be not more than from:

DAY	START	FINISH
Monday	10am	2am
Tuesday	10am	2am
Wednesday	10am	2am
Thursday	10am	2am
Friday	10am	2am
Saturday	10am	2am
Sunday	10am	12 Midnight

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

4. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

5. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997* (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

6. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic Pty Ltd, dated 26/07/2021. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to Council prior to the commencement of extended operational hours subject to this consent.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

7. The maximum number of persons permitted in the premises is to be restricted to the following:
- i) A total of 990 persons at maximum capacity;
  - i) A total of 300 persons between 12 midnight and 1am;

- ii) A total of 120 persons between 1am and 2am;
8. The following amendments are to occur to the Plan of Management prepared by Design Collaborative Pty. Ltd dated June 2022:
- 24 e) - The pre-closure procedure is to be amended to commence at 11:30pm;
  - 79) – Paragraph is to be amended to require three security guards deployed between the hours of 6 pm until 30 minutes after closing Thursday to Saturdays;
  - 80) – Paragraph to be amended to require two additional security guards per 100 patrons on Friday and Saturdays from 8pm until 30 minutes after closing.
  - 94) – Paragraph to be amended to require approval from City of Newcastle for amendments to the approved PoM.
  - 95) – Paragraph to be amended to require approval from City of Newcastle for amendments to the approved PoM as a result of legislative changes. In addition, reference to City of Sydney Council to be removed and replaced by City of Newcastle.
  - 96) – Paragraph to be amended to require approval from City of Newcastle for amendments to the approved PoM.

The amended Plan of Management is to be issued to Council for approval prior to the commencement of the amended operating hours. The premises is to be operated at all times in accordance with this approved Plan of Management.

Note: Any further amendments or proposed variation to the approved Plan of Management require approval from Council through the submission of a s.4.55 modification application.

9. A copy of the approved Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, or Liquor & Gaming NSW inspector.
10. The Licensee shall maintain a CCTV system that meets the following minimum requirements:
- a) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:
    - i) the person represents not less than 100% of the screen height, and
    - ii) there is an unobstructed view of the person's face.
  - b) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
    - i) all other public entrances and exits, whether or not in use at the time,
    - ii) staircases,
    - iii) all portions of the floor area accessible to the public where entertainment is provided,
    - iv) toilet external entrances,

- iv) all public accessible areas within the premise excluding toilets and accommodation rooms,
  - v) the footpath area directly adjacent to the premises, and
  - vii) courtyard and smoking areas.
- c) The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
- i) the person represents not less than 50% of screen height, and
  - ii) there is an unobstructed view of the person's face.
- d) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- e) Camera recordings must always meet the standards set in sub condition (1) and (3), either by way of camera positioning, camera shades or other environmental factors.
- f) Recordings must:
- i) be in digital format,
  - ii) record at a minimum of ten (10) frames per second, and
  - iii) commence one hour prior to opening and operate continuously until at least one hour after closing.
- g) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
- h) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.
- i) When the venue is open and trading, at least one person shall be at the venue who can access the CCTV system and is able to immediately review recordings and produce copies.
- j) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, OLGR Inspectors or other regulatory officers upon request.
- k) The CCTV system shall be able to reproduce a copy of the recordings, in the same quality as stated under point 6), on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, OLGR Inspectors or other regulatory officers.
- l) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

11. An appropriately qualified acoustic consultant shall be engaged by the Applicant, to undertake independent monitoring and assessment of the noise emissions during periods of extended trade, within 3-months of this determination and every three months thereafter until the end of the trial period (i.e. quarterly). The assessment shall include conducting measurements from the nearby residential receivers. A report is to be prepared and submitted to Council within 14-days of the monitoring and must include recommendations should the assessment identify an exceedance of the noise levels predicted under this consent.

Note: Should such recommendations involve any alterations to the building, approval from Council may be required through the submission of a s.4.55 modification application.

## **END OF CONDITIONS**

## SCHEDULE 2

### REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The issues raised within the submissions have been satisfactorily addressed.

### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.



**ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER**

**DAC 16/08/2022 – 142 DARBY STREET COOKS HILL –  
DA2021/00962 – PUB – EXTENSION OF TRADING HOURS**

**ITEM-11      Attachment D:      Processing Chronology**

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**PROCESSING CHRONOLOGY**

**DA2021/00962- 142 Darby Street Cooks Hill**

23 July 2021	-	Application lodged
27 July 2021	-	Internal referrals undertaken; Social Planner, Environment
27 July 2021	-	External referral undertaken; NSW Police
29 July – 12 August 2021	-	Application notified in accordance with CN's Public Participation Policy
7 September 2021	-	Proposal considered at the LPRG
21 April 2022	-	Additional Information received from applicant
23 June 2022	-	Further external referral undertaken; NSW Police
17 May 2022	-	Public Voice Committee Meeting
16 August 2022	-	Development Applications Committee meeting





**ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER**

**DAC 18/10/22 – 142 DARBY STREET COOKS HILL–  
SUPPLEMENTARY REPORT - DA2021/00962 - - HOTEL -  
EXTENSION OF TRADING HOURS**

**ITEM-18**      **Attachment B:**      Amended Draft Schedule of Conditions

**DISTRIBUTED UNDER SEPARATE COVER**



<b>Application No:</b>	DA2021/00962
<b>Land:</b>	Lot 13 DP 1009613 Lot 15 DP 1009613 Lot 20 DP 1038322
<b>Property Address:</b>	142 Darby Street Cooks Hill NSW 2300
<b>Proposed Development:</b>	Pub - extension of trading hours

## SCHEDULE 1

### APPROVED DOCUMENTATION AND ADMINISTRATIVE CONDITIONS

- The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Staged Shutdown Plan for Hotel Delaney	D100 Revision A	Luchetti Krelle	02/10/2020
Plan of Management	181261.12P2	Design Collaborative Pty. Ltd.	September 2022
Social Impact Assessment	181261.15SIA	Design Collaborative Pty. Ltd.	April 2022
Noise Impact Assessment	20210217.1/2602A/R0/AZ	Acoustic Logic	26/02/2021

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

- This consent is issued for a period of 12 months from the determination date of this consent. A further application may be lodged at least 3-months prior to the expiration of trial period for Council's consideration of the continuation of the extended hours of operation. Alternatively, where an application is not lodged and approved, the extended hours subject to the trial period will cease and this consent will lapse.

Note: Any further application seeking extension of the trial period or formalisation of the extended hours will be subject to an assessment by Council and will consider; the performance of the operator in relation to compliance with the approved Plan of Management and these conditions of consent, outcomes of acoustic monitoring required under this consent, any complaints received, and any views expressed by the NSW Police.

### CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

3. The hours of operation or trading of the premises are to be not more than from:

DAY	START	FINISH
Monday	10am	12 Midnight
Tuesday	10am	12 Midnight
Wednesday	10am	2am
Thursday	10am	2am
Friday	10am	2am
Saturday	10am	2am
Sunday	10am	10pm

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

4. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

5. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997* (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

6. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic Pty Ltd, dated 26/02/2021. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to Council prior to the commencement of extended operational hours subject to this consent.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

7. The maximum number of persons permitted in the premises is to be restricted to the following:
- i) A total of 990 persons at maximum capacity.
  - i) A total of 300 persons between 12 midnight and 1am.
  - ii) A total of 120 persons between 1am and 2am.

8. The following amendments are to occur to the Plan of Management prepared by Design Collaborative Pty. Ltd dated September 2022:
- 16) Hours of operation to be amended to reflect approved hours of operation in condition 3.
  - 25 e) The pre-closure procedure is to be amended to commence at 11pm.
  - 95) Paragraph to be amended to require approval from City of Newcastle for amendments to the approved PoM.
  - 96) Paragraph to be amended to require approval from City of Newcastle for amendments to the approved PoM. In addition, reference to City of Sydney Council to be removed and replaced by City of Newcastle
  - 97) Paragraph to be amended to require approval from City of Newcastle for amendments to the approved PoM.

The amended Plan of Management is to be issued to Council for approval prior to the commencement of the amended operating hours. The premises is to be operated at all times in accordance with this approved Plan of Management.

Note: Any further amendments or proposed variation to the approved Plan of Management require approval from Council through the submission of a s.4.55 modification application.

9. A copy of the approved Plan of Management is to be kept on the premises and made available for inspection on the request of a NSW Police officer, council officer, or Liquor & Gaming NSW inspector.
10. The Licensee shall maintain a CCTV system that meets the following minimum requirements:
- a) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:
    - i) the person represents not less than 100% of the screen height, and
    - ii) there is an unobstructed view of the person's face.
  - b) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
    - i) all other public entrances and exits, whether or not in use at the time,
    - ii) staircases,
    - iii) all portions of the floor area accessible to the public where entertainment is provided,
    - iv) toilet external entrances,
    - iv) all public accessible areas within the premise excluding toilets and accommodation rooms,
    - v) the footpath area directly adjacent to the premises, and

- vii) courtyard and smoking areas.
  - c) The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
    - i) the person represents not less than 50% of screen height, and
    - ii) there is an unobstructed view of the person's face.
  - d) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
  - e) Camera recordings must always meet the standards set in sub condition (1) and (3), either by way of camera positioning, camera shades or other environmental factors.
  - f) Recordings must:
    - i) be in digital format,
    - ii) record at a minimum of ten (10) frames per second, and
    - iii) commence one hour prior to opening and operate continuously until at least one hour after closing.
  - g) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
  - h) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.
  - i) When the venue is open and trading, at least one person shall be at the venue who can access the CCTV system and is able to immediately review recordings and produce copies.
  - j) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, OLGR Inspectors or other regulatory officers upon request.
  - k) The CCTV system shall be able to reproduce a copy of the recordings, in the same quality as stated under point 6), on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, OLGR Inspectors or other regulatory officers.
  - l) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.
11. An appropriately qualified acoustic consultant shall be engaged by the Applicant, to undertake independent monitoring and assessment of the noise emissions during periods of extended trade, within 3-months of this determination and every three months thereafter until the end of the trial period (i.e. quarterly). The assessment shall include conducting measurements from the nearby residential receivers. A report is to be

prepared and submitted to Council within 14-days of the monitoring and must include recommendations should the assessment identify an exceedance of the noise levels predicted under this consent.

Note: Should such recommendations involve any alterations to the building, approval from Council may be required through the submission of a s.4.55 modification application.

12. Upon request from City of Newcastle, the following data is to be provided by the owners of the Delany Hotel:
  - Up to date patron numbers for the requested period
  - Up to date Incident Register for the requested period
  - Up to date complaints register for the requested period
12. All windows and doors and operable facades in the public bar are to be closed by 10:00 pm with the exception of Door 4 which must be closed at 10:00pm but remains operational for the purposes of ingress and egress only.
13. All windows and doors and operable facades (retractable roof) in the beer garden are to be closed by 10:00pm.
14. The external windows to the first floor function room are to be kept closed from 10pm to 7am Monday to Sunday.

**END OF CONDITIONS**

## SCHEDULE 2

### REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The issues raised within the submissions have been satisfactorily addressed.

### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.





**ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER**

**DAC 18/10/22 – 142 DARBY STREET COOKS HILL–  
SUPPLEMENTARY REPORT - DA2021/00962 - - HOTEL -  
EXTENSION OF TRADING HOURS**

**ITEM-18**      **Attachment C:**      Amended Plan of Management

**DISTRIBUTED UNDER SEPARATE COVER**





# THE DELANY HOTEL

## PLAN OF MANAGEMENT

FOR HOTEL DELANY  
134 DARBY STREET, COOKS HILL NSW



DESIGN COLLABORATIVE





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# Plan of Management

## Hotel Delany

134-142 Darby Street, Cooks Hill NSW



Prepared By

Design Collaborative Pty Ltd.

