



4 NOVEMBER 2020

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 12 NOVEMBER 2020.

City of Ryde Local Planning Panel Meeting No. 9/20

Council Chambers, Level 1A, 1 Pope Street, Ryde - 5.00pm

English

If you do not understand this letter, please come to the 1 Pope Street, Ryde (within Top Ryde Shopping Centre), Ryde, to discuss it with Council Staff who will arrange an interpreter service. Or you may ring the Translating & Interpreting Service on 131 450 to ask an interpreter to contact you. Council's phone number is 9952 8222. Council office hours are 8:30am to 5:00pm, Monday to Friday.

Arabic

إذا لم تفهم محتوى هذه الرسالة، يرجى الحضور إلى 1 Pope Street، Ryde (في Top Ryde Shopping Centre)، Ryde، لمناقشتها مع موظفي المجلس الذين سوف يرتبون للاستعانة بمترجم شفهي. أو قد يمكنك الاتصال بخدمة الترجمة التحريرية والشفهية على الرقم 131 450 لتتطلب من المترجم الاتصال بك. رقم هاتف المجلس هو 9952 8222. ساعات عمل المجلس هي 8:30 صباحاً حتى 5:00 مساءً، من الاثنين إلى الجمعة.

Armenian

Եթե դուք չեք հասկանում սույն նամակի բովանդակությունը, խնդրում ենք այցելել 1 Pope Street, Ryde (որը գտնվում է Top Ryde Shopping Centre-ի մեջ), Ryde, քննարկելու այն Քաղաքային Խորհրդի անձնակազմի հետ, ովքեր ձեզ համար կապահովեն թարգմանչական ծառայություն: Կամ կարող եք զանգահարել Թարգմանչական Ծառայություն 131 450 հեռախոսահամարով և խնդրել, որ թարգմանիչը ձեզ զանգահարի: Խորհրդի հեռախոսահամարն է 9952 8222: Խորհրդի աշխատանքային ժամերն են առավոտյան ժամը 8:30-ից մինչև երեկոյան ժամը 5:00, երկուշաբթիից մինչև ուրբաթ:

Chinese

如果你不明白这封信的内容，敬请前往1 Pope Street, Ryde（位于Top Ryde Shopping Centre内），向市政府工作人员咨询，他们会为您安排口译服务。此外，您也可以拨打131 450联络翻译和口译服务，要求口译员与您联系。市政府电话号码为9952 8222。市政府办公时间为周一至周五上午8:30至下午5:00。

Farsi

لطفاً اگر نمی توانید مندرجات این نامه را درک کنید، به نشانی 1 Pope Street، Ryde (در Top Ryde Shopping Centre) مراجعه کنید تا با استفاده از یک مترجم در این باره با یکی از کارکنان شورای شهر گفتگو کنید. یا آنکه می توانید با خدمات ترجمه کتبی و شفاهی به شماره 131 450 تماس گرفته و بخواهید که به یک مترجم ارتباط داده شوید. شماره تماس شورای شهر 9952 8222 و ساعات کاری آن از 8:30 صبح تا 5:00 بعد از ظهر روزهای دوشنبه تا جمعه است.

Italian

Se avete difficoltà a comprendere questa lettera, venite in 1 Pope Street, Ryde (dentro al Top Ryde Shopping Centre), Ryde, per discutere con il personale del Comune che organizzerà un servizio di interpretariato. Potete anche contattare il Servizio di Traduzione e Interpretariato al 131 450 per chiedere a un interprete di contattarvi. Il numero di telefono del Comune è il 9952 8222. Gli orari di ufficio del Comune sono dalle 8.30 alle 17 dal lunedì al venerdì.

Korean

이 서신을 이해할 수 없을 경우, 1 Pope Street, Ryde (Top Ryde Shopping Centre 내)에 오셔서 통역사 서비스를 주선할 시의회 직원과 논의하십시오. 혹은 통번역서비스에 131 450으로 전화하셔서 통역사가 여러분에게 연락하도록 요청하십시오. 시의회의 전화번호는 9952 8222입니다. 시의회 사무실 업무시간은 월요일에서 금요일, 오전 8시 30분에서 오후 5시까지입니다.

Meeting Date: Thursday 12 November 2020
Location: Virtual Meeting held over Microsoft Teams
Time: 5.00pm

City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.

NOTICE OF BUSINESS

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DEVELOPMENT APPLICATIONS

- 1 68 Blaxland Road, Ryde (Royal Hotel) - Alterations to an existing hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday - LDA2020/0089**

Report prepared by: Senior Coordinator - Major Development

Report approved by: Manager - Development Assessment; Director - City Planning and Environment

Report dated: 03 November 2020

File Number: GRP/09/6/12/1/2 -

BP20/1143

City of Ryde Local Planning Panel Report

DA Number	LDA2020/0089
Site Address & Ward	Royal Hotel 68 Blaxland Road, Ryde Central Ward
Zoning	B4 Mixed Use
Proposal	Alterations to an existing hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday.
Property Owner	DOAR (NSW) Pty Ltd
Applicant	Patrick Gallagher
Report Author	Rebecca Lockart – Senior Coordinator Major Development
Lodgement Date	25 March 2020
No. of Submission	Fourteen (14) objecting to the proposal.
Cost of Works	\$91,300
Reason for Referral to RLPP	Contentious development – more than 10 unique objecting submissions
Recommendation	Refusal
Attachments	Attachment 1. Plan of Management Attachment 2. Architectural Plans

ITEM 1 (continued)

1. Executive Summary

The following report is an assessment of Local Development Application No. LDA2020/0089, for alterations to an existing hotel, The Royal Hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday.

Proposed hours of operation

The application proposes to extend the hours of operation a further two hours to 4am on Monday to Saturday.

The existing hours for the Hotel permit trade between 10am and 2am Monday to Saturday, and 10am to midnight Sunday. The site has been subject to a number of applications to extend trading hours. Each of these applications have predominantly related to the Hotel gaming area, and the measures enforced by conditions of existing consents are proposed to form part of the operations during the extended hours of operation as outlined in the submitted Plan of Management (**Attachment 2**). These include:

- No sale of liquor after midnight.
- Maximum of 50 patrons after midnight.
- Entry and exit to the Hotel after midnight to be restricted to the entry and exit point on Blaxland Road.
- Security guard from 9pm (on late trading evenings only).

Proposed building works

The proposed works include alterations to gaming room and accessibility improvements. The proposed building works include:

1. Alterations to the ceiling void in the gaming room, including the erection of baffle walls around the void perimeter.
2. New ramping from the Blaxland Road entry.
3. Expansion of the accessible toilet.

Submissions

The application was notified from 3 April 2020 to 29 April 2020. In response, fourteen (14) submissions were received objecting to the proposed modifications. Key issues raised include:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.
- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.

ITEM 1 (continued)

- Illegal parking and traffic movements.
- Cigarette smoke impacting on residences.

