

IDAP REPORT – SECTION 4.55 (2) MODIFICATION

Property:	482 Liverpool Road STRATHFIELD SOUTH Lot: A DP: 324632 DA2014.142.7
Proposal:	Section 4.55(2) Modification Application for changing Condition 7 to permanently extend operational hours to 2:00 AM Fridays and Saturdays and to 12:00 AM on Sundays.
Applicant:	Crossways Hotel
Owner:	AH Laundry
Date of lodgement:	29 November 2021
Notification period:	3 December – 24 December 2021
Submissions received:	1
Assessment officer:	J Gillies
Estimated cost of works:	\$290,000.00
Zoning:	B4-Mixed Use - SLEP 2012
Heritage:	No
Flood affected:	No
Is a Clause 4.6 Variation Proposed:	N/A
RECOMMENDATION OF OFFICER:	Approval

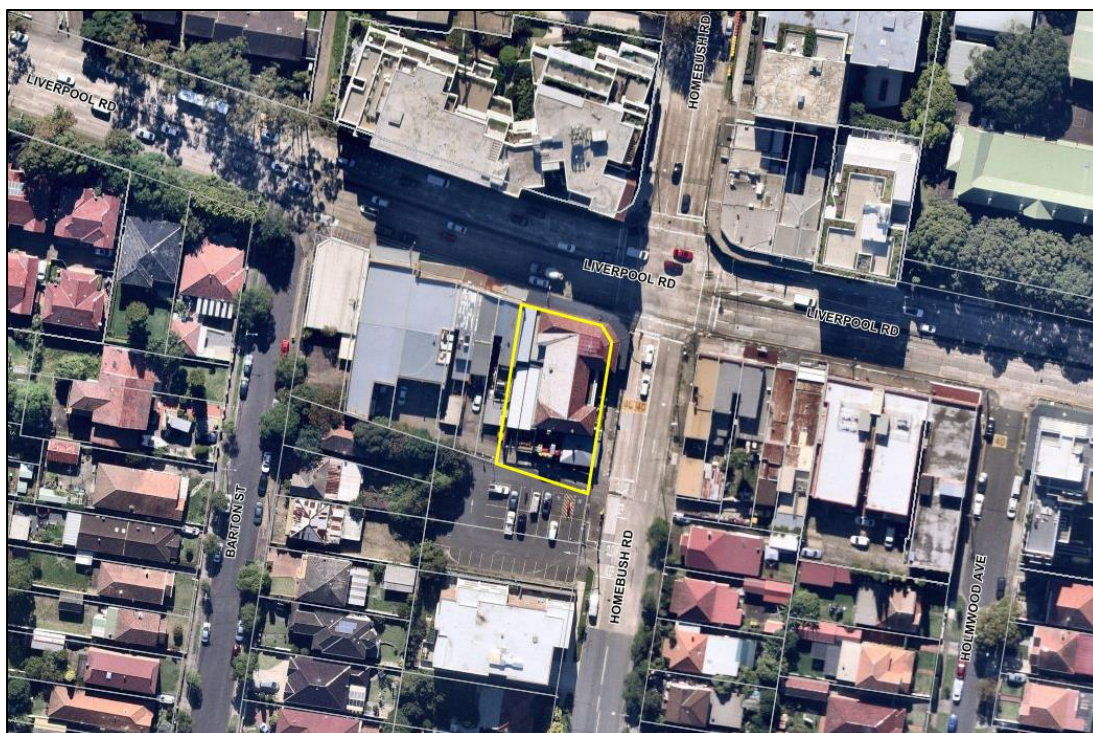


Figure 1 – Locality Plan

EXECUTIVE SUMMARY

Proposal

Approval is being sought for the modification of development consent DA2014/142 for the Section 4.55(2) Modification Application for changing Condition 7 to permanently extend operational hours to 2:00 AM Fridays and Saturdays and to 12:00 AM on Sundays.

Site and Locality

The site is identified as 482 Liverpool Road STRATHFIELD SOUTH and has a legal description of Lot: A DP: 324632. The site is a regular shaped parcel of land and is located on the south-western corner of the Liverpool Road and Homebush Road intersection.

The site has a frontage width to Liverpool road of 19.81m, secondary frontage width of 36.1m to Homebush Road, rear boundary width of 23m and total site area of 850.11m².

The locality surrounding the subject site contains a mixture of higher density development and shop top housing adjoining Liverpool Road and low density residential development further south along Homebush Road.

Strathfield Local Environmental Plan

The site is zoned B4-Mixed Use under the provisions of Strathfield LEP 2012 and the proposal is a permissible form of development with Council's consent. The proposal as amended satisfies all relevant objectives contained within the LEP.