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Revisions				
Issue	Date	Issue	Prepared	Checked
181261.12P v1	December 2021	First Revision	DT	DR
181261.12P v2	January 2022	Client Review	DT	DR
181261.12P v3	June 2022	Revised	DT	DR
181261.12P v4	September 2022	Revised	DT	DR

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Appendices			
Appendix	Title	Prepared / Issued	Date
A	Prevention of Intoxication on Licensed Premises Guidelines (GL4002)	Liquor & Gaming NSW	18 November 2020
B	Identification of Intoxication Guidelines	Liquor & Gaming NSW	25 March 2020
C	Promotion of Liquor Guidelines	Liquor & Gaming NSW	26 March 2019
D	Development Consent		
E	Liquor Licence LIQH400117426	Liquor & Gaming NSW	19 January 2021
F	Acoustic Report	Acoustic Logic	10 June 2021
G.	Staged Shutdown Plan, Crowd Management at 12 midnight, Crowd Management at 1am	Design Collaborative	June 2022

### Abbreviations

DC – Designates requirement of specific Development Consent

LL – Designates requirement of Liquor Licence

AR – Designates requirement of an Acoustic Report approved by Council

DCP – Designates requirement of a Council Development Control Plan

LR – Designates requirement of the *Liquor Regulation 2018*

*\*Number behind abbreviations indicates the number of the clause, section, or condition*



## 1. Introduction

- 1) The purpose of this Plan of Management (*the Plan*) is to establish performance criteria for the operation of Hotel Delany (*the Premises*) at 134 Darby Street, Cooks Hill, having regard to the relevant matters under the *Environmental Planning and Assessment Act 1979*, the *Liquor Act 2007* and any relevant Regulation under that legislation.
- 2) The Plan also establishes performance criteria to demonstrate compliance with the Prevention of Intoxication on Licensed Premises Guidelines, dated April 2017 issued by Liquor and Gaming New South Wales (**Appendix A**).
- 3) Prior to commencing work at the Premises, all staff involved with the sale and supply of liquor including management, floor staff, bar staff and security shall be made familiar with this Plan, including the Prevention of Intoxication on Licensed Premises Guidelines, the Intoxication Identification Guidelines (**Appendix B**) and the Liquor Promotion Guidelines (**Appendix C**) and how the guidelines are to be complied with during day-to-day tasks.
- 4) All staff made familiar with this Plan are to sign a register stating they have been made familiar with this Plan and its Guidelines and received instruction on how this Plan is to be enforced. That register is to be kept with this Plan.
- 5) A copy of this Plan shall be available on site at all times and immediately produced for inspection, upon request by Police or Council Officers or Special Inspectors. Copies of the Development Consent (**Appendix D**) and Liquor Licence (**Appendix E**) will be kept on site and produced upon request by Police or Council Officers or Special Inspectors. Staff shall be advised of the acoustic guideline required for trade past 12 midnight in (**Appendix F**).
- 6) **Appendix G** is a floor plan which displays the staged shutdown areas of the Premises and changes to capacity.
- 7) The provisions of this Plan must be adhered to at all times during the execution of the duty of all members of staff and security. Disregarding the provisions of this Plan may lead to on-the-spot dismissal.
- 8) Reference in this Plan to the Duty Manager is a reference to the most senior management person on duty at the Premises unless the role of Duty Manager has been delegated by the Licensee.





- 9) An obligation or responsibility under this Plan assigned to a Duty Manager may be undertaken by another member of staff, as delegated by the relevant manager.



## 2. Operational Details

### 2.1 The Premises

- 10) The Premises comprises the building titled 'Hotel Delany' at 134 Darby Street, Cooks Hill. It is a two-storey pub, located at the corner of Darby and Council Streets. The ground floor provides typical hotel facilities including a beer garden to Darby Street, restaurant areas, kitchen, public bar and gaming facilities.
- 11) The first floor of the Hotel provides a further bar / function space which benefits from its own outdoor area. The remainder of the first floor provides the Hotel's back of house and office facilities and storage.
- 12) A Council owned carpark is located to the rear of the Hotel. It is used by patrons of the Hotel and nearby retail shops along Darby Street. Residential houses also back toward the carpark. Access to the Hotel is provided by a door to the car park. Entrances are also provided to the Hotel on both Council and Darby Street.

### 2.2 The Police and the Community

- 13) The Licensee is a member of the Newcastle Liquor Accord and will continue to maintain that membership.
- 14) The Licensee of the Premises will meet with the Licensing Unit of the NSW Police Force, Newcastle City Police District from time to time. Matters that will be discussed will range from the management of upcoming events, any recent incidents and where improvements could be made with respect to security and management procedures. Management procedures and this Plan are to be reviewed at those meetings to address on-going matters as they arise and to ensure contingency plans are in place.
- 15) This Plan incorporates a community complaint section to deal with any complaints as to noise or the behaviour of patrons or staff. See Section 3.2 of this Plan for more information.



## 2.3 Hours of operation

16) The use of the Premises as a pub may operate under the following hours of operation.

- a) 10am to 2am the following morning Mondays to Saturdays;
- b) 10am to 12 midnight for Sundays;
- c) Public Holidays: (LL 101)
  - i) Good Friday: 12 noon to 10pm
  - ii) Christmas Day: 12 noon to 10pm (Liquor can only be served with or ancillary to a meal in a dining area)
  - iii) New Year's Eve/New Year's Day: normal closing time or 2am on New Year's Day, whichever is later.

17) Notwithstanding the above, staff may undertake pre-works and clean-up of the Premises up to one hour before and after trading hours have commenced/ceased.

## 2.4 Capacity

18) The maximum capacity of the Premises is 990 patrons.

19) After midnight, the maximum capacity of the Premises will be reduced to:

- a) 300 patrons between midnight and 1am; and
- b) 120 patrons between 1am and 2am.

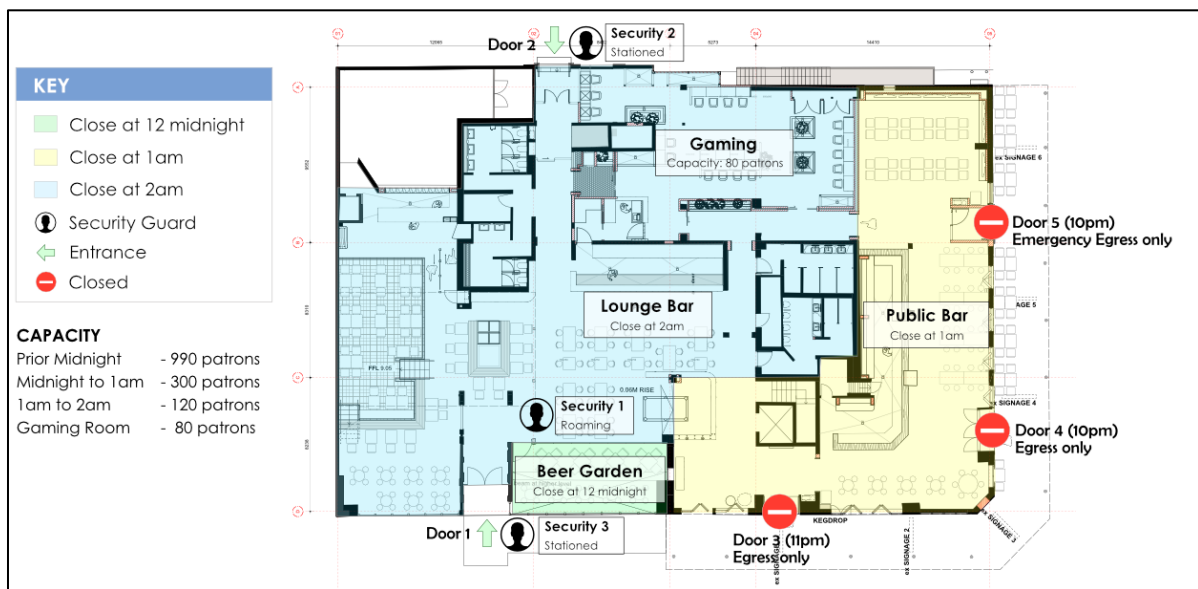
Of which, no more than 80 patrons may be present within the gaming room. (AR)

20) By using a mechanical/electronic counter, having established a base population level, an entry/exit count will be initiated to maintain an accurate patron total at the Premises.

21) At a time, dictated by patron number or observation of the Duty Manager an assessment of the bar areas will take place and if necessary, a controlled migration will be implemented.

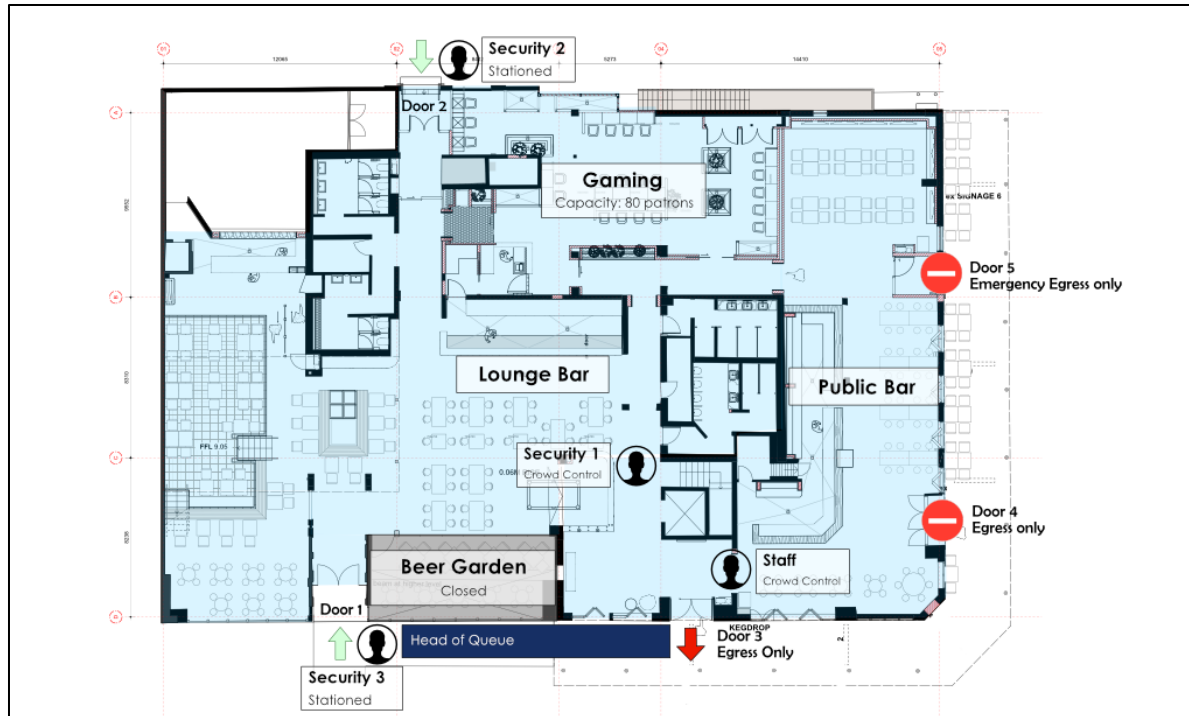
## 2.5 Staged Shutdown

- 22) If there is more than 300 patrons between 11pm and 12 midnight, security and RSA Marshals will be deployed as follows, or otherwise at discretion of the Duty Manager.
- 23) The staged shutdown provisions are catered for typical weekend trade when the capacity is expected to be in the order of 500 patrons. If the Hotel is trading well in excess of 500 patrons management determine whether to commence the staged shutdown steps earlier. The time of commencement is at the discretion of the Duty Manager.
- 24) This subsection is to be read in unison with **Appendix G - Staged Shutdown** extracted in the images below. It details how the Premises will prepare for, and shutdown, key areas of the Premises at various times in order to reduce patronage to meet capacity requirements from Mondays to Saturdays. These actions are as follows:



- 25) Between 11pm and 12 midnight, the following actions are required:
  - a) By 11pm, the secondary entrance on Darby Street (Door 3) is to be closed but may remain operational for egress only. Patrons will be directed to use Door 1 or Door 2.
  - b) At 11pm, security will perform a head count of the patrons within the ground floor.
  - c) Based on the headcount, security will monitor and allow or restrict entry to the Hotel to meet post-midnight capacity targets of 300 listed in Section 2.4.

- d) At 11:30pm, an announcement will be made at the first floor notifying patrons that this level will close at midnight and the maximum capacity of the Hotel will be reduced to 300 patrons within the ground floor.
  - e) At 11:45pm,
    - i) The first floor will commence pre-closure procedure. Lighting is to be turned up and music turned off. Staff will cease serving customers, announce to patrons the area is closing and for patrons to leave.
    - ii) Security will perform a head count of the patrons within the ground floor.
    - iii) If the capacity exceeds 300 patrons, security will be stationed at the base of the stairs (see **Figure 2**) to direct patrons to exit via Door 3 (see **Figure 2**).
    - iv) All patrons on the first floor will be directed to leave by staff via the stairs/lift and any patrons in excess of the 300 patron capacity must exit the Premises using Door 3 (see **Figure 2**) and join the Door 1 queue on Darby Street if they wish to re-enter the Premises.
- 26) **Figure 2** below illustrates the above crowd management provisions if there are more than 300 patrons at 12 midnight. The figure marks the location of security and staff, entry and exit points, and also highlights closed areas in grey and queuing area in dark blue.



**Figure 2** – Crowd Management at 12 midnight

27) Between 12 midnight and 1am, the following actions are required:

a) At 12 midnight,

- i) The Duty Manager must monitor and assist the departure of patrons until at least 12:15am.
- ii) The Beer Garden area facing Darby Street (identified in grey in figure above) is to be cleared of patrons.