Recommendation

The development has been assessed against the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the proposal is recommended for refusal as:

- The proposed extension of hours would adversely affect the amenity of the surrounding residential area.
- The proposed extension of hours is not compatible with the existing, and desired future character of the Ryde Town Centre.
- Past operations of the premises to 2am have not successfully demonstrated that impacts on the neighbourhood have been adequately managed based on the submissions received to the application.
- The proposed extension of hours does not meet the objectives of the B4 Mixed Use zone under Ryde Local Environmental Plan 2014 (RLEP 2014).
- The proposal is inconsistent with the objectives and controls under Ryde Development Control Plan 2014 (RDCP 2014)- Part 4.4 Ryde Town Centre.
- The application has a lack of information regarding the proposed acoustic treatment for noise mitigation.
- Approval of extended hours would set an undesirable precedent for other licenced premises within the Ryde area, and lead to potential detrimental cumulative impacts.
- The site is not considered suitable for the proposed extended hours of operation.
- The proposed extended hours of operation will result in negative social impacts and an increased risk for crime which cannot be eliminated through management practices.
- Approval of the application would not be in the public interest.

2. The Site and LocalitySite description

The Site has a street address of 68 Blaxland Road, Ryde (Lot 16 and Lot 17 in Deposited Plan 9692), and is known as the Royal Hotel (“the Hotel”), which has been in operation since 1930.

The Site is located on the south-western side of Blaxland Road, at the western side of its intersection with Edward Street. The Site is regularly shaped and has a total area of 858m². The Site has a 28.14m frontage to Blaxland Road and a 30.4m frontage to Edward Street.

ITEM 1 (continued)

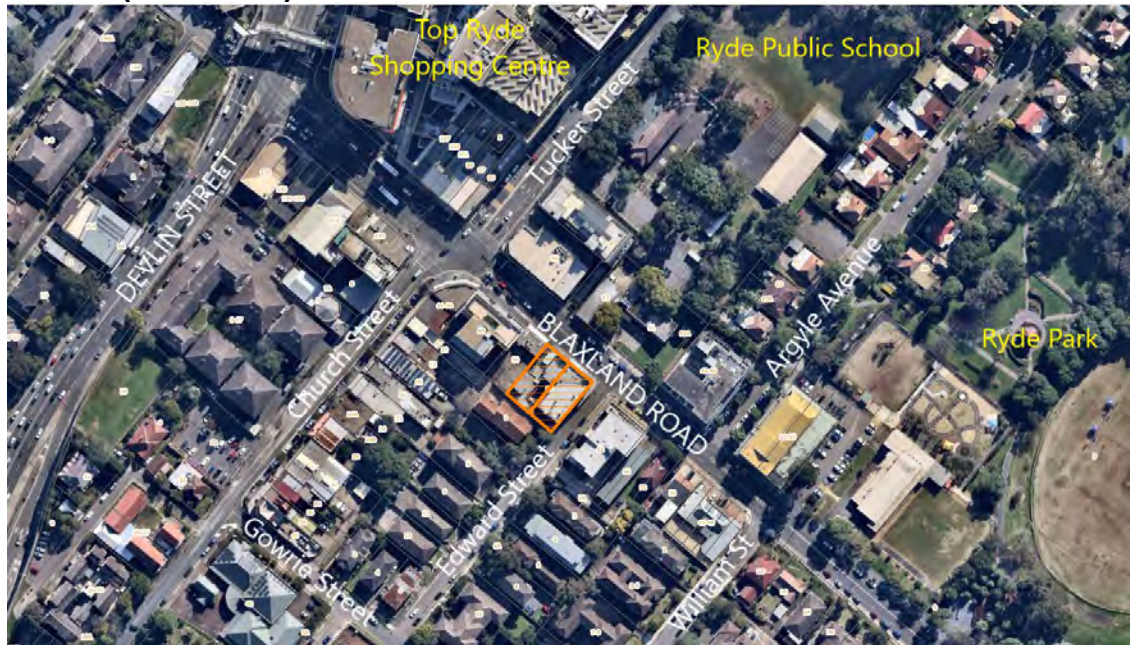


Figure 1: Aerial photograph of site

Existing development on the Site includes a two-storey pub (**Figure 2**), with an outdoor ground floor gaming area located along the north-western boundary of the Site.

The Hotel provides the following facilities:

- General bar area.
- TAB area.
- Bistro.
- Gaming room with 28 gaming machines – including indoor and external/unenclosed.
- Beer garden.
- Sanitary facilities.
- First floor accommodation including 12 rooms with shared male and female bathrooms, a shared kitchen and deck area.

ITEM 1 (continued)



Figure 2: Photograph of the site

Operating hours and licencing conditions of the existing premises

The Hotel currently operates on a permanent basis on Monday to Saturday from 10.00 am until 2.00 am the following day; and from 10.00 am until 12.00 midnight on Sunday. It has operated with these hours since the approval of a Section 96 application in 2015 which granted approval to operate until 2am on a trial basis, which was then made permanent in 2017, as detailed later in this report.

The Hotel ceases the sale of alcohol after 12 midnight, with only the gaming area of the Hotel open until 2am.

The Hotel liquor licence (No. LIQH400105266) for the premises states: *Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00AM and 10:00AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.*

To this effect the other limits specified in the licence state:

- *No alcoholic drink is to be sold after 12:00 midnight.*
- *The number of patrons in the Hotel after 12.00 midnight is restricted to 50.*
- *No entertainment other than background music will be provided after 12.00 midnight.*
- *Entry and exit to the Hotel after 12.00 midnight will be restricted to the entry/exit point on Blaxland Road, closest to Church Street (see **Figure 2**).*

These conditions are reflected in the Plan of Management (POM) for the premises.

Site context

ITEM 1 (continued)

The Site is positioned on the corner of Blaxland Road and Edward Street. Blaxland Road is a state Classified Road, while Edward Street is a one-way street in a south-bound direction. The Hotel is located within a mixed-use neighbourhood, which includes commercial, retail, residential, recreational, education, and community use (**Figures 4 - 9**). There are a number of residential uses that surround the part of the Site to be affected by the proposed extended hours (refer **Figure 4 and 5**). The nearest residential receivers are located 3.5m from the part of the Hotel where the extended hours are proposed, being the residential flat building at 1 Edward Street as shown at **Figure 4**.

The Site is within the B4 Mixed Use zone under the provisions of RLEP 2014 (**Figure 3**) and also lies within the Main Street Precinct' Ryde Town Centre as identified within both the RLEP 2014 and RDCP 2014. All adjoining allotments are within the B4 Mixed Use zone. However, nearby land also lies within the SP2 Special Infrastructure (Ryde Public School), RE1 Public Recreation zone (Ryde Park), R2 Low Density Residential zone, B6 Enterprise Corridor and the R4 High Density Residential zone.