Development Control Plan

The proposed development as amended generally satisfies the provisions of Strathfield Consolidated DCP 2005. This is discussed in more detail in the body of the report.

Notification

The application was notified in accordance with Council's Community Participation Plan from 3 December – 24 December 2021, where 1 submission was received raising the following concerns:

- Safety associated with drink driving, noise, crime and gang violence, increased difficulty in managing COVID.

Issues

- Noise.

Conclusion

Having regards to the heads of consideration under Section 4.15 of the Environmental Planning & Assessment Act 1979, Development Application 2014/142/7 is recommended for approval subject to suitable conditions of consent as modified.

REPORT IN FULL

Proposal

Council has received an application to modify development consent DA 2014/142 under Section 4.55(2) Modification Application for changing Condition 7 to permanently extend operational hours to 2:00 AM Fridays and Saturdays and to 12:00 AM on Sundays.

Condition 7 currently reads as follows:

7. The hours of operation of the Crossways Hotel shall be as follows:

	<i>Base Hours</i>	<i>Extended Hours</i>
<i>Monday to Thursday</i>	<i>5am to 12 midnight</i>	<i>-</i>
<i>Friday and Saturday</i>	<i>5am to 12 midnight</i>	<i>12 midnight to 2am</i>
<i>Sunday and Public Holidays</i>	<i>10am to 10pm</i>	<i>10pm to 12 midnight</i>

Extended Hours – 12 month trial:

- 1) *The late night trading hours are subject to a 12 month trial.*
- 2) *Prior to the commencement of the late night trading hours (subject to a 12 month trial period), the applicant must submit to Council for its approval an acoustic report prepared by a suitably qualified and experienced acoustic consultant and an updated Plan of Management to reflect the recommendations of the acoustic report. The acoustic report must:*
 - i) *Contain background readings taken in accordance with NSW EPA Noise Policy for Industry 2017 “Fact Sheet B: Measurement procedures for determining background noise” long-term measurement. The background readings must include full details on how meteorological conditions were monitored.*
 - ii) *Background readings must be reported in accordance with NSW EPA Noise Policy for Industry 2017 “Fact Sheet B: Measurement procedures for determining background noise” for long-term measurement.*
 - iii) *Identify all noise producing aspects of the proposed development.*
 - iv) *Demonstrate the suitability of any assumptions used in the acoustic report, via the provision of references or validating data.*
 - v) *Recognise and provide variation for the impact of alcohol on any crowd noise.*
 - vi) *Identify which areas of the development are indoor areas and outdoor areas.*
 - vii) *Propose effective and quantifiable noise control measures to control noise emitted from the premises to a levels required in condition– Noise Use (Licenced Premises)*

Note: Any smoking gaming rooms with permanent openings are considered outdoor areas while smoking is permitted in the areas. If a room is required to have any doors, windows, louvres or any other structure to be open to allow smoking in the room, the room shall be considered outdoors while smoking is undertaken in the room.

- 3) *The 12 month trial period commences from the date of Council's approval of the Acoustic Report and Plan of Management referred to in Condition 2.*

A Section 4.55 application to modify or to make permanent the late night trading hours must be lodged 30 days prior to the expiry period. Until the application is determined the premises may continue to trade as per the approved trial hours. If an application is not lodged 30 days prior to the expiry of the trial period, the trading hours will revert to the base trading hours.

A renewal or extension of trading hours that are subject to any trial period may only be permitted if Council is satisfied that the premises has demonstrated good management performance, compliance with a plan of management and consideration of any comments from Police and State Licensing Authorities.

If the Council determines that the trial period has been unsatisfactory then trading hours will revert to the base trading hours.

- 7A. *The use and operation of the premises and equipment shall comply with the following at all times:*
- i) Must not emit a sound pressure level when measured at the boundary of any other residential property between 7:00am and 12:00 midnight that exceeds the background (LA90, 15minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.*
 - ii) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5dB between 7:00 AM and 12:00 midnight at the boundary of any affected residence.*
 - iii) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz- 8 kHz inclusive) between 12:00 midnight and 7:00 AM at the boundary of any affected residence.*
 - iv) Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00 AM.*

The proposal seeks to amend condition 7 to remove all details under 'Extended Hours – 12 month trial'. This follows advice from Council that the trial period was completed on 18 December 2021. In accordance with Condition 7, the Applicant has submitted

- An Acoustic Report that complies the requirements of Condition 7 (and has been endorsed by Council's Environmental Health Team).
- A Plan of Management.

It is noted the submitted Plan of Management does not adopt the recommendations of the Acoustic Report approved by Council. This is discussed in more detail in the assessment of the Application below.