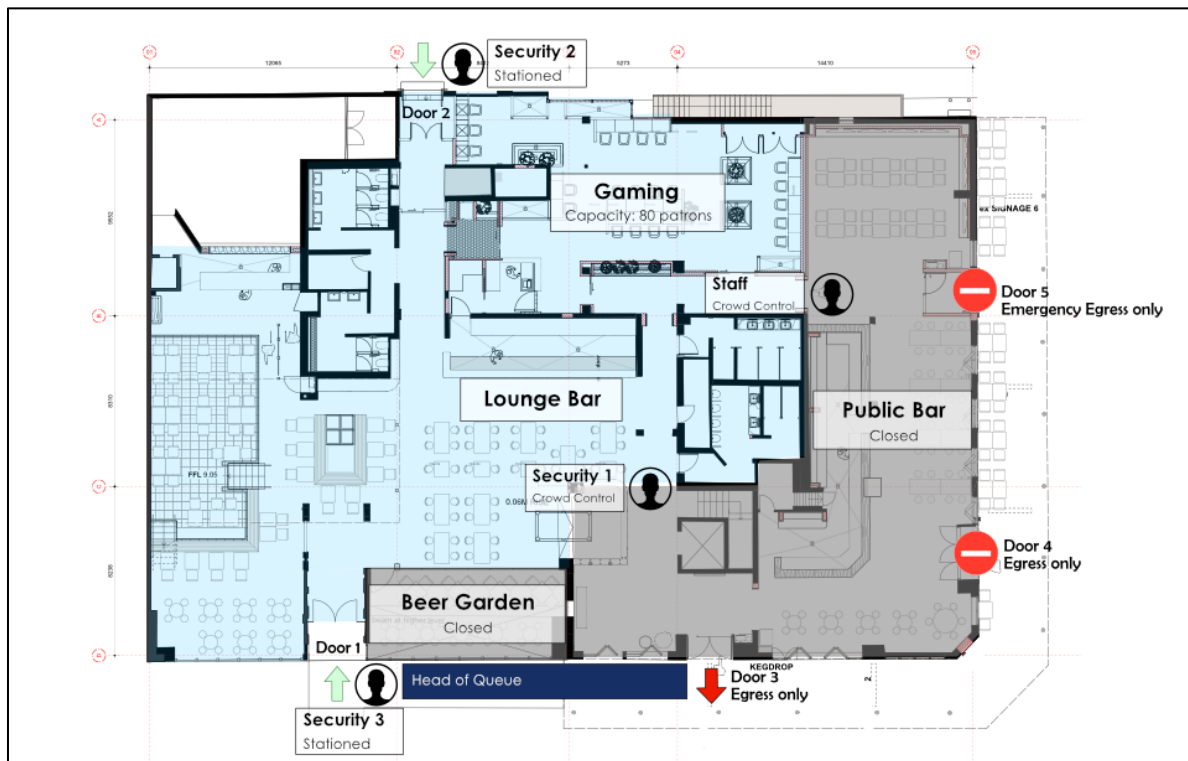
b) At 12:45pm,

- i) The Public Bar will commence pre-closure procedure. Lighting is to be turned up and music turned off. Staff will cease serving customers, announce to patrons the area is closing and for patrons to leave the venue.
- ii) Security will perform a head count of the patrons within the Lounge Bar and Gaming Room.
- iii) If the patron capacity is in excess of 120 patrons, security and staff will be stationed at the access point to the gaming room and at the base of the stairs (see **Figure 3**) to

direct patrons outside to queue for re-entry or depart to alternate location. Patrons can only move to Lounge Bar area if the Hotel is under the capacity of 120 patrons on head count.

- iv) All patrons within the public bar in excess of the 120 patron capacity will be directed to leave by staff via Door 3. All patrons must join the Door 1 queue on Darby Street if they wish to re-enter the Premises.

28) **Figure 3** below illustrates the above crowd management provisions if there are more than 120 patrons at 1am. The figure marks the location of security and staff, entry and exit points, and also highlights closed areas in grey and queuing area in dark blue.



**Figure 3** – Crowd Management at 1am

- 29) Between 1am and 2am, the follow actions are required:
  - a) At 1:45am, the Hotel will commence pre-closure procedure. Staff will cease serving liquor, lights will be turned on and announcements will be made of the closure of the Hotel at 2am. All patrons will be reminded to leave the neighbourhood in a quiet and orderly manner.

- b) At 2am, the Hotel will close and any remaining patrons must vacate the Hotel by 2:15am.
- c) The Duty Manager will monitor and assist departure of patrons in the public domain.





### 3. Management Measures

#### 3.1 General Amenity

- 30) Staff shall intervene to provide corrective advice to any patron at the Premises or its immediate vicinity that is behaving in a manner likely to disturb the amenity of nearby residents. Any patron whose behaviour is extreme or repeatedly objectionable may be refused service, asked to leave and barred for a period determined by the Licensee.
- 31) The Duty Manager shall ensure that the entry points and immediate vicinity are kept clean and tidy during the Premises' hours of operation.
- 32) Following the close of the Premises, the Duty Manager shall ensure that the entry points and immediate vicinity of the Premises are cleaned with all signs of rubbish or waste removed.
- 33) When patrons are leaving, if requested, they are to be advised of the transport options from the Premises including bus routes along Darby Street.
- 34) The Duty Manager shall:
  - a) Ensure that persons entering the Premises are suitably attired in accordance with the Premises' dress code, which shall require patrons, at least, to be neatly dressed in casual wear, with footwear and to be clean. No person wearing clothing, jewellery or accessories of an outlaw motorcycle organisation is to be permitted entry.
  - b) Prevent any person, detected as intoxicated, entering the Premises. Any person at the Premises who might be considered to be in, or approaching a state of intoxication will be notified that they are required to leave.
  - c) Prevent patrons removing glass or open containers of alcohol from the Premises. Bottles of wine purchased to be consumed with a meal may be removed if they are re-sealed.
  - d) Monitor patron behaviour in, and in the vicinity of the Premises until all patrons have left, taking all practical steps to ensure the quiet and orderly departure of patrons.
  - e) Collect any rubbish in the vicinity of the Premises that may be associated with the Premises' business.
  - f) Co-operate with Police and any private security personnel operating in the vicinity of the Premises.

- 35) For the purpose of this Plan of Management, the description, “the vicinity of the Premises” or the “immediate vicinity” shall be the publicly accessible walkways and parking areas adjoining the Premises.
- 36) The capacity of the Premises shall be monitored by the Duty Manager having regard to the number of chairs that are available.
- 37) At the cessation of trade, staff should actively discourage loitering near the bar to minimise any potential impacts on the surrounding amenity.

### 3.2 Complaints and the Incident Register

- 38) The Licensee or manager shall ensure that details of the following are recorded in the Premises' Incident Register:
  - a) Any incident involving violence or anti-social behaviour occurring on the Premises;
  - b) Any incident of which the Licensee or management is aware, that involves violence or anti-social behaviour occurring in the immediate vicinity of the Premises and that involves a person who has recently left, or been refused admission to, the Premises;
  - c) Any incident that results in a person being turned out of the Premises under Section 77 of Liquor Act 2007; viz:
    - i) for being intoxicated, violent, quarrelsome or disorderly;
    - ii) whose presence on the licensed premises renders the Licensee liable to a penalty under the Liquor Act, e.g., minors within a non-authorised area such as the gaming room;
    - iii) who smokes within an area of the Premises that is a smoke-free area; or
    - iv) who uses, or has in his or her possession, while in the Hotel any substance suspected of being a prohibited plant or prohibited drug.
  - d) Any incident that results in a patron of the Premises requiring medical assistance;
  - e) Any incident or complaint regarding sexual assault;
  - f) Any incidents that occurred either in the Premises or in the immediate vicinity, which involved the committing of a crime or required the intervention of security;

- g) Any complaints made directly to the management or staff of the Premises by local residents or business people, about the operation of the Premises or the behaviour of its patrons; and
  - h) Any visit by any NSW Police Officer, Liquor and Gaming NSW Special Inspector or Council Officer noting their agency or department, reason for the visit and result of the visit.
- 39) The Licensee shall make the Incident Register available to any NSW Police Officer or L&G NSW Special Inspector on request. Copies of the Incident Register will be provided to NSW Police Officers and L&G NSW Special inspectors within seven (7) days of receipt of a written request for copies.
- 40) The Incident Register is to be reviewed regularly by the Licensee to ensure that complaints, where possible, are being dealt with appropriately.
- 41) Persons who wish to make a complaint about the Premises to management should contact (02) 4929 1627. Calls to this number must be answered when feasible during trading hours and for at least 30 minutes after closing time. Any missed calls are to be promptly returned. Any staff member answering such a call must do so in a polite, sympathetic and courteous manner. Where possible, action shall be immediately taken to address any complaint so made, including follow-up action, such as returning the complainant's call to let them know what has been done to address the concerns/complaints expressed. All complaints are to be responded to by the Premises management within 48 hours of a complaint being made.
- 42) The following details of complaints made to the Premises are to be recorded in the Incident Register:
- a) Date and time of the incident that led to the complaint;
  - b) Nature of the complaint;
  - c) Address and contact details of the complainant;
  - d) Any actions proposed to deal with the complaint; and
  - e) The actions taken and the time and date when that was reported to the complainant.
- 43) Management is to provide a contact phone number that residents can use to contact the Premises, in order to make a complaint whilst it is operating. Any staff member answering such a call must do so in a polite, sympathetic and courteous manner. The Duty Manager is to be informed immediately of any complaint. Where possible, action shall be immediately taken to address any complaint so made, including follow-up action, such as returning the resident's



call to let them know what has been done to address the concerns/complaints expressed.

- 44) Any recurring complaints should be dealt with, if attributable to the Premises, through new management procedures and incorporated into this Plan.

### 3.3 Technical Noise Criteria

- 45) The LA<sub>10</sub> noise level emitted from the Premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and 12.00 midnight and 0dB past midnight at the boundary of any affected residence.
- 46) Between 12.00 midnight and 7am, noise from the operation of the Hotel is required to be inaudible in habitable rooms of residential dwellings.
- 47) Notwithstanding the above, the Premises' operations must not give rise to "offensive noise" as defined under the *Protection of the Environment Operations Act 1997*. Here, offensive noise means noise.
- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
- i) is harmful to (or is likely to be harmful to) a person who is outside the Premises from which it is emitted, or,
  - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the Premises from which it is emitted, or,
  - iii) that is of a level, nature, character or quality prescribed by the regulations of the *Protection of the Environment Operations Act 1997* or that is made at a time, or in other circumstances, prescribed by the regulations under that Act.
- 48) The existing noise mitigation measures and any noise limiting devices must not be altered or modified unless on the advice of or by a qualified acoustic consultant. Council must promptly receive written notification from the Premises' management of any such changes.

### 3.4 Acoustic Recommendations

- 49) From 10pm, the following actions are required:

- a) All windows, operable facades, Door 4 and 5 are to be kept closed. Door 4 will remain operational and patrons will be reminded to use Door 1 or Door 2.
  - b) All windows and doors and operable facades in the beer garden will close. (DC, DA 2019/01000, 29)
- 50) The following are to be implemented by the management of the Premises in order to maintain acoustic compliance from 12 midnight until 2am (as recommended in **Appendix F**)
- a) All doors and windows into the Premises are to be kept closed. Doors may be opened to allow patron ingress and egress and should be closed after.
    - i) Doors accessing internal and external areas should be fitted with a closing mechanism and an acoustic seal.
  - b) Notices should be placed at the entry and exit to the **Level 1 Outdoor Dining Area** to remind patrons that no excessive noise should occur in this area. This should be monitored by management.
  - c) Gaming machine volume is limited to a maximum of 65 dB(A) at 1 metre from the machine.
  - d) No coin payout for gaming machines.
  - e) Louvred windows surrounding the development are to be Breezeway 6mm toughened glass and 6mm aluminium extension.
  - f) Void openings are to be acoustically lined with two layers of 50mm thick echosoft with perforated timber and metal facing.

### 3.5 Signage

- 51) The Licensee shall be responsible to ensure all signage required under this part is erected and maintained in a clear and prominent position.
- 52) Signage adjacent to all points of egress, requesting that patrons depart the Premises in a manner respectful of the surrounding area (or wording to that effect) must be erected.
- 53) Signage on points of egress (Door 3, Door 4 and Door 5) to remind patrons to refrain using these exits after 10pm (Door 4 and 5) and 11pm (Door 3).