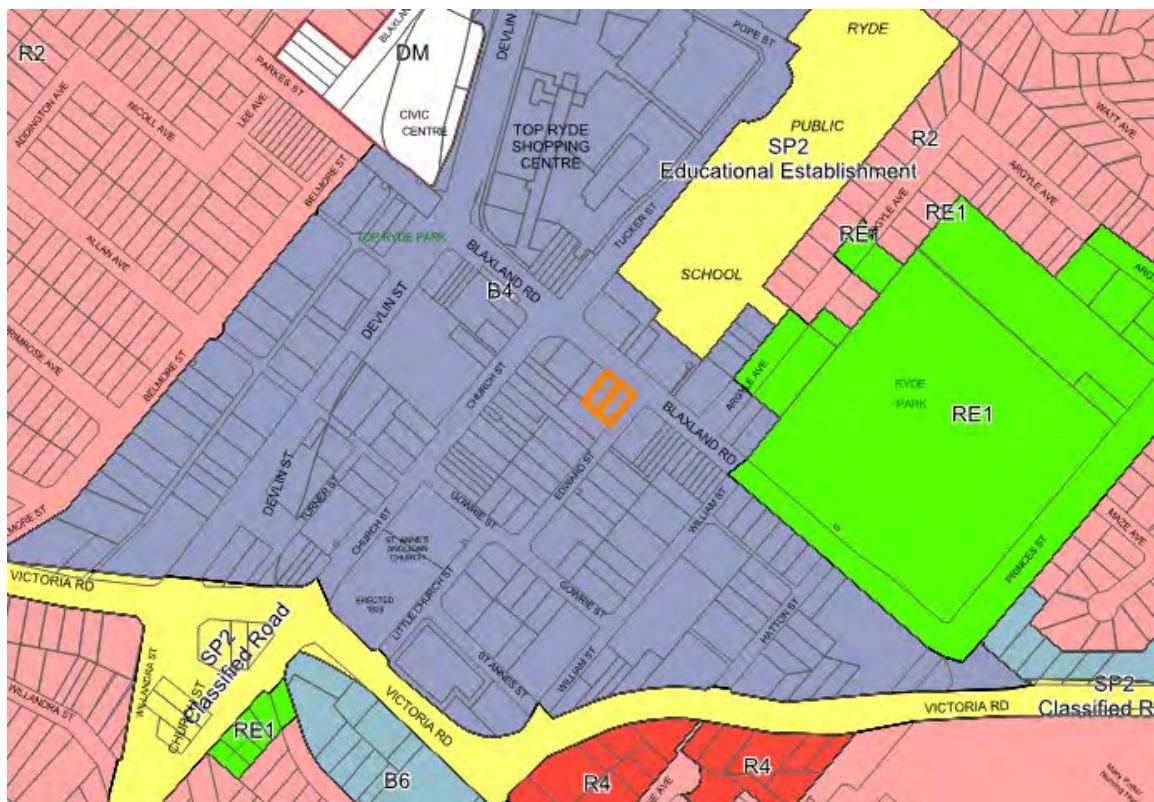


Figure 3: Ryde LEP 2014 – Zoning Map (site noted in orange)

ITEM 1 (continued)



Figure 4: Rear of the Hotel (on right) adjoining residential flat building at 1 Edward St



Figure 5: Looking north on Edward St showing adjoining mixed use/residential flat building at 2 Edward St and 62 Blaxland Road

ITEM 1 (continued)



Figure 6: Looking north on Edward Street showing typical residential flat buildings (Source: Google Streetview)



Figure 7: Blaxland Road looking south-east, 62 Blaxland Road and the Hotel on the corner of Edward Street

ITEM 1 (continued)



Figure 8: Looking west on Blaxland Road showing Top Ryde Shopping Centre in the distance



Figure 9: The Hotel, looking northwest up Blaxland Road

ITEM 1 (continued)**3. The Proposal**

The subject development application (DA) seeks alterations to an existing hotel, as well as the extension of trading hours from 2am to 4am, Monday to Saturday, at 68 Blaxland Road, Ryde.

Hours of operation

The existing hours for the Hotel permit trade between 10am and 2am Monday to Saturday, and 10am to midnight Sunday. After midnight the Hotel does not sell or supply liquor and is subject to a maximum of 50 patrons under its liquor licence and/or the conditions of existing consent.

The proposal seeks to extend the hours of operation until 4am Monday to Saturday, with the same restrictions on use that currently apply to 2am, to apply until 4am as outlined in the submitted Plan of Management (**Attachment 2**).

The submitted Statement of Environmental Effects (SEE) provides wording for a suggested reviewable condition, which may be imposed pursuant to section 4.17(10B) of the EP&A Act:

“1. Extended Hours of Operation

The hours of operation of the Hotel are regulated by a reviewable condition.

(a) The Hotel shall, subject to a reviewable condition, be permitted to trade from 2am to 4am Tuesday to Sunday.

(b) The purpose of this reviewable condition is to assist Council in monitoring the amenity impacts caused by the noise emissions of the operations of the Hotel’s gaming room during the hours 2am to 4am Tuesday to Sunday.

(c) Council is to carry out any such reviews of Condition 1(a), and may review it at any time, provided that there shall be a minimum interval of 12 months between any two reviews

(d) Before carrying out a review of Condition 1(a), Council shall give the operator of the Hotel 21 days written notice that a review of this condition will take place and any reasons for the review. The operator may make any submission to Council to support the continuation of the extended trading hours, and Council shall take into account any such submission received within 21 days after written notice is given of the review to the operator.

(e) Upon any review, Council may change Condition 1(a), including by extinguishing the reviewability of the Condition and thereby making the extended hours of operation permanent.

(f) To avoid doubt, the extended hours under Condition 1(a) shall be in addition to the hours of operation the premises is already permitted to trade under DA 1988/3707 (as that Consent was modified by Mod 2017/0215), which pre-existing hours shall not be reviewable under, nor in any way impaired by, this Consent.

ITEM 1 (continued)

In relation to the proposed extended hours of operation, it is noted that insufficient information relating to the area affected by the extended hours has been submitted with the application. It is not clear which areas of the site are affected by the extended hours. As submitted for previous applications, a plan clearly nominating the area that would be specifically affected by the extended hours is necessary to undertake a proper and full assessment of the full impacts of the extension of operating hours.

The uncertainty around these matters has direct implications for the Development Application, particularly as there may be works required to be undertaken in the future that could impact on the acoustic environment, including background noise levels, but that could be free from further rigorous assessment associated with extended trading hours.

Such works described above could influence the calculation of gross floor area at the site and the required amount of parking, among other matters relevant to the proper consideration of the Development Application.

Proposed building works

The proposed works include alterations to the gaming room and accessibility improvements. The proposed building works include the following as shown at **Figure 10 and 11**:

1. Alterations to the ceiling void in the gaming room, including the erection of baffle walls around the void perimeter. The alterations to the gaming room are related to acoustic attenuation of the gaming room, and to permit smoking.
2. New ramping from the Blaxland Road entry.
3. Expansion of the accessible toilet.