The revised Condition 7 is proposed to read as follows:

7. The hours of operation of the Crossways Hotel shall be as follows:

	<i>Base Hours</i>	<i>Extended Hours</i>
<i>Monday to Thursday</i>	<i>5am to 12 midnight</i>	<i>-</i>
<i>Friday and Saturday</i>	<i>5am to 12 midnight</i>	<i>12 midnight to 2am</i>
<i>Sunday and Public Holidays</i>	<i>10am to 10pm</i>	<i>10pm to 12 midnight</i>

No change to Condition 7A is proposed.

The Site and Locality

The site is identified as 482 Liverpool Road STRATHFIELD SOUTH and has a legal description of Lot: A DP: 324632. The site is a regular shaped parcel of land and is located on the south-western corner of the Liverpool Road and Homebush Road intersection.

The site has a frontage width to Liverpool road of 19.81m, secondary frontage width of 36.1m to Homebush Road, rear boundary width of 23m and total site area of 850.11m².

The locality surrounding the subject site contains a mixture of higher density development and shop top housing adjoining Liverpool Road and low density residential development further south along Homebush Road.

Adjoining the site to the south is a car park approximately 996m² owned by Strathfield Municipal Council. To the south of the car park is a 4 storey residential flat building. On the eastern side of Homebush Road and adjoining the site to the west are commercial terraces fronting Liverpool Road. A number of these properties incorporate shop top housing. On the northern side of Liverpool Road, higher density development exists, with between 5 and 8 storeys of residential and ground floor retail.



Figure 2 – Corner Façade of the pub at the site

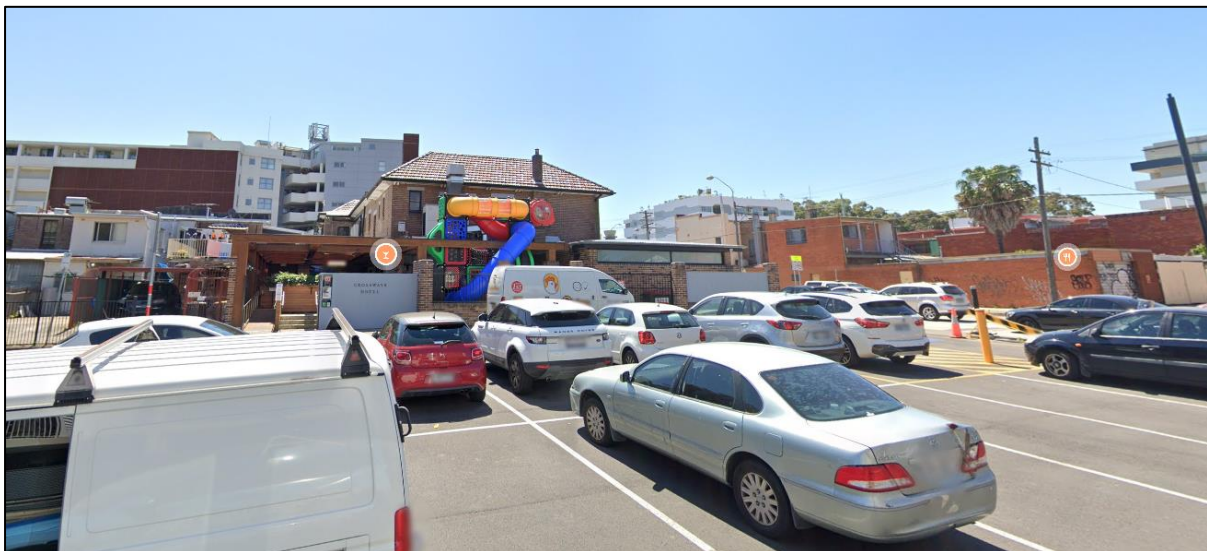


Figure 3 – Rear of the Crossways Hotel as viewed from the Council owned car park



Figure 4 – Close ups of the rear of the Crossways Hotel



Figure 5 – Residential flat build at 247 Homebush Road (located on the southern side of the car park)



Figure 6 – Looking south along Homebush Road with an outdoor area of the Crossways Hotel on the left



Figure 7 – Looking south along Liverpool Road



Figure 8 – Looking north along Liverpool Road
Background

15 December 2014

The Council granted approval to Development Application No. 2014/142 for alterations to the existing Crossways Hotel including an outdoor beer garden, entry structure, gaming area and toilet facilities.

23 October 2015

A Section 96(1A) modification application (DA2014/142/01) to extend the hours of operation of the Crossways Hotel was refused by Council.

19 November 2015

A Section (1A) modification application (DA2014/142/02) incorporating internal configuration of the kitchen, private room and bar areas, amendment to the Liverpool Road entrance and the children's play area was approved.