- 54) Signage and promotion of non-alcoholic and low strength alcoholic beverage options is to be provided at the point of purchase of alcohol beverages.
- 55) The Licensee shall be responsible to ensure all signage required under the *Liquor Act 2007* and the Regulation, is displayed and maintained in a prominent position, in accordance with those legislative requirements; including:
  - a) Signage at the entrance stating the licence name, type of licence number and the name of the Licensee.
  - b) Signage at the entrance stating the times during which liquor is authorised to be sold or supplied at the Premises and any other times during which the Premises is authorised to be open for business.
  - c) Signage obtained from Liquor and Gaming NSW erected at any bar area stating: NO ALCOHOL CAN BE SOLD OR SUPPLIED TO ANYONE UNDER 18. ITS AGAINST THE LAW.

### 3.6 Waste Management and Deliveries

- 56) Deliveries to the Premises are to occur between the hours of 6.30am and 7pm Monday to Sunday.
- 57) Waste collection is to occur between the hours of 7am and 7pm Monday to Saturday and 8am to 7pm Sunday.
- 58) Waste receptacles are to be left at the designated collection point up to 30 minutes prior to the scheduled waste collection time. Upon collection, bins are to be washed and returned to the waste storage area by a member of staff.
- 59) Recyclable waste is to be sorted and stored in appropriate waste receptacles within the waste storage area of the Premises.
- 60) Staff shall keep the waste storage area clean and wash bins frequently
- 61) The duty manager will monitor bins and adjust collection frequencies as required.

### 3.7 Post Midnight Drink Restrictions

- 62) The following restrictions in relation to the service of alcohol will be enforced after midnight



- a) No shots, bombs or any other alcoholic drinks designed for the rapid consumption of alcohol.
- b) Cocktails containing more than 2 standard drinks.
- c) Any ready to drink beverage (such as a bottle or can) containing more than 5% alcohol by volume of content.
- d) Any drink containing more than 50% spirits or liquor.



## 4. Responsible Service of Alcohol

63) All provisions within this Section 4.0 'Responsible Service of Alcohol' are subject to change at the discretion of Licensee or following legislative change. If any of the following operational restrictions are amended, removed or withdrawn from the Liquor Act, Liquor Regulation 2018 or Guidelines from Liquor and Gaming NSW or at the discretion of the Licensee, they will no longer be required to be observed and may be taken to have been amended or deleted (as the case may be) from this Plan of Management without the need for further development consent.

### 4.1 What is the Law?

- 64) It is unlawful for a licensee or staff member to sell or supply liquor to a person who is intoxicated on a licensed premise.
- 65) It is unlawful for a licensee to permit intoxication on licensed premises.
- 66) A person is considered to be intoxicated if:
- a) The person's speech, balance, co-ordination or behaviour is noticeably affected, and
  - b) It is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.
- 67) The law requires the licensee or staff to form a reasonable belief that the person is intoxicated as a result of alcohol. Refusal of service to a person on the basis of this belief is acceptable, even if the licensee or staff member refusing service is incorrect.
- 68) Reasonable grounds for a belief that a person is intoxicated are what a reasonable person would believe in the circumstances, considering the relevant knowledge and facts presented. The licensee and/or staff member should be sure of their reasons for refusal of service and these reasons should not be discriminatory, for example due to race, sex or disability.
- 69) A licensee is deemed to have permitted intoxication if an intoxicated person is on the licensed premises, unless the licensee can prove that the licensee or staff:
- a) Asked the intoxicated person to leave the Premises, and





- b) Contacted or attempted to contact, the police for assistance in removing the person from the Premises, and
  - c) The person was refused further service of liquor, or
  - d) The licensee or a staff member had taken the steps set out in guidelines issued by the Secretary of the Department of Industry under section 73(5A) of the *Liquor Act 2007*, or
  - e) The intoxicated person did not consume liquor on the licensed premises.
- 70) Liquor and Gaming New South Wales has issued Guidelines to assist in the identification of intoxicated persons which are provided at **Appendix B**. Bring to the attention of the Duty Manager any person considered to be in, or approaching, a state of intoxication.

## 4.2 Harm Minimisation Measures

- 71) The licence attached to the Premises shall be exercised – at all times – in accordance with the provisions of the *Liquor Act 2007* and *Liquor Regulation 2018* and the Licence (**Appendix E**). The following operational policies for the Responsible Service of Alcohol shall apply;
- a) All staff involved in the sale and supply of liquor, security or RSA supervisory duties shall have first completed an approved course in the Responsible Service of Alcohol;
  - b) All staff who hold an RSA Competency Card are required to have that readily available at all times when working. Failure to produce RSA Certification at the request of Police or Inspector is an offence under the *Liquor Act 2007* with a maximum penalty of \$550 for any staff member that fails to produce.
  - c) The Licensee shall not permit the Premises to engage in any liquor promotion that is likely to promote irresponsible service of liquor. Liquor must not be sold or supplied in a manner that is inconsistent with the Liquor Promotion Guidelines at **Appendix C**.
  - d) Alcohol shall not be served to any person who is intoxicated.
  - e) Any person who is intoxicated shall be denied entry to the Premises.
  - f) All staff and security are responsible to ensure that intoxication or any indecent, violent or quarrelsome conduct by patrons in the Premises is brought to the attention of the Duty Manager. Any person causing such a disturbance shall be refused service and asked to

leave the Premises. Any patron whose behaviour is either extreme or repeatedly objectionable may be barred from entering the Premises for a period determined by the Licensee.

- g) No person under the age of 18 years shall be served liquor. Production of photographic identification will be required where age is an issue. The only acceptable proofs of age identification shall be:
- i) Australian or Foreign Government Driver or Rider's licence
  - ii) NSW Digital Driver Licence;
  - iii) Australian or Foreign Government Passport;
  - iv) NSW Photo card;
  - v) Australian State issued proof of age card; or
  - vi) Australian Post issued Keypass Identity Card.
- h) Low alcohol beer and non-alcoholic beverages shall be available at all times when full strength liquor is available. Patrons are to be made aware by staff of non-alcoholic options offered at the Premises.
- i) Free drinking water must be made available to patrons in the same method that alcohol is sold or supplied.
- 72) From 10pm, all beverages will be served in Polycarbonate vessels and all glass will have been removed from the floor.

### 4.3 Monitoring Liquor Consumption and Patron Behaviour

- 73) The Premises must operate under the direct supervision of the Licensee or appropriately experienced management staff. That requires management staff to have at least 6 months experience in a supervisory position in the Premises with similar operating hours and patron numbers.
- 74) Whenever the Premises is operating, the following RSA monitoring obligations will be undertaken:



- a) All staff and security are expected during the carrying out of their duties to conduct RSA monitoring. Staff are required to monitor all patrons for their levels of intoxication, consumption patterns and secondary supply having regard to how many drinks patrons have consumed and for how long patrons have been in the Premises.
  - b) At least one senior member of staff will be designated to undertake a compliance role for monitoring, among other things, compliance with Section 4 of this Plan. The name of the member of staff who has been designated this duty, the date and the duration of their shift is to be recorded in a register and kept with this Plan for a period of two (2) weeks.
- 75) If a patron is identified by staff as consuming liquor irresponsibly and in a manner that is likely to result in intoxication or is considered to be showing signs of approaching intoxication, intervention from staff is required to provide advice to the patron. That advice should be as follows:
- a) That further risky consumption or further consumption may lead to intoxication. If the person is considered to be intoxicated, he/she will immediately be asked to leave. If that occurs, they will be required to move 50 metres from the Premises and not be permitted re-entry to that area or the Premises for 24 hours.
  - b) The patron should be offered and encouraged to consume non-alcoholic beverages such as water or soft-drinks and food.
  - c) If the patron is in a group, his/her friends should be advised that the patron needs to moderate their alcohol intake.
- 76) If a patron is identified by staff as being intoxicated the following steps must be taken:
- a) Any requests for further service of liquor must be refused;
  - b) Any alcohol presently being consumed is to be removed from the patron to prevent further consumption;
  - c) The patron is to be requested to leave the Premises;
  - d) If the person refuses to leave the Premises, the Police are to be contacted or sought to be contacted to assist with the removal of the patron from the Premises; and

- 77) The following steps should be taken when refusing service to a person:
- a) Introduce yourself to the patron by telling them your name and your role and by asking them for their name;
  - b) Approach the person in a friendly and respectful manner. Patronising or authoritarian attitudes can often evoke anger and make the person more aggressive – this is a common response to threats to one's dignity and self-respect. Try not to speak to the person in front of others.
  - c) When talking to the person: use their name; use slow, distinct speech; use short simple sentences; avoid emotion and involved discussions; use appropriate eye contact.
  - d) Give a clear, concrete statement that by law they cannot be served another drink.
  - e) Notify the Duty Manager. Also notify other bar staff that you have refused service to the person. If a shift change is nearing, notify the new staff.
  - f) Give a clear instruction that the person must leave the Premises, If necessary, guide them to the exit, ensuring that they have all their personal possessions on them.
  - g) If the person refuses to leave, then you should contact police for assistance in removing the person from The Premise.
  - h) If considered necessary, the Licensee may consider imposing a short-term ban.
- 78) Any person seen consuming liquor on approach to the Premises is to be refused entry.

#### 4.4 Liquor Promotion

- 79) Any promotion and activities that surround the sale and supply of alcohol at the Premises must be conducted in accordance with the Liquor Promotion Guidelines issued by Liquor and Gaming NSW (**Appendix C**).

## 5. Security

### 5.1 Security Staff and RSA Marshals

- 80) Licensed security personnel and RSA Marshals are employed by the Premises. They will be strategically positioned by the Duty Manager based on the needs of the Premises. This includes the exterior and interior of the Premises.
- 81) Security guards or RSA Marshals will be engaged at the ratio of 1 to 75 patrons, or part thereof, from 6pm until 30 minutes after close on all days.
- 82) The security guard(s) and/or RSA Marshal(s) will roam the Premises throughout the night.
- 83) Security must be deployed first. When there is one security guard on duty, that guard will be stationed at the car park entry (Door 2). When a second guard is on duty, that guard will be stationed at the Darby Street entrance (Door 1).
- 84) Security and RSA Marshals will be deployed as per detailed in Section 2.5 during staged shutdown.

### 5.2 Role and Responsibilities of Security

- 85) Security duties will be delegated by the Duty Manager at the beginning of the security personnel's shift.
- 86) Security must possess a current security licence, RSA and be in clearly identifiable uniforms.
- 87) Security may, if required request patron identification upon entry to the Premises if that patron looks to be under the age of 21. Identification may be requested during security sweeps of the Premises if a patron is consuming alcohol and appears to be under 21.
- 88) Security will:
  - a) Conduct themselves professionally and in accordance with the industry code of practice;
  - b) Note details of any incidents within the licensed premises or immediately outside in the incident register and to the Duty Manager;
  - c) Ensure patrons awaiting admission to not cause disturbance or impede the pedestrian footway on Darby Street;

- d) Monitor patrons intending to enter for signs of intoxication. Those identified as intoxicated will be refused entry; and
  - e) Quickly and discretely remove patrons displaying unacceptable and/or antisocial behaviour.
- 89) Security personnel appointed to monitor the exterior and interior of the Premises will prevent loitering from patrons, limit noise/antisocial behaviour and collect rubbish when possible.
- 90) A security log is to be kept and maintained which details:
- a) Name, date, start and end time of shift for all security personnel each day they are employed; and
  - b) Any visits from law enforcement with the date, time and reason for the visit.

### 5.3 Closed-Circuit Television (CCTV)

- 91) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the Premises with particular coverage to:
- a) Principal entrances and exits;
  - b) all areas within the Premises occupied by the public (excluding toilets); and
  - c) areas within a 10m radius external to the public entrance(s) to the Premises.
- 92) All CCTV recording equipment and cameras shall be of high-grade digital quality, capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- 93) CCTV recording discs or hard drive recordings shall be retained for 30 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a copy of recorded footage on demand of Council or Police Officers either immediately or within 24 hours of the request being made.
- 94) All CCTV recording devices and cameras shall be operated a minimum of all trading hours of the Premises and for at least 1 hour after the closing time.

- 95) The CCTV recording device shall be secured within the Premises and only be accessible to senior management. There shall be at least one member of staff on duty at all times that can access the CCTV system.
- 96) Records of patron number derived from the CCTV system must be retained for 18 months. Hourly patron counts for specified dates are to be provided to Council on request.

#### 5.4 Assault Management

- 85) In the event of physical or sexual assault within the Hotel, staff or security must immediately:
  - a) Identify themselves as staff/security to both parties (perpetrator and victim);
  - b) Separate both parties;
  - c) Determine whether NSW Police are required to be notified based on the incident and any requests of the victim;
  - d) If NSW Police are to be notified, undertake steps detailed in Section 6.1 Crime Scene Preservation Guidelines and hold the perpetrator;
  - e) If NSW Police are not to be notified, both parties are to be ejected from different entrances with delay to allow one party to depart before the second party is released.
  - f) Staff will escort the sexual assault victim to their car, taxis or ride share vehicles; or accompany them within the Hotel until a family member or friend arrives on request.
  - g) Record the incident in the Incident Register in accordance with this Plan.