ITEM 1 (continued)

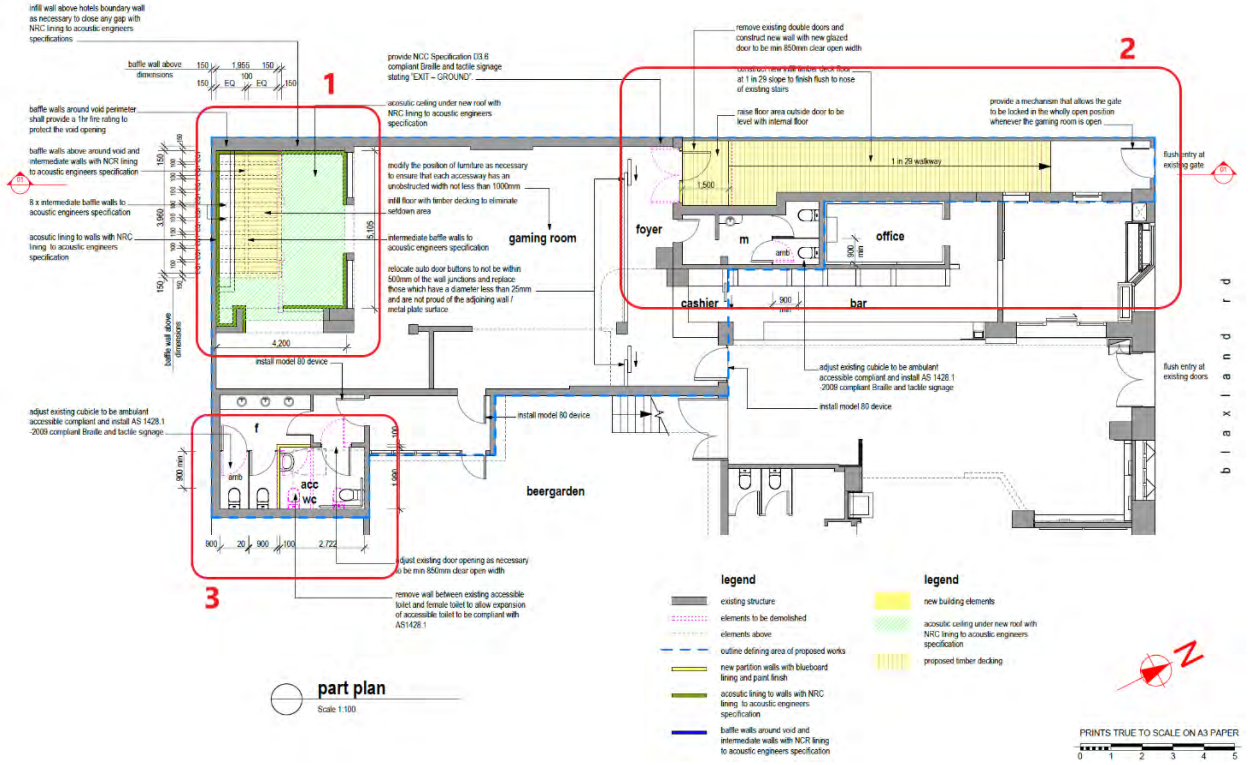


Figure 10: Proposed floor plan indicating location of proposed building works

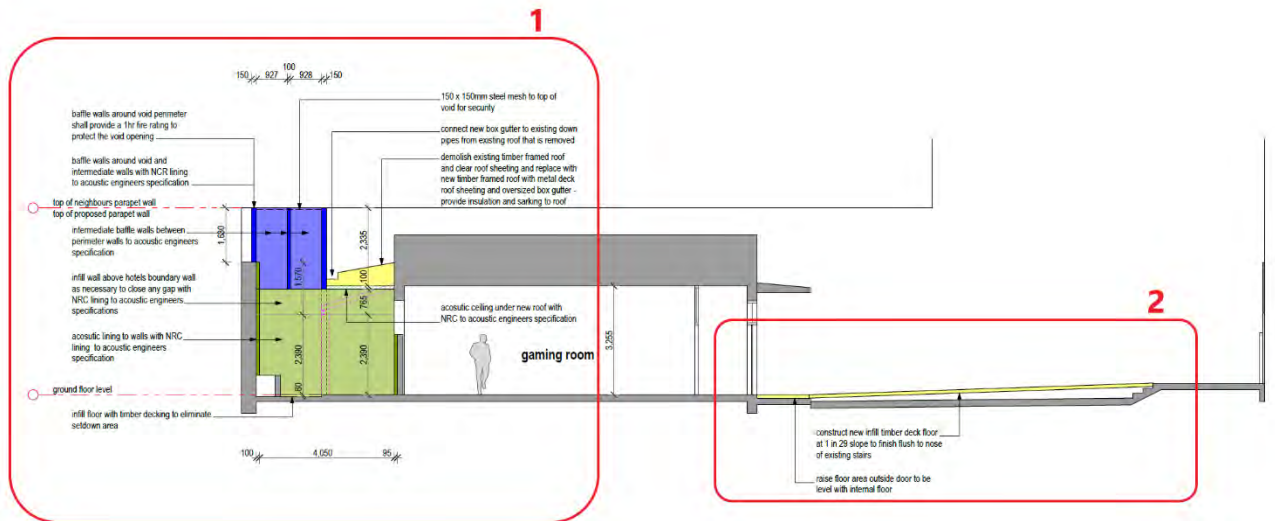


Figure 11: Proposed section plan indicating location of proposed building works

ITEM 1 (continued)**4. Background****1.1 LDA2020/89 – Subject Application**

The Development Application was lodged with Council on 1 April 2020.

The Development Application was referred to Council's Building Surveyor, Environmental Health Officer (EHO), and NSW Police. NSW Police comments refer to previous comments provided in response to MOD2018/0235, given it sought the same extension of hours as proposed within the Development Application.

The Development Application was advertised for a twenty-one (21) day period from 8 April 2020 to 29 April 2020. As part of the advertising period, the application was advertised in the Weekly Times, and notification letters were sent to surrounding properties.

As a result of the advertising process, 14 submissions were received, all of which objected to the Development Application. The issues raised within the submissions are summarised as follows:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.
- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.
- Illegal parking and traffic movements.
- Cigarette smoke impacting on residences.

On 7 July 2020 Council received the Class 1 deemed refusal Appeal with the NSW Land and Environment Court ("LEC"). At the time of the receipt of the LEC appeal, a response from the EHO in relation to acoustic impacts had not been received in relation to the DA. Despite this, an Acoustic Consultant has been engaged for the court appeal, and the comments provided in the Statement of Facts and Contentions have been included in this report to assist in the assessment of the proposal.

On 19 June 2020, Council accepted lodgement of a Building Information Certificate (BIC), BC2020/0022, lodged for the purpose of legitimising unauthorised works at the Hotel. The BIC was issued on 20 August 2020.

1.2 Other relevant applications

The following outlines the previous applications seeking changes to hours of operation.

ITEM 1 (continued)

- DA1988/3707 was issued on 15 June 1988, and Condition 7 of that consent states:

“The hours of operation being restricted to between the hours of 10.00am to 12midnight Monday to Saturday and 10.00am to 8.00pm on Sunday”.

- MOD1994/424 to extend hours from 10.00am to 3.00am Monday to Saturday, and 12 noon to 10pm on Sundays, was refused on 30 September 1994 for the following reasons:
 - The proposed hours of operation are considered to adversely affect the amenity of the locality.
 - The Development Application is not compatible with the residential character of the locality.
- MOD1994/424 sought to extend hours from 10.00am to 3.00am Monday to Saturday, and 12 noon to 10pm on Sundays, as refused on 30 September 1994 for the following reasons:
 - The proposed hours of operation are considered to adversely affect the amenity of the locality.
 - The proposal is not considered compatible with the residential character of the locality.

A total of 171 objections were received.

- MOD1995/433 to extend hours from 5.00am to 3.00am Monday to Saturday, and 12 noon to midnight on Sundays, was refused on 5 October 1995 for the following reasons:
 - The proposed hours of operation are out of character with the existing mixed commercial residential nature of the area given the subject property is located on the edge of a commercial zone with residential land adjoining and opposite.
 - The proposed hours of operation are considered to adversely affect the existing and likely future amenity of the locality.