- 6 June 2019** A Section (1A) modification application (DA2014/142/03) to extend the hours of operation from 12am to 2pm Monday – Saturday and 10pm to 12 midnight on Sundays with a 12 month trial period was approved.
- 5 May 2020** A Modification Application (DA2014/142/05) to make permanent the extended trading hours was lodged with Council. The Modification was withdrawn following advice from Council that the submitted Acoustic Report did not address the requirements of Condition 7.
- 22 December 2020** A revised acoustic report was submitted by the Applicant and endorsed by Council's Environmental Health Team as meeting the requirements of Condition 7. Council advised that due to the first NSW COVID-19 lockdown, 8 months of the 12 month trial period remained.
- 28 October 2021** A Modification Application (DA2014/142/06) to make permanent the extended trading hours was lodged with Council. The Modification was withdrawn following advice from Council that due to the second NSW lockdown, the months of July and August were not typical periods of operation for the hotel. The Applicant was advised that the end of the extended hours trial period would be 18 December 2021 and as per Condition 7, submission of the modification to make permanent the extended hours would be required on 18 November 2021.
- 29 November 2021** The subject Modification Application was lodged with Council.

Referrals – Internal and External

Internal – Environmental Health

Council's Environmental Health Team were involved in the drafting of Condition 7A and have provided advice since issue of DA2014/142/03. The various referral comments from Environmental Health are outlined below:

- **Environmental Health comments following receipt of the withdrawn modification DA2014/142/05**

Council's Environmental Health Team outlined that the Acoustic Assessment submitted with the modification did not meet the requirements of Condition 7 and that a revised acoustic assessment would need to be submitted incorporating background readings taken in accordance with NSW EPA Noise Policy for Industry 2017.

A revised acoustic assessment was received and on 22 December 2020, Council's Environmental Health Team advised the report met the requirements of Condition 7 in terms of the content of the acoustic report. It was also agreed with the Environmental Health Team that 4 months of the trial period would be counted prior to the receipt of the acoustic report. This was to allow for consideration of 'normal' operation outside of COVID restrictions and lockdowns.

- **Environmental Health comments following receipt of the withdrawn modification DA2014/142/06**

Prior to withdrawal of DA2014/142/06, Council's Environmental Health Team provided referral comments. The referral comments are considered relevant to the subject modification (DA2014/142/07) as the Applications are identical and mod 06 was only withdrawn as the full trial period had not been completed.

Council's Environmental Health Officer offered no objection to the recommendations of the acoustic report and provided the following special condition recommendations:

1. *Courtyard areas to be closed off to patrons at midnight Friday to Saturday and at 10pm Sundays.*
2. *All external doors and windows to be closed between 12am – 2 am (exemption: louvre awning ceiling in smoking and gaming rooms to remain open).*
3. *An electronic frequency limiter is installed on the sound system as stipulated in the Acoustic Report.*
4. *Patron's behaviour is to be controlled by security personnel (yelling as exiting the premises is prohibited) as stipulated in the Acoustic Report.*
5. *No entertainment music other than background music after midnight on Friday and Saturday or after 10 pm on Sunday.*
6. *Patron capacity is limited to 100 patrons after midnight.*

The above have been incorporated into an amended Condition 7. Condition 7 has also been amended to include a requirement for the Plan of Management to adopt the requirements 1 and 2. It is noted that the submitted Plan of Management already incorporates recommendations 4, 5 and 6. Recommendation 3 is not considered suitable for inclusion in the Plan of Management.

- **Environmental Health comments for the subject Modification - DA2014/142/07**

*A final referral was received for the subject modification, outlining the following:
I have yet to receive any complaints related to the site at Crossway Hotel and I'm not aware of any reports that came through from our rangers.*

As such, I believe the trial period for extension hours of operation has been satisfied.

The DA can be supported on the provisions that all conditions as set out during the trial period to be made permanent as operation conditions moving forward.

As noted above, Condition 7A will remain unchanged under the modification and the recommendations from the acoustic report will be incorporated into an amended Condition 7.

NSW Police or State Licensing Authorities

Council's records indicate that no comment was received from NSW Police or State Licensing Authorities during the trial period.

NSW Police (Auburn Local Area Command) were consulted during the notification of the withdrawn DA2014/142/06. No comments were received.