## 6. Other relevant matters

### 6.1 Crime Scene Preservation Guidelines

- 86) Immediately after the Duty Manager in charge of the Hotel becomes aware of an incident involving an act of violence causing injury to a person on the Premises requiring immediate professional medical assistance or sexual assault, the person must:
- a) Render any required first aid;
  - b) Immediately contact '000' or the Local Area Commander or his/her delegate and advise them of the incident;
  - c) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
- 87) Unless directed otherwise by the Local Area Commander or his/her delegate the following crime scene preservation guidelines must be observed:
- a) Determine the crime scene and remove all persons from the area. Take all practical steps to preserve and keep intact the area where the act of violence occurred. Cordon off the area utilising bar stools, tables or tape. Consider closing off the area completely for such areas such as toilets, hallways or bars. Remember there may be multiple crime scenes.
  - b) Do not allow any persons to enter this area;
  - c) DO NOT CLEAN UP ANY CRIME SCENE. You may be destroying vital evidence;
  - d) Remember some evidence may not be visible to the naked eye such as blood, semen, skin cells, saliva, hair or fingerprints;
  - e) Do not move any items that may have been involved in an offence unless absolutely necessary. Use gloves to stop transference of your DNA or fingerprints;
  - f) Notify Police if any items have been moved or removed from the crime scene. Items may include bottles, glasses, pool cues, clothing, furniture, weapons or cigarette butts;





- g) Make notes in relation to the incident. Time, date, location, description of offender(s), vehicle(s) involved, weapons used, last known direction of offender(s), any movement of items involved in the incident;
  - h) Secure any CCTV footage and the security sign on sheets;
  - i) Obtain any details of witnesses and try to keep all witnesses separated so as to maintain the integrity of their evidence. Try to persuade witnesses from leaving the Premises before Police arrive;
  - j) Hand this information to Police on arrival; and
  - k) Be prepared to make a statement to Police regarding the incident.
- 88) Interfering with evidence may constitute an offence, leaving you liable to prosecution or disciplinary action, and/or may result in the closure of the Hotel.

## 6.2 Drugs and Drink Spiking

- 89) If any person(s) is caught dealing, purchasing or consuming drugs within the Hotel, they are to be requested to leave immediately and Hotel management and the Police must be informed of this. If the same person(s) is caught again, then they are to be barred.
- 90) Drink spiking is often difficult to detect. Below are some things to look out for and what to do:
- a) Any occurrences of a person(s) escorting out an obviously affected and lone person. Ask questions and engage in conversation with the person escorting the affected patron away, asking for their name, where they are heading to, etc. – contact management about any person who goes to length to remain anonymous.
  - b) An affected person may need medical attention, so ask them. If they are not capable of making that decision – then arrange that medical attention.
  - c) Any affected person will need to get to a safe place, which may be theirs or a friends place. Ensure people who are showing signs of intoxication are looked after by their friends and not leave them in the company of the person who may have spiked their drink.

- d) Contact the Police and thoroughly document the incident in the Hotel's Incident Register.
- e) Remember the most common drug used for drink spiking is alcohol. Be aware of strange drink orders such as beer and a nip of vodka, double shots in short glasses, etc.

### 6.3 Fire safety and essential services

- 91) The Licensee shall ensure that all essential services installed at the Hotel are certified and shall ensure that they remain in good working order at all times.
- 92) In the event of any malfunctioning of any essential service the Licensee shall ensure that it is rectified as soon as possible.
- 93) Lists of the telephone numbers of all relevant emergency agencies shall be kept near all telephones.
- 94) All managers and other permanent staff shall be made aware of fire safety requirements and the procedures to be followed in the event of an emergency at the Hotel. In the event of an emergency, staff and security are to direct patrons to the exits and away from the Hotel. The Duty Manager is to engage with the supervisor for each level progressively from the top to the bottom, ensuring the Hotel is vacated.



## 7. Review of Plan

- 95) If, in circumstances where better management or improved amenity outcomes can be achieved by amendments to this Plan, such amendments can be made following consultation with both the Police and Council who shall agree to those changes in writing and they shall be provided with a copy of any modified Plan.
  
- 96) This Plan and its attachments are also subject to legislative changes to the *Liquor Act 2007* and *Liquor Regulation 2008*. Where publications of Liquor and Gaming NSW are revised or withdrawn from its website or where legislative changes occur from time to time, the Plan is to be taken to reflect those changes and those changes may be made to the Plan without consultation with or approval from NSW Police or City of Sydney Council.
  
- 97) Part 4 of this Plan is for compliance with the Prevention of Intoxication Guidelines and Responsible Service of Alcohol requirements of the Liquor Act and is for internal purposes only. Provisions of this plan required to meet the relevant section of the Liquor Act will be varied from time to time to reflect industry best practice, or to reflect published changes to the Guidelines or legislation and may be varied or abandoned at the discretion of the Licensee without consultation with the Police or Council.

## 8. Licensee Statement of Understanding

The Licensee hereby acknowledges that the above provisions have been read and are understood.

Sign: .....

Date: .....



## Appendix A – Prevention of Intoxication Guidelines



## Appendix B – Identification of Intoxication Guidelines



## Appendix C – Liquor Promotion Guidelines by Liquor & Gaming NSW (GL4001)



## Appendix D – Development Consent



## Appendix E – Liquor Licence LIQH400117426





Appendix F – Acoustic Report (26 February 2021)



## Appendix G – Staged Shutdown Plan





# PLAN OF MANAGEMENT

FOR HOTEL DELANY  
134 DARBY STREET, COOKS HILL NSW



DESIGN  
COLLABORATIVE



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# Plan of Management

## Hotel Delany

134-142 Darby Street, Cooks Hill NSW



Prepared By

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Revisions				
Issue	Date	Issue	Prepared	Checked
181261.12P v1	December 2021	First Revision	DT	DR
181261.12P v2	January 2022	Client Review	DT	DR
181261.12P v3	June 2022	Revised	DT	DR
181261.12P v4	September 2022	Revised	DT	DR

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Appendices			
Appendix	Title	Prepared / Issued	Date
A	Prevention of Intoxication on Licensed Premises Guidelines (GL4002)	Liquor & Gaming NSW	18 November 2020
B	Identification of Intoxication Guidelines	Liquor & Gaming NSW	25 March 2020
C	Promotion of Liquor Guidelines	Liquor & Gaming NSW	26 March 2019
D	Development Consent		
E	Liquor Licence LIQH400117426	Liquor & Gaming NSW	19 January 2021
F	Acoustic Report	Acoustic Logic	10 June 2021
G.	Staged Shutdown Plan, Crowd Management at 12 midnight, Crowd Management at 1am	Design Collaborative	June 2022

### Abbreviations

DC – Designates requirement of specific Development Consent

LL – Designates requirement of Liquor Licence

AR – Designates requirement of an Acoustic Report approved by Council

DCP – Designates requirement of a Council Development Control Plan

LR – Designates requirement of the *Liquor Regulation 2018*

*\*Number behind abbreviations indicates the number of the clause, section, or condition*

## 1. Introduction

- 1) The purpose of this Plan of Management (*the Plan*) is to establish performance criteria for the operation of Hotel Delany (*the Premises*) at 134 Darby Street, Cooks Hill, having regard to the relevant matters under the *Environmental Planning and Assessment Act 1979*, the *Liquor Act 2007* and any relevant Regulation under that legislation.
- 2) The Plan also establishes performance criteria to demonstrate compliance with the Prevention of Intoxication on Licensed Premises Guidelines, dated April 2017 issued by Liquor and Gaming New South Wales (**Appendix A**).
- 3) Prior to commencing work at the Premises, all staff involved with the sale and supply of liquor including management, floor staff, bar staff and security shall be made familiar with this Plan, including the Prevention of Intoxication on Licensed Premises Guidelines, the Intoxication Identification Guidelines (**Appendix B**) and the Liquor Promotion Guidelines (**Appendix C**) and how the guidelines are to be complied with during day-to-day tasks.
- 4) All staff made familiar with this Plan are to sign a register stating they have been made familiar with this Plan and its Guidelines and received instruction on how this Plan is to be enforced. That register is to be kept with this Plan.
- 5) A copy of this Plan shall be available on site at all times and immediately produced for inspection, upon request by Police or Council Officers or Special Inspectors. Copies of the Development Consent (**Appendix D**) and Liquor Licence (**Appendix E**) will be kept on site and produced upon request by Police or Council Officers or Special Inspectors. Staff shall be advised of the acoustic guideline required for trade past 12 midnight in (**Appendix F**).
- 6) **Appendix G** is a floor plan which displays the staged shutdown areas of the Premises and changes to capacity.
- 7) The provisions of this Plan must be adhered to at all times during the execution of the duty of all members of staff and security. Disregarding the provisions of this Plan may lead to on-the-spot dismissal.
- 8) Reference in this Plan to the Duty Manager is a reference to the most senior management person on duty at the Premises unless the role of Duty Manager has been delegated by the Licensee.





- 9) An obligation or responsibility under this Plan assigned to a Duty Manager may be undertaken by another member of staff, as delegated by the relevant manager.



## 2. Operational Details

### 2.1 The Premises

- 10) The Premises comprises the building titled 'Hotel Delany' at 134 Darby Street, Cooks Hill. It is a two-storey pub, located at the corner of Darby and Council Streets. The ground floor provides typical hotel facilities including a beer garden to Darby Street, restaurant areas, kitchen, public bar and gaming facilities.
- 11) The first floor of the Hotel provides a further bar / function space which benefits from its own outdoor area. The remainder of the first floor provides the Hotel's back of house and office facilities and storage.
- 12) A Council owned carpark is located to the rear of the Hotel. It is used by patrons of the Hotel and nearby retail shops along Darby Street. Residential houses also back toward the carpark. Access to the Hotel is provided by a door to the car park. Entrances are also provided to the Hotel on both Council and Darby Street.

### 2.2 The Police and the Community

- 13) The Licensee is a member of the Newcastle Liquor Accord and will continue to maintain that membership.
- 14) The Licensee of the Premises will meet with the Licensing Unit of the NSW Police Force, Newcastle City Police District from time to time. Matters that will be discussed will range from the management of upcoming events, any recent incidents and where improvements could be made with respect to security and management procedures. Management procedures and this Plan are to be reviewed at those meetings to address on-going matters as they arise and to ensure contingency plans are in place.
- 15) This Plan incorporates a community complaint section to deal with any complaints as to noise or the behaviour of patrons or staff. See Section 3.2 of this Plan for more information.



## 2.3 Hours of operation

16) The use of the Premises as a pub may operate under the following hours of operation.

- a) 10am to 2am the following morning Mondays to Saturdays;
- b) 10am to 12 midnight for Sundays;
- c) Public Holidays: (LL 101)
  - i) Good Friday: 12 noon to 10pm
  - ii) Christmas Day: 12 noon to 10pm (Liquor can only be served with or ancillary to a meal in a dining area)
  - iii) New Year's Eve/New Year's Day: normal closing time or 2am on New Year's Day, whichever is later.

17) Notwithstanding the above, staff may undertake pre-works and clean-up of the Premises up to one hour before and after trading hours have commenced/ceased.

## 2.4 Capacity

18) The maximum capacity of the Premises is 990 patrons.

19) After midnight, the maximum capacity of the Premises will be reduced to:

- a) 300 patrons between midnight and 1am; and
- b) 120 patrons between 1am and 2am.