Six (6) submissions in objection were received, including a petition with 187 signatures, a petition with 4 signatures, a submission from the Pindari-Thomas Bowden Retirement Village, Ryde Primary School, Ryde Public School P&C, and NSW Department of Education.

- MOD1999/1582 to extend hours to 3.00am daily, was refused on 8 February 2000 for the following reasons:
 - The proposed hours of operation would adversely affect the amenity of the surrounding residential area.
 - The proposed extension of hours is not compatible with the residential character of the locality.

ITEM 1 (continued)

Six (6) submissions in objection were received, including a petition with 108 signatures, and a submission from the Rector at St Anne's Anglican Church.

- MOD1988/3707.2 to extend hours to 3.30am Monday to Saturday, and to 12 midnight on Sundays, was refused on 11 May 2004 for the following reasons:
 - The proposed hours of operation are out of character with the existing commercial residential nature of the area given that the subject property is located on the edge of a commercial zone with high population densities on land adjoining and opposite the Hotel (particularly Edward & Gowrie Streets).
 - The proposed hours of operation are considered to adversely affect the existing and likely future amenity at the locality.
 - The proposed hours of operation are inconsistent with the objectives of Draft Local Environmental Plan No. 123 - Top Ryde Urban Village.
 - The hours of operation are not in the public interest.

83 submissions objection were received, including a petition containing 65 signatures.

- A Review of MOD1988/3707.2, undertaken in accordance with the former Section 82A of the EP&A Act, was refused on 17 January 2005.

18 submissions objection were received, including a petition containing 65 signatures.

- MOD2015/0100 to extend hours to 2am Monday to Sunday morning, and to 12 midnight on Sundays, was approved on a trial basis on 22 March 2016. The modified Condition 7 that was approved at the time is shown below:

7. *Trading Hours.* *The Hotel shall only operate within the hours specified under this condition:*

- a) *The hours of operation of the premises are restricted to between 10.00am to 12.00 midnight Mondays to Saturdays and 10.00am to 10.00pm on Sundays.*
- b) *Notwithstanding (a) above, the premises may operate until 2.00am on Tuesday to Sunday mornings and until midnight on Sundays for a trial period of twelve (12) months commencing from the grant of an extended trading authorisation by the NSW Independent Liquor and Gaming Authority. The applicant shall as soon as reasonably possible, furnish Council with documents to confirm commencement of the trial period.*
- c) *At the expiration of the trial period the opening hours shall revert to the hours approved under (a) above.*
- d) *The operator may seek a review of the opening hours through a separate Section 96 Application being made to Council prior to the*

ITEM 1 (continued)

expiry of the trial period. A decision to make the hours permanent may include (but not limited to) factors such as:

- *Evidence to be furnished by the operator as to whether the trial has actually occurred;*
- *Any justified complaints received and investigated by the Police and or the Council;*
- *Comments and advice received from the Ryde Local Area Command and as a result of the new Section 96 Application being referred to them;*
- *The performance of the operator during the trial period with respect to compliance with the Venue Management Plan.*

Furthermore, the following additional conditions were imposed:

14. **Offensive noise.** *The use of the premises must not cause the emission of offensive noise as defined in the Protection of the Environment Operations Act 1997.*
15. **Venue Management Plan (VMP).** *The business must be operated at all times in accordance with the Venue Management Plan dated February 2016 as approved under this development consent. Any changes to the Venue Management Plan must be agreed upon in writing by the Ryde Local Area Commander and City of Ryde.*
16. **Restriction on entertainment.** *No live music, entertainment provided by a DJ or other performer is to be provided at the Hotel after midnight. Any music if provided is to be limited to background music only.*
17. **Maximum number of patrons after 12.00 midnight.** *On any morning that the Hotel trades after midnight, no more than 50 patrons are to be in the Hotel at any one time after midnight.*
18. **No sale or supply of liquor after midnight.** *There shall be no sale or supply of liquor after 12.00 midnight.*
19. **Security guard.** *On the nights that the Royal Hotel trades past midnight, at least one licenced security officer shall be provided at the premises from 9.00pm and must ensure patrolling in the vicinity of the Hotel (including the bus zone area adjacent to the Hotel) until 30 minutes after closing time. The conduct and duties of the security personnel is to be in accordance with the details provided in the Venue Management Plan.*
20. **Provide dedicated email for complaints.** *The operator of the Hotel must set up a dedicated email address to receive and address complaints in relation to any noise or disturbances during or outside the opening hours of the premises. Such email is to be set up so as to enable any emails received or sent from that email address to be automatically copied to Ryde Council. The email address must be displayed in prominent locations inside and outside the Hotel.*

ITEM 1 (continued)

- MOD2017/0215 to make permanent the hours of operation approved under MOD2015/0100, was approved on 8 November 2017, resulting in the deletion of Conditions 7(b)-(d) inclusive.

The remaining conditions imposed under MOD20155/0100 (Condition 14 – 20) remain on the consent.

- MOD2018/0235 seeking comparable trading hours to that proposed within the subject development application was refused on 23 March 2019. This determination was appealed in Class 1 Proceedings in the Land and Environment Court of NSW on 9 April 2019 and is currently undetermined.

5. Planning Assessment

The following planning legislation, environmental planning instruments, development control plans and policies apply to the Site, and are of particular reference to the subject development application:

- *Environmental Planning and Assessment Act 1979*
- *Environmental Planning and Assessment Regulations 2000 (EP&A Regulations)*
- *Ryde Local Environment Plan 2014*
 - Clause 2.2 – Zoning of land to which this Plan applies (the Site is zoned B4 Mixed Use)
 - Clause 2.3 – Zone objective and Land Use Table
 - Clause 4.3 – Height of Buildings
 - Clause 4.4 – Floor Space Ratio
 - Clause 5.10 – Heritage conservation – the site directly adjoins a State heritage item, the colonial Great North Road, known as Blaxland Road at the site frontage.
- *Ryde Development Control Plan 2014 (RDCP 2014)*
 - Part 4.4 – Ryde Town Centre
 - Section 2.2 Planning Principles for Ryde Town Centre
 - Section 2.3 The Objectives of this Part
 - Section 7.4 Acoustic Privacy
 - Section 8.3 Precinct 3 - Main Street
 - Part 9.3 – Parking Controls

5.1 Ryde Local Environmental Plan 2014**Clause 2.1 Land Use Zones**

The subject site is within the B4 Mixed Use zone.

Clause 2.3 Zone objectives and Land Use Table

ITEM 1 (continued)

The objectives of the B4 Mixed Use zone are:

- *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.*
- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- *To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

The applicant's assessment in relation to the B4 zoning is as follows:

"The Application meets the zone objectives by contributing to the mixture of land uses in the zone without adversely impacting the amenity of the surrounding area. Being the only hotel in the mixed-use zone with late night trading capabilities, extending trading hours will provide additional services to residents who wish to utilise the Hotel's facilities late at night.

Additionally, patrons also have the convenience of public transport options. Patrons wanting access to late night entertainment that the Hotel offers will be more inclined to arrive via these public transport options due to the convenience and accessibility of the Hotel.

The proposed ramp and improvements to the Hotel's accessible toilet will bring the Hotel up to code, as recommended in the Fire Safety and Accessibility Audit. By implementing these recommendations, residents will have improved access to the Hotel's facilities.