The original referral from NSW Police on the extended hours trial period (under DA2014/142/03) is outlined below:

The applicants have requested to extend the hours of operation of the existing hotel to include 12am to 2am Monday to Friday, and 10pm to 12am Sundays, for a trial period of 12 months. Police are adamant that the applicant must not trade beyond these hours, and Auburn Police will monitor this and breach the applicant if necessary. Police are happy for a 12 month trial period to take place, however request that if there is an increase in alcohol related crime due to these extended hours, the applicant will be required to partake in meetings with the Licensing Officer from Auburn to organise a management plan. After the 12 month trial period has been completed, the Licensing Officer wishes to organise a meeting with the applicant to discuss any further applications to vary trading hours. Auburn Police will closely monitor the premises to ensure they comply with their liquor licence conditions and the responsible service of alcohol.

Considering the above, amendments to condition 7 are recommended to allow for reversion back to the base hours of operation should the NSW Police contact Council and outline that they believe an increase in alcohol related crime is the result or potential result of the extended trading hours.

Section 4.55 of the EP&A Act 1979

The application has been lodged under the provisions of s4.55(2) of the EPA Act. The application is not considered to be of minimal environmental impact, is substantially the same development for which consent was originally granted, has been notified in accordance with the provisions of Council's CPP and any submissions made will be considered as part of this assessment. In addition, under the provisions of s4.55 (3), the reasons for the granting on the consent that sought to be modified will be taken into consideration during the detailed assessment of the application.

Section 4.15 Assessment – EP&A Act 1979

The following is an assessment of the application with regard to Section 4.15 (1) of the Environmental Planning and Assessment Act 1979.

(1) Matters for consideration – general

In determining an application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provision of:**
- (i) any environmental planning instrument,**

Strathfield Local Environmental Plan

The development site is subject to the Strathfield Local Environmental Plan 2012

The assessment of the extended trading hours against the general aims of SLEP 2012 and the objectives of the zone was included in the assessment report for DA2014/142/03, which outlined the proposal is suitable for the site. The subject modification seeks to make permanent the extended hours and does not trigger assessment against any new provisions under SLEP.

There are no provisions contained under parts 4, 5 and 6 relevant to the subject modification.

- (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and**

There are no draft planning instruments that are applicable to this site.

- (iii) any development control plan,**

The proposal is subject to the provisions of Strathfield Consolidated Development Control Plan 2005.

The proposed modification is for making permanent the extended hours of operation which were assessed under DA2014/142/03. None of the sections under SCDCP 2005 are considered relevant to the subject modification.

- (iv) Any matters prescribed by the regulations, that apply to the land to which the development application relates,**

The provisions of this clause are not relevant to the modification and have been addressed/considered as part of the original development consent.

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,**

The impacts of the development have generally been addressed under DA DA2014/142/03, with the subject modification being for making permanent the extended trading hours trial period.

In this regard, the impacts of the development are considered acceptable, noting Council has not received any complaints during the trial period and the Applicant has satisfied the requirements of Condition 7 with regard to the contents and recommendations of the acoustic report.

It is noted that Council has no clear way of understanding the extended hours were fully utilised during the trial period. However, conditions of consent (amendments to Condition 7) will require acoustic attenuation measures in accordance with the submitted acoustic report to mitigate noise impacts associated with ongoing extended hours operation and allow for review of the extended hours should any substantiated complaints be received from stakeholders such as the Police.

(c) *the suitability of the site for the development,*

It is considered that the proposed development, as modified, is of a scale and design that is suitable for the site having regard to its size and shape, its topography, vegetation and relationship to adjoining developments.

(d) *any submissions made in accordance with this Act or the regulations,*

In accordance with the provisions of Council's Community Participation Plan, the application was placed on neighbour notification for a period of fourteen (14) days where adjoining property owners were notified in writing of the proposal and invited to comment.

One (1) submission was received during the notification period for the subject modification (DA2014/142/07):

Submission comments: Safety concerns associated with crime and increased crime violence due to alcohol. Noise related concerns and COVID management.

Planner's comments: The extended hours of operation have not resulted in increased crime and violence as far as Council is aware. Notwithstanding, Council will impose a condition of consent allowing for review of the extended hours should the NSW Police notify Council of any impacts associated with the extended hours of operation.

The inclusion of the recommendations from the acoustic assessment submitted with the modification will allow for effective acoustic attenuation measures as endorsed by Council's Environmental Health Team.

The withdrawn modifications (DA2014/142/05 and DA2014/142/06) were for an identical purpose to the subject modification, however were withdrawn due to pre-mature lodgement. Part of the notification was completed for each of these and considering the potential public confusion regarding the progression of the process to make permanent the extended hours, previous submissions have been taken into consideration:

Submission comments: General comments that the existing hours are adequate.

Planner's comments: The extended hours have been assessed as suitable.

Submission comments: Alcohol related issues, incorrections with the plan of management.

Planner's comments: The above concerns have been addressed in the assessment provided in this report.