Of which, no more than 80 patrons may be present within the gaming room. (AR)

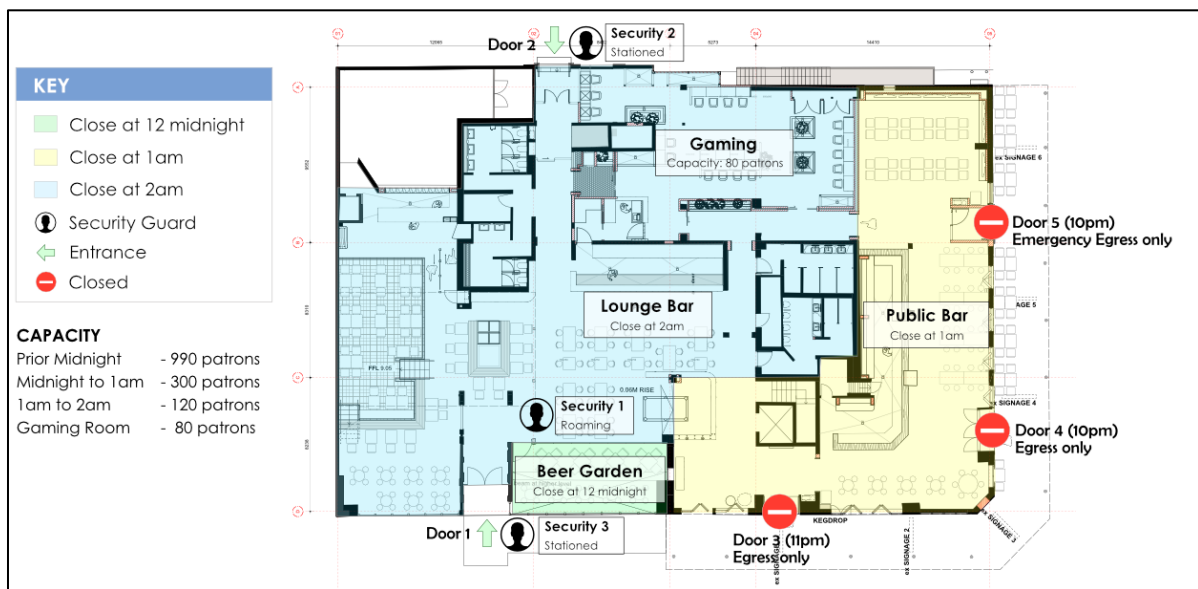
20) By using a mechanical/electronic counter, having established a base population level, an entry/exit count will be initiated to maintain an accurate patron total at the Premises.

21) At a time, dictated by patron number or observation of the Duty Manager an assessment of the bar areas will take place and if necessary, a controlled migration will be implemented.



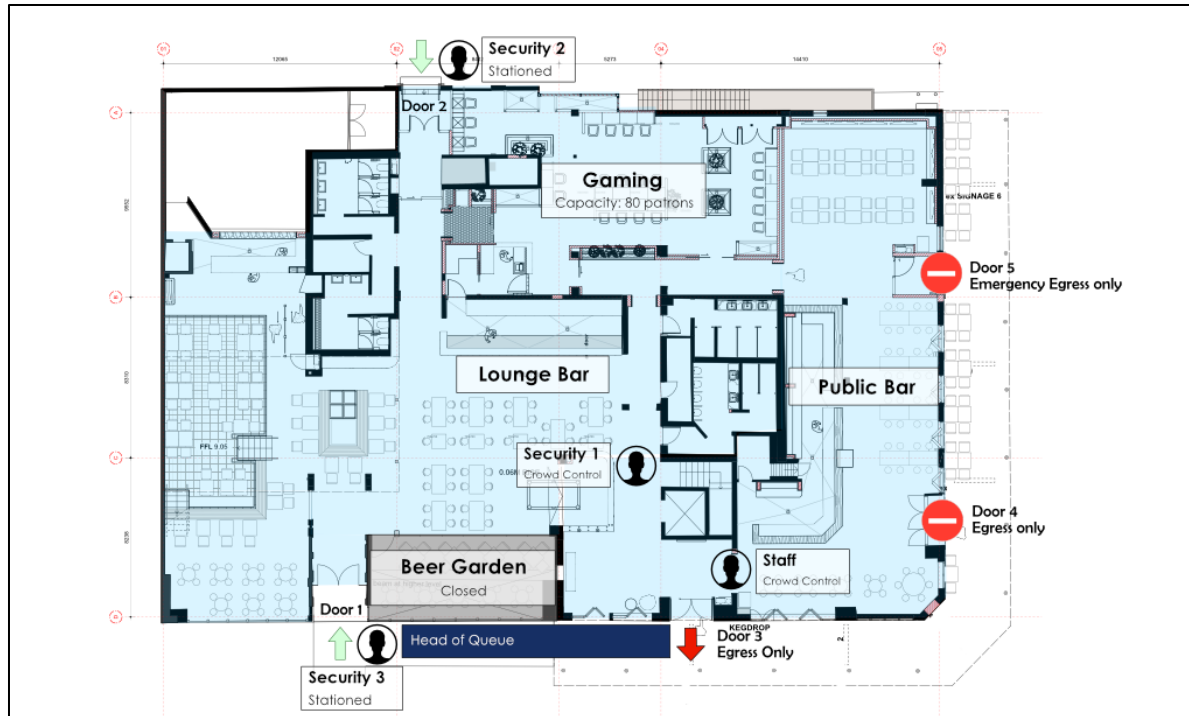
## 2.5 Staged Shutdown

- 22) If there is more than 300 patrons between 11pm and 12 midnight, security and RSA Marshals will be deployed as follows, or otherwise at discretion of the Duty Manager.
- 23) The staged shutdown provisions are catered for typical weekend trade when the capacity is expected to be in the order of 500 patrons. If the Hotel is trading well in excess of 500 patrons management determine whether to commence the staged shutdown steps earlier. The time of commencement is at the discretion of the Duty Manager.
- 24) This subsection is to be read in unison with **Appendix G - Staged Shutdown** extracted in the images below. It details how the Premises will prepare for, and shutdown, key areas of the Premises at various times in order to reduce patronage to meet capacity requirements from Mondays to Saturdays. These actions are as follows:



- 25) Between 11pm and 12 midnight, the following actions are required:
  - a) By 11pm, the secondary entrance on Darby Street (Door 3) is to be closed but may remain operational for egress only. Patrons will be directed to use Door 1 or Door 2.
  - b) At 11pm, security will perform a head count of the patrons within the ground floor.
  - c) Based on the headcount, security will monitor and allow or restrict entry to the Hotel to meet post-midnight capacity targets of 300 listed in Section 2.4.

- d) At 11:30pm, an announcement will be made at the first floor notifying patrons that this level will close at midnight and the maximum capacity of the Hotel will be reduced to 300 patrons within the ground floor.
  - e) At 11:45pm,
    - i) The first floor will commence pre-closure procedure. Lighting is to be turned up and music turned off. Staff will cease serving customers, announce to patrons the area is closing and for patrons to leave.
    - ii) Security will perform a head count of the patrons within the ground floor.
    - iii) If the capacity exceeds 300 patrons, security will be stationed at the base of the stairs (see **Figure 2**) to direct patrons to exit via Door 3 (see **Figure 2**).
    - iv) All patrons on the first floor will be directed to leave by staff via the stairs/lift and any patrons in excess of the 300 patron capacity must exit the Premises using Door 3 (see **Figure 2**) and join the Door 1 queue on Darby Street if they wish to re-enter the Premises.
- 26) **Figure 2** below illustrates the above crowd management provisions if there are more than 300 patrons at 12 midnight. The figure marks the location of security and staff, entry and exit points, and also highlights closed areas in grey and queuing area in dark blue.



**Figure 2** – Crowd Management at 12 midnight

27) Between 12 midnight and 1am, the following actions are required:

a) At 12 midnight,

- i) The Duty Manager must monitor and assist the departure of patrons until at least 12:15am.
- ii) The Beer Garden area facing Darby Street (identified in grey in figure above) is to be cleared of patrons.

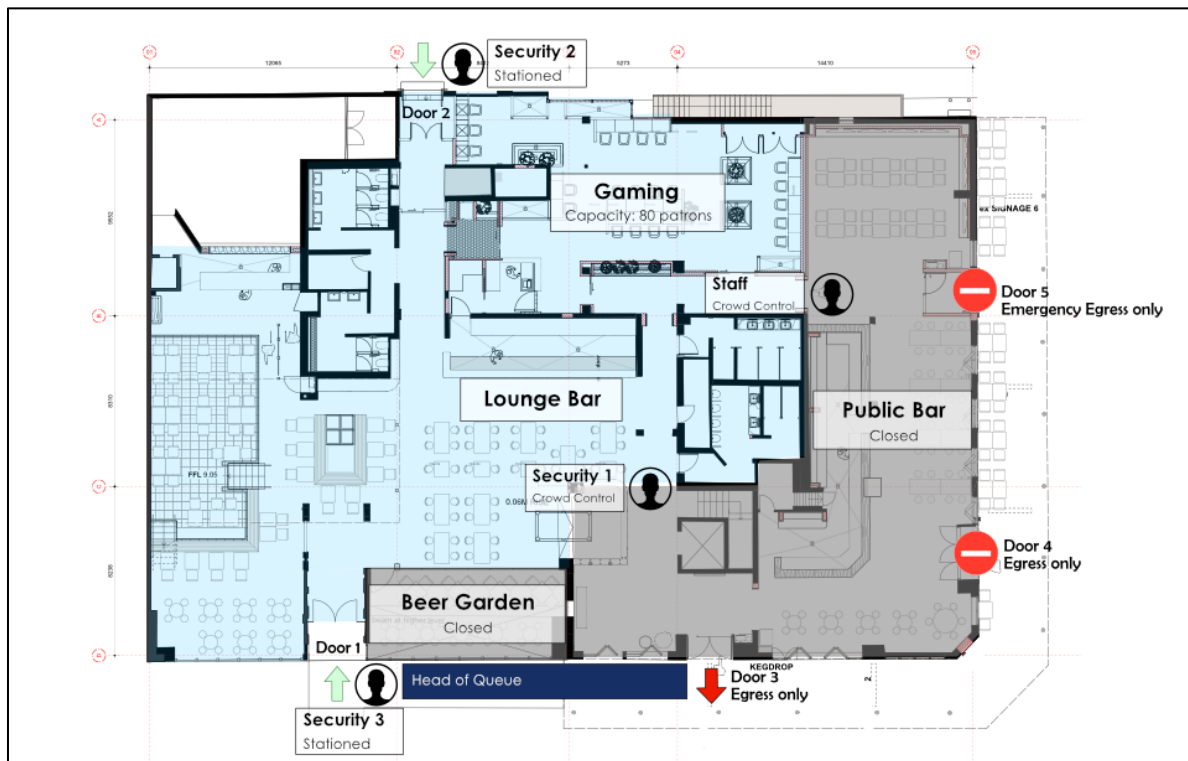
b) At 12:45pm,

- i) The Public Bar will commence pre-closure procedure. Lighting is to be turned up and music turned off. Staff will cease serving customers, announce to patrons the area is closing and for patrons to leave the venue.
- ii) Security will perform a head count of the patrons within the Lounge Bar and Gaming Room.
- iii) If the patron capacity is in excess of 120 patrons, security and staff will be stationed at the access point to the gaming room and at the base of the stairs (see **Figure 3**) to

direct patrons outside to queue for re-entry or depart to alternate location. Patrons can only move to Lounge Bar area if the Hotel is under the capacity of 120 patrons on head count.

- iv) All patrons within the public bar in excess of the 120 patron capacity will be directed to leave by staff via Door 3. All patrons must join the Door 1 queue on Darby Street if they wish to re-enter the Premises.

28) **Figure 3** below illustrates the above crowd management provisions if there are more than 120 patrons at 1am. The figure marks the location of security and staff, entry and exit points, and also highlights closed areas in grey and queuing area in dark blue.



**Figure 3** – Crowd Management at 1am

- 29) Between 1am and 2am, the follow actions are required:
  - a) At 1:45am, the Hotel will commence pre-closure procedure. Staff will cease serving liquor, lights will be turned on and announcements will be made of the closure of the Hotel at 2am. All patrons will be reminded to leave the neighbourhood in a quiet and orderly manner.

- b) At 2am, the Hotel will close and any remaining patrons must vacate the Hotel by 2:15am.
- c) The Duty Manager will monitor and assist departure of patrons in the public domain.





### 3. Management Measures

#### 3.1 General Amenity

- 30) Staff shall intervene to provide corrective advice to any patron at the Premises or its immediate vicinity that is behaving in a manner likely to disturb the amenity of nearby residents. Any patron whose behaviour is extreme or repeatedly objectionable may be refused service, asked to leave and barred for a period determined by the Licensee.
- 31) The Duty Manager shall ensure that the entry points and immediate vicinity are kept clean and tidy during the Premises' hours of operation.
- 32) Following the close of the Premises, the Duty Manager shall ensure that the entry points and immediate vicinity of the Premises are cleaned with all signs of rubbish or waste removed.
- 33) When patrons are leaving, if requested, they are to be advised of the transport options from the Premises including bus routes along Darby Street.
- 34) The Duty Manager shall:
  - a) Ensure that persons entering the Premises are suitably attired in accordance with the Premises' dress code, which shall require patrons, at least, to be neatly dressed in casual wear, with footwear and to be clean. No person wearing clothing, jewellery or accessories of an outlaw motorcycle organisation is to be permitted entry.
  - b) Prevent any person, detected as intoxicated, entering the Premises. Any person at the Premises who might be considered to be in, or approaching a state of intoxication will be notified that they are required to leave.
  - c) Prevent patrons removing glass or open containers of alcohol from the Premises. Bottles of wine purchased to be consumed with a meal may be removed if they are re-sealed.
  - d) Monitor patron behaviour in, and in the vicinity of the Premises until all patrons have left, taking all practical steps to ensure the quiet and orderly departure of patrons.
  - e) Collect any rubbish in the vicinity of the Premises that may be associated with the Premises' business.
  - f) Co-operate with Police and any private security personnel operating in the vicinity of the Premises.