The Acoustic Assessment which accompanies the Application concludes that noise emissions will satisfy existing conditions of consent and thereby protect the amenity of the surrounding area."

Despite the existing hotel contributing to a mixture of land uses, the application does not meet the first objective in relation to compatibility of its location. The Oxford Dictionary definition of 'compatible' is "able to exist or occur together without problems or conflict". The proximity of the site in relation to residential properties, and the information received in the submissions has established that the existing operations are not able to occur 'without problems or conflict'. As detailed later in this report, the recommended acoustic measures, both the operational and architectural measures are not considered to adequately manage impacts on the neighbourhood during the extended hours of operation.

Noise from the Hotel and from patrons exiting the premises, and littering from patrons in the surrounding streets, are current 'problems' that the submissions state are occurring with the current operations of the premises to 2am. To permit this to occur

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until 4am is incompatible with the neighbourhood and would not be in keeping with the zoning of the site.

As outlined in the NSW Police referral,

“Police object to this application as it will result in negative social impacts for both the local and broader community. The location is a mixed-use location of both residential and retail premises which is not suitable for the development proposed”.

It is not considered that the proposed extended hours will be compatible with the surrounding land uses as the proposed mitigation measures outlined in the submitted Acoustic Report and Plan of Management to reduce the impacts are difficult to enforce to a level that would be compatible with the residential amenity of the neighbouring properties.

The operation of the premises until 4am, as demonstrated through its current operations to 2am and a lack of adequate, enforceable mitigation measures to demonstrate that no impacts will be caused, is incompatible and unsuitable for the mixed-use environment it is located. While liquor trade may cease and a restriction of 50 patrons apply from midnight, for the premises to have only a six hour closure period 5 days a week is not in keeping with the character of the area and will cause undesirable impacts on the amenity and character of the neighbourhood.

The Hotel is positioned within a mixed-use environment with immediately neighbouring residential uses. Operation of a hotel until 4am is not considered to be in keeping with the existing and future vision for the mixed-use Ryde Town Centre and accordingly, is not considered to meet the objectives of the B4 zone.

Clause 4.3 – Height of Buildings

Buildings must comply with the maximum heights described in Ryde LEP 2014 - Height of Buildings Map. The maximum permitted height is 15.5m. The proposed additions have a maximum height of 5.59m which complies.

Clause 4.4 – Floor Space Ratio

The proposed works do not affect the floor area of the building.

Clause 5.10 – Heritage conservation

The site directly adjoins a State heritage item, the colonial Great North Road, known as Blaxland Road at the site frontage. The proposed hours of operation and internal alterations are not anticipated to have an impact on the heritage significance of this heritage item.

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5.2 Draft Environmental Planning Instruments

There are no draft environmental planning instruments that affect the site.

5.3 Development Control Plans
Part 4.4 - Ryde Town Centre
Section 2.2 Planning Principles for Ryde Town Centre and Section 2.3 The Objectives of this Part

The Objectives under Section 2.3 read as follows

1. *To reinforce Ryde Town Centre as an important cultural, civic, commercial, retail, employment, education, residential and recreation location*
2. *To enhance the civic qualities of Ryde Town Centre*
3. *To create an attractive, safe, convenient and well-used pedestrian environment and public domain*
4. *To develop a high quality urban centre*
5. *To develop high quality built form*
6. *To develop a sustainable town centre that balances social, economic and environmental objectives*

The proposal is not considered to meet these objectives, particularly (1), (3), (4) and (6). The Planning Principles under Section 2.2 generally reflect the Objectives under Section 2.3. An assessment of the applicable Planning Principles and the corresponding Objectives is provided below.

2.2 Planning Principles for Ryde Town Centre	2.3 Corresponding Objectives for the Ryde Town Centre	Assessment
<u>1. Regional role</u>		
1. <i>Development within the Ryde Town Centre is to contribute to the status of the land as an important retail, business, employment, recreational, entertainment, civic and residential centre.</i>	1. <i>To reinforce Ryde Town Centre as an important cultural, civic, commercial, retail, employment, education, residential and recreation location</i>	Extension of the hours of operation within the Ryde Town Centre area within a mixed-use environment is not considered to contribute to the importance of the centre as it will undermine the cohesiveness and compatibility of commercial/entertainment and residential uses through allowing detrimental amenity impacts to occur for an extended period.
<u>2. Sustainable planning and development</u>		
a. <i>Planning and development is to ensure that social, economic and environmental issues are considered together and with proper regard for their mutual cumulative</i>	6. <i>To develop a sustainable town centre that balances social, economic and environmental objectives</i>	The NSW Police referral raises issues with regard to the social and environmental impacts of extended trading hours. Crime, noise and amenity impacts in conjunction with negative social impacts are key impacts of the extended trading

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2.2 Planning Principles for Ryde Town Centre	2.3 Corresponding Objectives for the Ryde Town Centre	Assessment
<i>impacts.</i>		hours, which cumulatively will have a detrimental impact on the neighbourhood. Approval of the proposed 4am operations would not be consistent with this Planning Principle, and would undermine the cohesive and amenable environment that the DCP is aiming to create.
3. <u>Public domain</u>		
<i>b. Development is to create a safe and accessible public domain that will be enjoyed by shoppers, residents, workers and visitors. Active uses are to be located along pedestrian thoroughfares and streets.</i>	3. To create an attractive, safe, convenient and well-used pedestrian environment and public domain	Extension of the trading hours of the gaming room of the Hotel is not considered to meet this Planning Principle as operation of the premises until 4am is not conducive to creating a safe public environment. As raised by NSW Police, “an extension of trading hours has the potential to have the following negative impacts, upon the local area. <ul style="list-style-type: none"> • An increase in alcohol related assaults/crime • Intoxication related issues such as Excluded Person offences • Disturbance to the local neighbourhood. • An increase in patron migration.”
4. <u>Urban form</u>		
<i>c. Development is to provide a transition between the Town Centre and adjoining residential areas with complementary land-uses and the scale and massing of built form.</i>	1. To reinforce Ryde Town Centre as an important cultural, civic, commercial, retail, employment, education, residential and recreation location 4. To develop a high quality urban centre 6. To develop a sustainable town centre that balances social, economic and environmental objectives	The Hotel is located directly adjoining residential properties to the south-west and the south-east, and is separated by one property to the north-west to another residential flat building. The land use with hours of operation to 4am is not considered complementary due to the level of probable impacts that would be caused with an extension of hours.

Section 7.0 Residential Amenity - Section 7.4 – Acoustic Privacy

The following controls of Section 7.4 of Part 4.4 of Ryde DCP 2014 are of relevance to the proposal.

- f) *The use of a premises, and any plant, equipment and building services associated with a premises must not:*

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- i. Create an offensive noise as defined by the Protection of the Environment Operations Act 1997; and
- ii. Add significantly to the background noise experienced in a locality. Council may require a statement of compliance from a qualified acoustical consultant.
- g) Machinery and activities, including construction work, that are likely to generate offensive noise must be adequately sound-proofed in accordance with the Protection of the Environment Operations Act 1997 prior to occupation of the premises.
- h) Where retail and commercial development adjoins residential development, the use of mechanical plant equipment and building services will be restricted and must have acoustic insulation.
- j) Design restaurants and cafes to diminish the impact of noise associated with late night operation on nearby residents.