(e) *the public interest.*

The proposed development, as modified, is of a scale and character that does not conflict with the public interest.

Local Infrastructure Contributions

Section 7.13 of the EP&A Act 1979 relates to the collection of monetary contributions from applicants for use in developing key local infrastructure. This section prescribes in part as follows:

A consent authority may impose a condition under section 7.11 or 7.12 only if it is of a kind allowed by, and is determined in accordance with, a contributions plan (subject to any direction of the Minister under this Division).

The proposed modifications do not result in the increase or change to the contributions imposed on the original consent.

Conclusion/Recommendation

The application for modification has been assessed having regard to the Heads of Consideration under Section 4.15 (1) of the Environmental Planning and Assessment Act 1979, the provisions of the SLEP 2012 and SCDP 2005.

Pursuant to Section 4.55(2) of the Environmental Planning & Assessment Act 1979 and following detailed assessment of the proposed modifications to Development Consent No. 142/2014 for changing Condition 7 to permanently extend operational hours to 2:00 AM Fridays and Saturdays and to 12:00 AM on Sundays be approved subject to the following:

1. The proposed modifications does not result in the change to the description of the approved development and is to be maintained.
2. The original conditions of consent of Development Consent No. DA2014/142 except where amended as below.
3. As part of the Section 96(1A) application DA2014/142/02, incorporating internal configuration of the kitchen, private room and bar areas, amendment to the Liverpool Road entrance and the children's play area was approved.
3. As part of the Section 4.55(2) application DA2014/142/03, incorporating extended hours of operation and establishment of a trial period.
3. As part of this Section 4.55(2) application, the following conditions are to be modified, added or deleted;
 - Amendment to Condition 1, and
 - Amendment to Condition 7.

Accordingly, Development Consent 2014/142/7 is approved as per the following;

Signed:

Date: 18/07/2022

**J Gillies
Senior Planner**

- ☒ I confirm that I have determined the abovementioned development application with the delegations assigned to my position;
- ☒ I have reviewed the details of this modified development application and I also certify that Section 7.11/7.12 Contributions are not applicable to this development;

Report and recommendations have been peer reviewed by;

Signed:
L Gibson

Date: 18/07/2022

Plans

1. The development shall be completed in accordance with the approved plans and documents listed below, prior to the building being used or occupied, and subject to any amendments "in red" and any variation as required by conditions of this consent:

Overall General Arrangement Plan DWG NO D.100 Issue A prepared by Luchetti Krelle received by Council 8 July 2015

External Elevations DWG NO D.200 Issue A prepared by Luchetti Krelle received by Council 8 July 2015

External Elevations DWG NO D.201 Issue A prepared by Luchetti Krelle received by Council 8 July 2015

External Elevations DWG NO D.202 Issue A prepared by Luchetti Krelle received by Council 8 July 2015

External Elevations DWG NO D.203 Issue A prepared by Luchetti Krelle received by Council 8 July 2015

External Finishes Schedule Revision A prepared by Luchetti Krelle received by Council 13 November 2015.

Waste Management Plan received by Council 29 September 2014.

Acoustic Report Proposed Extension of Hours - Revision 3 - Prepared by Rodney Stevens Acoustics - Received by Council 29 November 2021

Crossways Hotel Plan of Management – Prepared by GJ Consulting – Version 1.3 dated 23 October 2019 – Received by Council 29 November 2021

AMENDED: DA2014.142.7 22 July 2022

2. A Construction Certificate must be obtained either from Council or a privately accredited person before commencement of any construction associated with this consent.
3. The Principal Certifying Authority must be appointed prior to work commencing to supervise the work and authorise occupation/use of the building when completed.
4. A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and any approved Traffic Management Plan are to be retained on site at all times.

General

5. The applicant or any contractors carrying out works in public or Council controlled lands shall have public liability insurance cover to the value of \$10million and shall provide proof of such cover to Council prior to carrying out works
6. Fees are payable where Council is appointed as principal certifying authority to carry out the post-approval inspections. A quotation for the fees can be obtained by contacting Council and the fees shall be paid prior to the carrying out of any of the inspections.

Any re-inspection which is necessary due to site access not being available, defective work, or the matter not being ready for inspection will be charged in accordance with Council's Fees and Charges Policy. Council will advise in writing if an additional re-inspection is required and the re-inspection fee shall be paid **prior to release of the damage deposit.** If the additional fee is not paid it will be deducted from the damage deposit.