- 35) For the purpose of this Plan of Management, the description, “the vicinity of the Premises” or the “immediate vicinity” shall be the publicly accessible walkways and parking areas adjoining the Premises.
- 36) The capacity of the Premises shall be monitored by the Duty Manager having regard to the number of chairs that are available.
- 37) At the cessation of trade, staff should actively discourage loitering near the bar to minimise any potential impacts on the surrounding amenity.

### 3.2 Complaints and the Incident Register

- 38) The Licensee or manager shall ensure that details of the following are recorded in the Premises' Incident Register:
  - a) Any incident involving violence or anti-social behaviour occurring on the Premises;
  - b) Any incident of which the Licensee or management is aware, that involves violence or anti-social behaviour occurring in the immediate vicinity of the Premises and that involves a person who has recently left, or been refused admission to, the Premises;
  - c) Any incident that results in a person being turned out of the Premises under Section 77 of Liquor Act 2007; viz:
    - i) for being intoxicated, violent, quarrelsome or disorderly;
    - ii) whose presence on the licensed premises renders the Licensee liable to a penalty under the Liquor Act, e.g., minors within a non-authorised area such as the gaming room;
    - iii) who smokes within an area of the Premises that is a smoke-free area; or
    - iv) who uses, or has in his or her possession, while in the Hotel any substance suspected of being a prohibited plant or prohibited drug.
  - d) Any incident that results in a patron of the Premises requiring medical assistance;
  - e) Any incident or complaint regarding sexual assault;
  - f) Any incidents that occurred either in the Premises or in the immediate vicinity, which involved the committing of a crime or required the intervention of security;



- g) Any complaints made directly to the management or staff of the Premises by local residents or business people, about the operation of the Premises or the behaviour of its patrons; and
  - h) Any visit by any NSW Police Officer, Liquor and Gaming NSW Special Inspector or Council Officer noting their agency or department, reason for the visit and result of the visit.
- 39) The Licensee shall make the Incident Register available to any NSW Police Officer or L&G NSW Special Inspector on request. Copies of the Incident Register will be provided to NSW Police Officers and L&G NSW Special inspectors within seven (7) days of receipt of a written request for copies.
- 40) The Incident Register is to be reviewed regularly by the Licensee to ensure that complaints, where possible, are being dealt with appropriately.
- 41) Persons who wish to make a complaint about the Premises to management should contact (02) 4929 1627. Calls to this number must be answered when feasible during trading hours and for at least 30 minutes after closing time. Any missed calls are to be promptly returned. Any staff member answering such a call must do so in a polite, sympathetic and courteous manner. Where possible, action shall be immediately taken to address any complaint so made, including follow-up action, such as returning the complainant's call to let them know what has been done to address the concerns/complaints expressed. All complaints are to be responded to by the Premises management within 48 hours of a complaint being made.
- 42) The following details of complaints made to the Premises are to be recorded in the Incident Register:
- a) Date and time of the incident that led to the complaint;
  - b) Nature of the complaint;
  - c) Address and contact details of the complainant;
  - d) Any actions proposed to deal with the complaint; and
  - e) The actions taken and the time and date when that was reported to the complainant.
- 43) Management is to provide a contact phone number that residents can use to contact the Premises, in order to make a complaint whilst it is operating. Any staff member answering such a call must do so in a polite, sympathetic and courteous manner. The Duty Manager is to be informed immediately of any complaint. Where possible, action shall be immediately taken to address any complaint so made, including follow-up action, such as returning the resident's

call to let them know what has been done to address the concerns/complaints expressed.

- 44) Any recurring complaints should be dealt with, if attributable to the Premises, through new management procedures and incorporated into this Plan.

### 3.3 Technical Noise Criteria

- 45) The LA<sub>10</sub> noise level emitted from the Premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and 12.00 midnight and 0dB past midnight at the boundary of any affected residence.
- 46) Between 12.00 midnight and 7am, noise from the operation of the Hotel is required to be inaudible in habitable rooms of residential dwellings.
- 47) Notwithstanding the above, the Premises' operations must not give rise to "offensive noise" as defined under the *Protection of the Environment Operations Act 1997*. Here, offensive noise means noise.
- a) that, by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstances:
- i) is harmful to (or is likely to be harmful to) a person who is outside the Premises from which it is emitted, or,
  - ii) interferes unreasonably with (or is likely to interfere unreasonably with) the comfort or repose of a person who is outside the Premises from which it is emitted, or,
  - iii) that is of a level, nature, character or quality prescribed by the regulations of the *Protection of the Environment Operations Act 1997* or that is made at a time, or in other circumstances, prescribed by the regulations under that Act.
- 48) The existing noise mitigation measures and any noise limiting devices must not be altered or modified unless on the advice of or by a qualified acoustic consultant. Council must promptly receive written notification from the Premises' management of any such changes.

### 3.4 Acoustic Recommendations

- 49) From 10pm, the following actions are required:



- a) All windows, operable facades, Door 4 and 5 are to be kept closed. Door 4 will remain operational and patrons will be reminded to use Door 1 or Door 2.
  - b) All windows and doors and operable facades in the beer garden will close. (DC, DA 2019/01000, 29)
- 50) The following are to be implemented by the management of the Premises in order to maintain acoustic compliance from 12 midnight until 2am (as recommended in **Appendix F**)
- a) All doors and windows into the Premises are to be kept closed. Doors may be opened to allow patron ingress and egress and should be closed after.
    - i) Doors accessing internal and external areas should be fitted with a closing mechanism and an acoustic seal.
  - b) Notices should be placed at the entry and exit to the **Level 1 Outdoor Dining Area** to remind patrons that no excessive noise should occur in this area. This should be monitored by management.
  - c) Gaming machine volume is limited to a maximum of 65 dB(A) at 1 metre from the machine.
  - d) No coin payout for gaming machines.
  - e) Louvred windows surrounding the development are to be Breezeway 6mm toughened glass and 6mm aluminium extension.
  - f) Void openings are to be acoustically lined with two layers of 50mm thick echosoft with perforated timber and metal facing.

### 3.5 Signage

- 51) The Licensee shall be responsible to ensure all signage required under this part is erected and maintained in a clear and prominent position.
- 52) Signage adjacent to all points of egress, requesting that patrons depart the Premises in a manner respectful of the surrounding area (or wording to that effect) must be erected.
- 53) Signage on points of egress (Door 3, Door 4 and Door 5) to remind patrons to refrain using these exits after 10pm (Door 4 and 5) and 11pm (Door 3).



- 54) Signage and promotion of non-alcoholic and low strength alcoholic beverage options is to be provided at the point of purchase of alcohol beverages.
- 55) The Licensee shall be responsible to ensure all signage required under the *Liquor Act 2007* and the Regulation, is displayed and maintained in a prominent position, in accordance with those legislative requirements; including:
  - a) Signage at the entrance stating the licence name, type of licence number and the name of the Licensee.
  - b) Signage at the entrance stating the times during which liquor is authorised to be sold or supplied at the Premises and any other times during which the Premises is authorised to be open for business.
  - c) Signage obtained from Liquor and Gaming NSW erected at any bar area stating: NO ALCOHOL CAN BE SOLD OR SUPPLIED TO ANYONE UNDER 18. ITS AGAINST THE LAW.

### 3.6 Waste Management and Deliveries

- 56) Deliveries to the Premises are to occur between the hours of 6.30am and 7pm Monday to Sunday.
- 57) Waste collection is to occur between the hours of 7am and 7pm Monday to Saturday and 8am to 7pm Sunday.
- 58) Waste receptacles are to be left at the designated collection point up to 30 minutes prior to the scheduled waste collection time. Upon collection, bins are to be washed and returned to the waste storage area by a member of staff.
- 59) Recyclable waste is to be sorted and stored in appropriate waste receptacles within the waste storage area of the Premises.
- 60) Staff shall keep the waste storage area clean and wash bins frequently
- 61) The duty manager will monitor bins and adjust collection frequencies as required.

### 3.7 Post Midnight Drink Restrictions

- 62) The following restrictions in relation to the service of alcohol will be enforced after midnight



- a) No shots, bombs or any other alcoholic drinks designed for the rapid consumption of alcohol.
- b) Cocktails containing more than 2 standard drinks.
- c) Any ready to drink beverage (such as a bottle or can) containing more than 5% alcohol by volume of content.
- d) Any drink containing more than 50% spirits or liquor.



## 4. Responsible Service of Alcohol

63) All provisions within this Section 4.0 'Responsible Service of Alcohol' are subject to change at the discretion of Licensee or following legislative change. If any of the following operational restrictions are amended, removed or withdrawn from the Liquor Act, Liquor Regulation 2018 or Guidelines from Liquor and Gaming NSW or at the discretion of the Licensee, they will no longer be required to be observed and may be taken to have been amended or deleted (as the case may be) from this Plan of Management without the need for further development consent.

### 4.1 What is the Law?

- 64) It is unlawful for a licensee or staff member to sell or supply liquor to a person who is intoxicated on a licensed premise.
- 65) It is unlawful for a licensee to permit intoxication on licensed premises.
- 66) A person is considered to be intoxicated if:
- a) The person's speech, balance, co-ordination or behaviour is noticeably affected, and
  - b) It is reasonable in the circumstances to believe that the affected speech, balance, co-ordination or behaviour is the result of the consumption of liquor.
- 67) The law requires the licensee or staff to form a reasonable belief that the person is intoxicated as a result of alcohol. Refusal of service to a person on the basis of this belief is acceptable, even if the licensee or staff member refusing service is incorrect.
- 68) Reasonable grounds for a belief that a person is intoxicated are what a reasonable person would believe in the circumstances, considering the relevant knowledge and facts presented. The licensee and/or staff member should be sure of their reasons for refusal of service and these reasons should not be discriminatory, for example due to race, sex or disability.
- 69) A licensee is deemed to have permitted intoxication if an intoxicated person is on the licensed premises, unless the licensee can prove that the licensee or staff:
- a) Asked the intoxicated person to leave the Premises, and





- b) Contacted or attempted to contact, the police for assistance in removing the person from the Premises, and
  - c) The person was refused further service of liquor, or
  - d) The licensee or a staff member had taken the steps set out in guidelines issued by the Secretary of the Department of Industry under section 73(5A) of the *Liquor Act 2007*, or
  - e) The intoxicated person did not consume liquor on the licensed premises.
- 70) Liquor and Gaming New South Wales has issued Guidelines to assist in the identification of intoxicated persons which are provided at **Appendix B**. Bring to the attention of the Duty Manager any person considered to be in, or approaching, a state of intoxication.

## 4.2 Harm Minimisation Measures

- 71) The licence attached to the Premises shall be exercised – at all times – in accordance with the provisions of the *Liquor Act 2007* and *Liquor Regulation 2018* and the Licence (**Appendix E**). The following operational policies for the Responsible Service of Alcohol shall apply;
- a) All staff involved in the sale and supply of liquor, security or RSA supervisory duties shall have first completed an approved course in the Responsible Service of Alcohol;
  - b) All staff who hold an RSA Competency Card are required to have that readily available at all times when working. Failure to produce RSA Certification at the request of Police or Inspector is an offence under the *Liquor Act 2007* with a maximum penalty of \$550 for any staff member that fails to produce.
  - c) The Licensee shall not permit the Premises to engage in any liquor promotion that is likely to promote irresponsible service of liquor. Liquor must not be sold or supplied in a manner that is inconsistent with the Liquor Promotion Guidelines at **Appendix C**.
  - d) Alcohol shall not be served to any person who is intoxicated.
  - e) Any person who is intoxicated shall be denied entry to the Premises.
  - f) All staff and security are responsible to ensure that intoxication or any indecent, violent or quarrelsome conduct by patrons in the Premises is brought to the attention of the Duty Manager. Any person causing such a disturbance shall be refused service and asked to

leave the Premises. Any patron whose behaviour is either extreme or repeatedly objectionable may be barred from entering the Premises for a period determined by the Licensee.

- g) No person under the age of 18 years shall be served liquor. Production of photographic identification will be required where age is an issue. The only acceptable proofs of age identification shall be:
- i) Australian or Foreign Government Driver or Rider's licence
  - ii) NSW Digital Driver Licence;
  - iii) Australian or Foreign Government Passport;
  - iv) NSW Photo card;
  - v) Australian State issued proof of age card; or
  - vi) Australian Post issued Keypass Identity Card.
- h) Low alcohol beer and non-alcoholic beverages shall be available at all times when full strength liquor is available. Patrons are to be made aware by staff of non-alcoholic options offered at the Premises.
- i) Free drinking water must be made available to patrons in the same method that alcohol is sold or supplied.
- 72) From 10pm, all beverages will be served in Polycarbonate vessels and all glass will have been removed from the floor.