As indicated in the submitted Acoustic Report, the use of the premises may cause impact on neighbouring residential receivers, with a range of mitigation and management measures proposed to manage and ensure compliance with the noise emissions criteria. **Figure 12** below identifies the nearest residential receivers, with Receiver 1 being the residential building located along the southern boundary of the site, at 1 Edward Street, Ryde, some 3.5m from the boundary of the Site.



Figure 12: Site map, measurement description and surrounding receivers

(Source: Acoustic Logic – DA Acoustic Assessment – Ref. 20181776.2, dated 18/3/2020, Revision 4)

In assessing the proposal against the DCP controls, the acoustic report prepared by Acoustic Logic does not provide sufficient information and evidence as to whether the

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development will comply with the relevant regulations and protect the acoustic amenity of the surrounding residential receivers and comply with the relevant DCP controls.

As outlined later in this report, the Acoustic Report submitted has a number of inadequacies and fails to sufficiently assess the acoustic impacts of the extended hours of operation and the proposed “architectural” acoustic mitigation measures for Council to be satisfied that both the extended use of the gaming room, in addition to patrons leaving the premises can “*diminish the impact of noise associated with late night operation on nearby residents*”.

Submissions received and the referral from NSW Police, raise concerns regarding the past performance of the premises operations, and indicate an inability to manage behaviour and impacts on neighbouring residential premises including operations of the premises and behaviour and noise from patrons leaving the premises of an early hour.

Accordingly, for the purpose of this assessment report, it cannot be concluded that the late night operations, including use of gaming machines, even at a restricted volume, noise from patrons within the gaming area, along with the potential social noise impacts from patrons entering and exiting the venue will have a detrimental impact on the amenity of the locality, at a sensitive time for noise receivers. Based on the above, the application for extended hours is not considered to meet the controls of Section 7.4 of Part 4.4, namely as it is not considered that the premises can have no impact on nearby residents.

5.4 Planning Agreements OR Draft Planning Agreements

There are no planning agreements or draft planning agreements applicable to the development.

5.5 Any matters prescribed by the regulations

The Environmental Planning and Assessment Regulations 2000 requires development to comply with the Building Code of Australia (or the National Construction Code).

In accordance with Clause 93 and 94 of the Regulations 2000, the proposal will be required to provide adequate fire safety in accordance with the BCA. This has been reviewed by Council’s Building Surveyor and is further addressed later in this report.

ITEM 1 (continued)**6. The likely impacts of the development****6.1 Built environment impacts**

There are further noise sources aside from those associated with the operation of the venue, including noise generated from patrons leaving the venue on foot and in vehicles, noise from intoxicated patrons attempting to gain entry to the premises, and noise associated with car horns, car doors, etc. Noise associated with these noise sources will be extended to longer periods through the early morning and create additional noise impacts on the locality.

Submissions made to Council have indicated that the existing operations of the Hotel already create sleep disturbance on nearby residential properties, and that the extended hours to 2am, approved by Council in 2016, have exacerbated this impact. The further increase in operating hours will extend the duration of acoustic impacts, would reduce the closing hours of the gaming room to six hours per day, and would further exacerbate the disturbance to surrounding residents. The nearest residential receivers are as close as 3.5m from the area of the Hotel where the extended hours are proposed.

Further to this, in relation to the extended trading at the Hotel under the comments provided to MOD2018/0235, NSW Police have indicated to Council that

“noise emissions as patrons enter and leave the premises, by simply opening the Hotel door may cause noise that disturbs neighbours. Police are not aware of a double door or air lock door system at the premises to reduce this noise. Police are concerned management, especially between the hours of 2am and 4am will be unable to ensure there is no yelling or screaming in the outdoor gaming area. Patrons who have won amounts of money on a machine or lost amounts of money on a machine may yell or scream”.

There is not sufficient public transport available in the late evening to expect that a reasonable number of patrons would be able to rely on this form of transport for their departure from the premises. Public transport services in the locality are more sporadic at 4am, then they are at 2am or at 12am. Patrons are more likely to leave the Hotel at this time via private car, taxi, or by walking. Taxis are also less likely to be available at this time of the evening. All of which create additional acoustic impacts on the locality, including noise from patrons.

The scheduled time between bus services can be longer than 1 hour. For those limited patrons that might elect to utilise a bus, it is likely that long wait times may be required, increasing the likelihood of acoustic and amenity impacts whilst patrons wait for services. This is especially the case for the nearest citybound bus stops, which are over 100m from the Hotel premises.

Cigarette smoke from designated smoking areas within the Hotel is likely to already generate health and amenity impacts on those living in close proximity to the

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premises. The residential properties adjoining at No.1 Edward Street, having windows less than 3.5m from the gaming room, are likely to be particularly impacted by cigarette smoke. The gaming area of the Hotel is understood to have been designed so as to allow cigarette smoke from the gaming room to be released through areas adjacent to No.1 Edward Street, and beneath the windows on that property. By further reducing hotel closing hours, there will only be 6 hours per day when the area is unlikely to be releasing cigarette smoke, a particularly unusual outcome within a residential context.

6.2 Social impacts

NSW Police have objected to the extended trading proposal as it will result in negative social impacts. The NSW Police have indicated that it is widely known that the peak times for alcohol related crime is between 12am and 3am. Even with stringent regulatory controls, comprehensive management practices and experienced management/staff, the negative social impacts can be reduced however not be eliminated.

NSW Police have advised that since the granting of the current extended trading hours by Council and the Independent Liquor and Gaming Authority in 2016, the Hotel has had two 'Armed Robbery serious incidents' reported to Police within the Hotel's extended trading hour period (12am to 2am). The NSW Police have also advised that since their last submission in relation to the proposed extended trading hours on 7 January 2019, there have been three (3) serious incidents linked to the Hotel.

NSW Police have advised that as no other premises within the locality are open until 4am, that patrons leaving the venue are therefore at greater risk of being victims of crime, particularly those that may have won money in the gaming room.

The mitigation measures, outlined within the submitted Venue Management Plan, would not adequately mitigate the social impacts of late night operations beyond 2am, particularly in areas away from the immediate vicinity of the Hotel.

The proposal would create negative impacts on social capital and community cohesion, both perceived and actual. and will diminish local resident liveability, health and wellbeing through prolonged noise impacts, reduced air quality from smoking, crime and violence, both perceived and actual.

6.3 Impacts of the extension of trading hours

Vinson v Randwick Council [2005] NSWLEC 142 at 84-85 establishes the Land and Environment Court Planning Principle for Licenced Premises: *Extension of trading hours increase in permitted patron numbers or additional attractions*, stating:

84 I therefore need to answer, in light of these presumptions in favour of the applicant, what I consider are the two questions relating to the present

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application which arise for determination of the acceptability or otherwise of the application vis-a-vis the impacts on the amenity of the surrounding residential properties.

85 *These questions are:*

- *What is the level of probable future impacts? and*
- *Can the measures proposed by the applicant reduce them to an acceptable level?*

In consideration of the subject application for extension of hours, the two questions posed by the Planning Principle are addressed below:

1. *What is the level of probable future impacts?*

The site is located adjoining residential premises. The applicant has stated in the SEE that *“The site has been used for a Hotel since 1930. It is an integral part of the neighbourhood. The site will continue to be suitable for use as a pub”*. Despite this, while the premises may have historically been zoned general business zonings under previous planning instruments, the current B4 Mixed Use zoning of the site indicates the vision of the area to be a mix of compatible uses, including “business, office, residential, retail and other development”.