Site Operation

7. The hours of operation of the Crossways Hotel shall be as follows:

	Base Hours	Extended Hours
Monday to Thursday	5am to 12 midnight	-
Friday and Saturday	5am to 12 midnight	12 midnight to 2am
Sunday and Public Holidays	10am to 10pm	10pm to 12 midnight

- i. The extended hours of operation may be reviewed by Council at any time, subject to the operator of the premises being given twenty one (21) days written notice that a review of the extended hours of operation will take place. In that time the operator may submit to Council any information they wish to be considered in support of the extended hours of operation.
- ii. Any review of the extended hours of operation by Council will be based on, among other things, the performance of the operator in relation to the compliance with the development consent conditions, any substantiated complaints received and any views expressed during public consultation or from other stakeholders including the Police.
- iii. Following a review, Council may allow the use to continue to operate for the extended hours, require the use to revert to the core hours of operation or otherwise modify the condition as considered appropriate.
- iv. The purpose of the reviewable condition is to allow ongoing assessment of the hours of operation in relation to neighbourhood amenity, public safety and operational performance and allow management to demonstrate successful practices in relation to the above.

7A. The use and operation of the premises and equipment shall comply with the following at all times:

- i) Must not emit a sound pressure level when measured at the boundary of any other residential property between 7:00am and 12:00 midnight that exceeds the background (LA90, 15minutes) by more than 5dB(A). The source noise level must be measured as a LAeq 15 minute.
- ii) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5dB between 7:00 AM and 12:00 midnight at the boundary of any affected residence.
- iii) The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz- 8 kHz inclusive) between 12:00 midnight and 7:00 AM at the boundary of any affected residence.
- iv) Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00 AM.

7B. The use and operation of the premises and equipment shall comply with the following at all times:

- i. **Courtyard areas to be closed off to patrons at midnight Friday to Saturday and at 10pm Sundays.**
- ii. **All external doors and windows to be closed between 12am – 2 am (exemption: louvre awning ceiling in smoking and gaming rooms to remain open).**
- iii. **An electronic frequency limiter is installed on the sound system as stipulated in the approved Acoustic Report (Revision 3 - Prepared by Rodney Stevens Acoustics - Received by Council 29 November 2021).**
- iv. **Patron's behaviour is to be controlled by security personnel (yelling as exiting the premises is prohibited) as stipulated in the approved Acoustic Report (Revision 3 - Prepared by Rodney Stevens Acoustics - Received by Council 29 November 2021).**
- v. **No entertainment music other than background music after midnight on Friday and Saturday or after 10 pm on Sunday.**
- vi. **Patron capacity is limited to 100 patrons after midnight.**

AMENDED: DA2014.142.7 22 July 2022

7C. The approved Plan of Management (Prepared by GJ Consulting – Version 1.3 dated 23 October 2019) is to be amended to include the following requirements under Section 3 'Further Operational Requirements – Extended Trade':

- i. **Courtyard areas to be closed off to patrons at midnight Friday to Saturday and at 10pm Sundays.**

- ii. **All external doors and windows to be closed between 12am – 2 am (exemption: louvre awning ceiling in smoking and gaming rooms to remain open).**

AMENDED: DA2014.142.7 22 July 2022

8. The delivery and despatch of goods, material and the like to and from the premises shall only take place between the hours of 7am to 7pm, Monday to Saturday and 10am to 5pm, Sunday.
9. Any proposed lighting of the site shall be designed, located or shielded to ensure the amenity of the surrounding area is not adversely affected by light overspill and details shall be submitted and approved by the Principal Certifying Authority **prior to the installation** thereof.
10. No flashing lights or flashing animated signs shall be erected on the property.
11. No advertising flags, banners or the like are to be erected on or attached to the shopfront.
12. No advertising, corporate colours, logos or decal are to be applied or painted or placed within 1 metre of the shopfront windows so as to be visible from outside without the prior written approval of Council.
13. No flashing signage visible from the public way shall be installed.
14. The proprietors of the venue shall be responsible at all times for the orderly dispersal of patrons from the premises.
15. Signs shall be appropriately located within the building and in the car park advising patrons of the nearby residences and seeking quiet and orderly ingress and egress from the premises. The proprietor shall ensure that staff give appropriate directions and take reasonable steps to control noisy and disorderly patrons entering or leaving the premises. In this regard a Plan of Management is to be submitted to the Principal Certifying Authority for approval **prior to the issue of an Occupation Certificate** detailing how this will be implemented and detailing policies on dealing with non-compliant patrons.

Construction Matters

16. The proposed development shall comply with the National Construction Code and details demonstrating compliance shall be submitted to the Principal Certifying Authority for approval **prior to the issue of a Construction Certificate.**
17. The egress from the apartments above to the street shall be constructed in accordance with the requirements of section D of the national Construction Code. The entry/exist paths shall comply with section D3 & AS1428
18. All construction, demolition and excavation work shall be restricted to 7am and 5pm on Mondays to Saturdays (inclusive) and prohibited on Sundays and public holidays.