### 4.3 Monitoring Liquor Consumption and Patron Behaviour

- 73) The Premises must operate under the direct supervision of the Licensee or appropriately experienced management staff. That requires management staff to have at least 6 months experience in a supervisory position in the Premises with similar operating hours and patron numbers.
- 74) Whenever the Premises is operating, the following RSA monitoring obligations will be undertaken:



- a) All staff and security are expected during the carrying out of their duties to conduct RSA monitoring. Staff are required to monitor all patrons for their levels of intoxication, consumption patterns and secondary supply having regard to how many drinks patrons have consumed and for how long patrons have been in the Premises.
  - b) At least one senior member of staff will be designated to undertake a compliance role for monitoring, among other things, compliance with Section 4 of this Plan. The name of the member of staff who has been designated this duty, the date and the duration of their shift is to be recorded in a register and kept with this Plan for a period of two (2) weeks.
- 75) If a patron is identified by staff as consuming liquor irresponsibly and in a manner that is likely to result in intoxication or is considered to be showing signs of approaching intoxication, intervention from staff is required to provide advice to the patron. That advice should be as follows:
- a) That further risky consumption or further consumption may lead to intoxication. If the person is considered to be intoxicated, he/she will immediately be asked to leave. If that occurs, they will be required to move 50 metres from the Premises and not be permitted re-entry to that area or the Premises for 24 hours.
  - b) The patron should be offered and encouraged to consume non-alcoholic beverages such as water or soft-drinks and food.
  - c) If the patron is in a group, his/her friends should be advised that the patron needs to moderate their alcohol intake.
- 76) If a patron is identified by staff as being intoxicated the following steps must be taken:
- a) Any requests for further service of liquor must be refused;
  - b) Any alcohol presently being consumed is to be removed from the patron to prevent further consumption;
  - c) The patron is to be requested to leave the Premises;
  - d) If the person refuses to leave the Premises, the Police are to be contacted or sought to be contacted to assist with the removal of the patron from the Premises; and

- 77) The following steps should be taken when refusing service to a person:
- a) Introduce yourself to the patron by telling them your name and your role and by asking them for their name;
  - b) Approach the person in a friendly and respectful manner. Patronising or authoritarian attitudes can often evoke anger and make the person more aggressive – this is a common response to threats to one's dignity and self-respect. Try not to speak to the person in front of others.
  - c) When talking to the person: use their name; use slow, distinct speech; use short simple sentences; avoid emotion and involved discussions; use appropriate eye contact.
  - d) Give a clear, concrete statement that by law they cannot be served another drink.
  - e) Notify the Duty Manager. Also notify other bar staff that you have refused service to the person. If a shift change is nearing, notify the new staff.
  - f) Give a clear instruction that the person must leave the Premises, If necessary, guide them to the exit, ensuring that they have all their personal possessions on them.
  - g) If the person refuses to leave, then you should contact police for assistance in removing the person from The Premise.
  - h) If considered necessary, the Licensee may consider imposing a short-term ban.
- 78) Any person seen consuming liquor on approach to the Premises is to be refused entry.

#### 4.4 Liquor Promotion

- 79) Any promotion and activities that surround the sale and supply of alcohol at the Premises must be conducted in accordance with the Liquor Promotion Guidelines issued by Liquor and Gaming NSW (**Appendix C**).

## 5. Security

### 5.1 Security Staff and RSA Marshals

- 80) Licensed security personnel and RSA Marshals are employed by the Premises. They will be strategically positioned by the Duty Manager based on the needs of the Premises. This includes the exterior and interior of the Premises.
- 81) Security guards or RSA Marshals will be engaged at the ratio of 1 to 75 patrons, or part thereof, from 6pm until 30 minutes after close on all days.
- 82) The security guard(s) and/or RSA Marshal(s) will roam the Premises throughout the night.
- 83) Security must be deployed first. When there is one security guard on duty, that guard will be stationed at the car park entry (Door 2). When a second guard is on duty, that guard will be stationed at the Darby Street entrance (Door 1).
- 84) Security and RSA Marshals will be deployed as per detailed in Section 2.5 during staged shutdown.

### 5.2 Role and Responsibilities of Security

- 85) Security duties will be delegated by the Duty Manager at the beginning of the security personnel's shift.
- 86) Security must possess a current security licence, RSA and be in clearly identifiable uniforms.
- 87) Security may, if required request patron identification upon entry to the Premises if that patron looks to be under the age of 21. Identification may be requested during security sweeps of the Premises if a patron is consuming alcohol and appears to be under 21.
- 88) Security will:
  - a) Conduct themselves professionally and in accordance with the industry code of practice;
  - b) Note details of any incidents within the licensed premises or immediately outside in the incident register and to the Duty Manager;
  - c) Ensure patrons awaiting admission to not cause disturbance or impede the pedestrian footway on Darby Street;

- d) Monitor patrons intending to enter for signs of intoxication. Those identified as intoxicated will be refused entry; and
  - e) Quickly and discretely remove patrons displaying unacceptable and/or antisocial behaviour.
- 89) Security personnel appointed to monitor the exterior and interior of the Premises will prevent loitering from patrons, limit noise/antisocial behaviour and collect rubbish when possible.
- 90) A security log is to be kept and maintained which details:
- a) Name, date, start and end time of shift for all security personnel each day they are employed; and
  - b) Any visits from law enforcement with the date, time and reason for the visit.

### 5.3 Closed-Circuit Television (CCTV)

- 91) CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the Premises with particular coverage to:
- a) Principal entrances and exits;
  - b) all areas within the Premises occupied by the public (excluding toilets); and
  - c) areas within a 10m radius external to the public entrance(s) to the Premises.
- 92) All CCTV recording equipment and cameras shall be of high-grade digital quality, capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 10 frames per second and at high resolution.
- 93) CCTV recording discs or hard drive recordings shall be retained for 30 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a copy of recorded footage on demand of Council or Police Officers either immediately or within 24 hours of the request being made.
- 94) All CCTV recording devices and cameras shall be operated a minimum of all trading hours of the Premises and for at least 1 hour after the closing time.

- 95) The CCTV recording device shall be secured within the Premises and only be accessible to senior management. There shall be at least one member of staff on duty at all times that can access the CCTV system.
- 96) Records of patron number derived from the CCTV system must be retained for 18 months. Hourly patron counts for specified dates are to be provided to Council on request.

#### 5.4 Assault Management

- 85) In the event of physical or sexual assault within the Hotel, staff or security must immediately:
  - a) Identify themselves as staff/security to both parties (perpetrator and victim);
  - b) Separate both parties;
  - c) Determine whether NSW Police are required to be notified based on the incident and any requests of the victim;
  - d) If NSW Police are to be notified, undertake steps detailed in Section 6.1 Crime Scene Preservation Guidelines and hold the perpetrator;
  - e) If NSW Police are not to be notified, both parties are to be ejected from different entrances with delay to allow one party to depart before the second party is released.
  - f) Staff will escort the sexual assault victim to their car, taxis or ride share vehicles; or accompany them within the Hotel until a family member or friend arrives on request.
  - g) Record the incident in the Incident Register in accordance with this Plan.

## 6. Other relevant matters

### 6.1 Crime Scene Preservation Guidelines

- 86) Immediately after the Duty Manager in charge of the Hotel becomes aware of an incident involving an act of violence causing injury to a person on the Premises requiring immediate professional medical assistance or sexual assault, the person must:
- Render any required first aid;
  - Immediately contact '000' or the Local Area Commander or his/her delegate and advise them of the incident;
  - Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
- 87) Unless directed otherwise by the Local Area Commander or his/her delegate the following crime scene preservations guidelines must be observed:
- Determine the crime scene and remove all persons from the area. Take all practical steps to preserve and keep intact the area where the act of violence occurred. Cordon off the area utilising bar stools, tables or tape. Consider closing off the area completely for such areas such as toilets, hallways or bars. Remember there may be multiple crime scenes.
  - Do not allow any persons to enter this area;
  - DO NOT CLEAN UP ANY CRIME SCENE. You may be destroying vital evidence;
  - Remember some evidence may not be visible to the naked eye such as blood, semen, skin cells, saliva, hair or fingerprints;
  - Do not move any items that may have been involved in an offence unless absolutely necessary. Use gloves to stop transference of your DNA or fingerprints;
  - Notify Police if any items have been moved or removed from the crime scene. Items may include bottles, glasses, pool cues, clothing, furniture, weapons or cigarette butts;





- g) Make notes in relation to the incident. Time, date, location, description of offender(s), vehicle(s) involved, weapons used, last known direction of offender(s), any movement of items involved in the incident;
  - h) Secure any CCTV footage and the security sign on sheets;
  - i) Obtain any details of witnesses and try to keep all witnesses separated so as to maintain the integrity of their evidence. Try to persuade witnesses from leaving the Premises before Police arrive;
  - j) Hand this information to Police on arrival; and
  - k) Be prepared to make a statement to Police regarding the incident.
- 88) Interfering with evidence may constitute an offence, leaving you liable to prosecution or disciplinary action, and/or may result in the closure of the Hotel.

## 6.2 Drugs and Drink Spiking

- 89) If any person(s) is caught dealing, purchasing or consuming drugs within the Hotel, they are to be requested to leave immediately and Hotel management and the Police must be informed of this. If the same person(s) is caught again, then they are to be barred.
- 90) Drink spiking is often difficult to detect. Below are some things to look out for and what to do:
- a) Any occurrences of a person(s) escorting out an obviously affected and lone person. Ask questions and engage in conversation with the person escorting the affected patron away, asking for their name, where they are heading to, etc. – contact management about any person who goes to length to remain anonymous.
  - b) An affected person may need medical attention, so ask them. If they are not capable of making that decision – then arrange that medical attention.
  - c) Any affected person will need to get to a safe place, which may be theirs or a friends place. Ensure people who are showing signs of intoxication are looked after by their friends and not leave them in the company of the person who may have spiked their drink.

- d) Contact the Police and thoroughly document the incident in the Hotel's Incident Register.
- e) Remember the most common drug used for drink spiking is alcohol. Be aware of strange drink orders such as beer and a nip of vodka, double shots in short glasses, etc.

### 6.3 Fire safety and essential services

- 91) The Licensee shall ensure that all essential services installed at the Hotel are certified and shall ensure that they remain in good working order at all times.
- 92) In the event of any malfunctioning of any essential service the Licensee shall ensure that it is rectified as soon as possible.
- 93) Lists of the telephone numbers of all relevant emergency agencies shall be kept near all telephones.
- 94) All managers and other permanent staff shall be made aware of fire safety requirements and the procedures to be followed in the event of an emergency at the Hotel. In the event of an emergency, staff and security are to direct patrons to the exits and away from the Hotel. The Duty Manager is to engage with the supervisor for each level progressively from the top to the bottom, ensuring the Hotel is vacated.



## 7. Review of Plan

- 95) If, in circumstances where better management or improved amenity outcomes can be achieved by amendments to this Plan, such amendments can be made following consultation with both the Police and Council who shall agree to those changes in writing and they shall be provided with a copy of any modified Plan.
- 96) This Plan and its attachments are also subject to legislative changes to the *Liquor Act 2007* and *Liquor Regulation 2008*. Where publications of Liquor and Gaming NSW are revised or withdrawn from its website or where legislative changes occur from time to time, the Plan is to be taken to reflect those changes and those changes may be made to the Plan without consultation with or approval from NSW Police or City of Sydney Council.
- 97) Part 4 of this Plan is for compliance with the Prevention of Intoxication Guidelines and Responsible Service of Alcohol requirements of the Liquor Act and is for internal purposes only. Provisions of this plan required to meet the relevant section of the Liquor Act will be varied from time to time to reflect industry best practice, or to reflect published changes to the Guidelines or legislation and may be varied or abandoned at the discretion of the Licensee without consultation with the Police or Council.

## 8. Licensee Statement of Understanding

The Licensee hereby acknowledges that the above provisions have been read and are understood.

Sign: .....

Date: .....



## Appendix A – Prevention of Intoxication Guidelines



## Appendix B – Identification of Intoxication Guidelines



Appendix C – Liquor Promotion Guidelines by Liquor & Gaming NSW (GL4001)



## Appendix D – Development Consent



Appendix E – Liquor Licence LIQH400117426





Appendix F – Acoustic Report (26 February 2021)



## Appendix G – Staged Shutdown Plan