Demolition

19. Demolition shall be carried out in accordance with Australian Standard 2601 - 'The demolition of structures' or any subsequent standard and the relevant legislation.
20. The demolition of the building shall be carried out by a licensed demolition contractor. A copy of the licence shall be submitted to Council and the Principal Certifying Authority **prior to any work commencing on site.**
21. Details demonstrating that excavated and demolished materials including asbestos-based materials will be disposed of at an approved site shall be submitted to the Principal Certifying Authority **prior to any work commencing on site.**
22. The cleared ground surface of the site shall be suitably stabilised to prevent the generation of dust and the erosion of soil on the site.
23. Upon completion of works a final fire safety certificate is to be issued from a properly qualified person in respect of each essential fire safety measure installed within the building and specified in the fire safety schedule. The final fire safety certificate shall be provided **prior to the issue of an Occupation Certificate.**

As soon as practicable after a final safety certificate is issued, the owner of the building to which it relates:

- (a) shall submit a copy of the fire safety certificate (together with a copy of any current fire safety schedule) to the Commissioner of NSW Fire Brigades;
- (b) shall submit a copy of the fire safety certificate (together with a copy of any current fire safety schedule) to Council for registration; and
- (c) shall ensure the current fire safety schedule is prominently displayed in the building.

Food/Kitchen

24. The fit out, use and operation of the kitchen premises including all preparation and food storage areas shall comply with the Australian/New Zealand Food Safety Standards Code and relevant standards. Details shall be submitted to the Principal Certifying Authority and approval obtained **prior to the issue of a Construction Certificate.**

Note: Copies of the Code are available from the Food Standards Australia New Zealand website at <http://www.foodstandards.gov.au/>

25. Food premises registration (for inspection purposes) must be obtained from Council **prior to the issue of an Occupation Certificate and/or use of the premises.**
26. Plans and specifications showing details of all mechanical ventilation systems shall be submitted to the Principal Certifying Authority and approval obtained **prior to the issue of a Construction Certificate.**

Disabled Access

27. Access to the building for persons with disabilities shall be in accordance with the requirements of the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.
28. Sanitary facilities for persons with disabilities shall be provided in the building in accordance with the Building Code of Australia and the relevant standards. Details shall be submitted to and approved by the Principal Certifying Authority **prior to the issue of a Construction Certificate.**

Waste Management

29. Full compliance must be given to the endorsed Waste Management Plan submitted for the proposed development. Copies of any weighbridge receipts from all approved waste disposal facilities shall be retained for presentation to the Principal Certifying Authority upon request.
30. A maximum of ten (10) employees are permitted to operate the site at any one (1) time.
31. The hours of use for the children's play area is to be restricted from 8am – 9pm.
32. Footings shall be designed in accordance with the soil classification of H, or Highly Reactive (unless determined to the contrary by a suitably qualified person).
33. Certification shall be obtained from a registered surveyor at the following stage(s) of construction confirming that the building has been constructed in accordance with the approved plans including any approved amendments (S.96 approvals) and plans and details required by Council as conditions of development consent:
 - a) footings excavation prior to placement of concrete;
 - b) ground floor and first floor levels;
 - c) wall setbacks from property boundaries and street alignment; and
 - d) dimensions and areas of balconies/courtyards.
34. Copies of the surveyor's certificates must be submitted to and accepted by Council at the stages nominated above.
35. The licensee must maintain a closed-circuit television system on the premises in accordance with the following requirements:
 - (a) The system must record continuously from opening time until one hour after the premises are required to close (or, in the case of the premises that are not required to cease trading, continuously at all times)
 - (b) Recordings must be digital format and at minimum of 15 frames per second,
 - (c) Any recorded image must specify the time and date of the recorded image,
 - (d) The system's cameras must cover the following areas, all entry and exit points on the premises, the footpath immediately adjacent to the premises, all publicly accessible areas (other than toilets) on the premises,

- (e) The licensee must also keep all recordings made by the CCTV system for at least 30 days, and ensure that at least one member of staff is on the premises at all times who is able to access and fully operate the CCTV system, including downloading and producing recordings of CCTV footage and
 - (f) Provide any recordings made by the system to a police officer or inspector with 24 hours of any request by a police officer or inspector to provide such recording.
36. The venue must utilise the services of a minimum one (1) licensed security guard during the late night trading hours until 30 minutes after the last patron has left.

You are reminded that the other conditions and terms of the original consent still apply and must be complied with.

An amended Construction Certificate may also be required, if the modification relates to changes to the building.