The extension of hours by a total of 12 hours per week, to 4.00am 6 days a week, is likely to exacerbate the existing impacts on living amenity of the adjoining residential properties through lengthening the period it may occur, and moving the closure time to a more sensitive period of the morning.

Submissions state that the existing operation of the premises late at night is causing detrimental impacts to the amenity of the neighbourhood. Concern is raised that patrons leaving the premises via car cause noise impacts from loitering before leaving, loud vehicles exiting down Edwards Street and banging of car doors.

While the applicant has stated that *“given the limited number of patrons and prohibition on liquor, there is unlikely to be any adverse impact as those patrons depart the Hotel at close”*, it remains that extending the hours of operation earlier into the morning, will increase patron reliance on private transport due to poor availability of taxis and infrequent public transport options at this hour. In turn, it is reasonable to assume that the reported impacts from the patrons using private vehicles near and within the premises parking areas will continue, for an extended period to 4am.

The referral from the NSW Police states that *“Police have reviewed the recent application and note the application does not substantially differ from the original application in 2018”*. The referral from the police to MOD2018/0235 raised concern for the potential for patron migration between venues due to other venues closing earlier than the subject site, and thus attracting movement between venues. No other premises within the Ryde Town Centre have ordinary operating hours beyond midnight, and for comparison the West Ryde Hotel, the nearest other hotel to the subject premises, has opening hours of Monday to Thursday – 10am to 1am, Friday

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and Saturday – 10am to 1.30am, Sunday – 11am to 12.00am. Additionally, the Ryedale Hotel (12-26 West Pde, West Ryde) has existing hours from Monday to Thursday – 8am to 12 midnight, Friday and Saturday – 8am to 2am, Sunday – 10am to 10.00am, with a recent application refused (MOD2020/0092 dated 29 June 2020) to permanently extend these hours until 2am Monday to Saturday, and midnight on Sunday.

Accordingly, given the limited number of venues open after midnight in the area, there is a likelihood that patrons will move from other venues to the Hotel to continue use of gaming machines, causing additional social and amenity impacts, and an increased risk for crime.

The response from NSW Police under MOD2018/0235 (dated 7 January 2019) detailed that *“Since the granting of current Extended Trading Hours by Ryde Council and the Independent Liquor and Gaming Authority in 2016 the Hotel has had the following serious incidents reported to Police within the Hotels extended trading hour period.*

E64454634 — Armed Robbery — *Between approximately 1.45am and 2.30am on 18 April 2017 the Hotel was subject to an armed robbery. Two offenders attended the Hotel where each offender produced a pistol. At the time there was only two staff at the Hotel being a male security guard and female manager. The offenders left with an amount of money.*

E66118586 – Armed Robbery — *On 17 January 2017 there was two employees working within the Hotel. Approximately 2am the Hotel had closed, and staff began closing procedures when a male approached the staff threatening them with a firearm and demanding cash. The offender left with an amount of money.”*

Further the referral response goes on to state:

“An extension of trading hours has the potential to have the following negative impacts, upon the local area.

- *An increase in alcohol related assaults/crime*
- *Intoxication related issues such as Excluded Person offences*
- *Disturbance to the local neighbourhood.*
- *An increase in patron migration.”*

The NSW Police response to this subject application (dated 10 August 2020) further states, *“Since the last submission the following serious incidents have been linked to the Royal Hotel Ryde”.*

E74404905 – 18/06/2020 – *At 22:17 police were called to outside Royal Hotel in relation to people fighting. Upon police arrival it was established the persons involved had left the Hotel. Investigations revealed the*

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incident was a domestic dispute where the offender had been asked to leave the Hotel due to her level of intoxication. When the offender was spoken to by police, she indicated the incident would not have occurred should she have not been intoxicated.

E72954462 – 19/10/2019 – *About 23:10 police were driving past the Royal Hotel when they observed two persons wrestling and fighting on the roadway outside the Hotel. Police were required to separate the parties. Police ascertained they had been drinking within the Hotel when an argument ensued over a televised rugby game. Both parties were observed to be well affected by alcohol.*

E72400579 – 10/07/2019 – *About a 20:45 group of four patrons were seated in the outdoor beer garden of the Hotel. The group began to converse with two males seated nearby. At some point one of these second males has begun to call the first group names while also challenging one of them to a fight. At this time the male has thrown a drink in the victim's face causing a fight to break out. A violent confrontation ensued with many people distancing themselves in order to not get hurt. During the violent altercation a glass panel on the door has been broken and another victim has been punched to the side of the face while attempting to break up the fight. The offenders were removed from the Hotel where they have left prior to police arrival.*

“Police object to this application as it will result in negative social impacts for both the local and broader community. The location is a mixed-use location of both residential and retail premises which is not suitable for the development proposed”.

In answering the question on the level of probably future impacts, it is considered that there is a high level of probability that the extended hours will lead to a degree of persistent risk of crime, intrusiveness from noise to adjoining residential premises, and for antisocial behaviour and noise from patrons leaving and entering the premises of an early morning, based on the past occurrences of crime, and submissions received by nearby residences. Additionally, the likelihood of patron migration between licenced venues as each venue closes is high, adding to the potential social and amenity impacts.

2. Can the measures proposed by the applicant reduce them to an acceptable level?

The proposed Plan of Management and recommendations of the Acoustic Assessment are difficult to enforce. Based on the NSW Police referral comments, the submissions received and the past occurrences of crime indicate that implementation of a Plan of Management and compliance with conditions cannot eliminate the impacts from the operation of the premises.

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The concerns of the NSW Police referral and the submissions raise a reasonable level of 'likelihood' that there will be unacceptable impacts from the development through extending the hours of operation to 4am.

To assume that the implementation of management measures which do not significantly change from the measures implemented at present under the existing 2am closure time, will reduce the future impacts to an acceptable level is unreasonable.

As the development is likely to have an adverse impact on the amenity of the surrounding residential area, lead to a persistent risk of crime and potential for antisocial behaviour, the application is recommended for refusal.

7. Suitability of the site for the development

The site is not suitable to accommodate the development, particularly the location is not suitable for a hotel premises with such late trading hours. It is unreasonable to suggest that a hotel trading to 4am and within such close proximity to residential properties will not disturb the residents.

The hours of operation are not consistent with that provided to comparable premises, as described earlier in this report. Many of the noise sources described throughout this report are difficult to account for as part of Development Application, and in this location a more effective measure of controlling impacts is to prevent any further extension to late night trading at the premises.

The operation of the premises until 4am, as demonstrated through its current operations to 2am, and a lack of adequate, enforceable mitigation measures to demonstrate that no impacts will be caused, is incompatible and unsuitable for the mixed-use environment in which it is located. While liquor trade may cease at midnight, a hotel premises with only a six hour closure period for gaming, for 6 days of the week, is not in keeping with the character of the area and will cause undesirable impacts on the amenity and character of the neighbourhood.

The site is located in close proximity to numerous residential premises, and is within a mixed use area with a vision for complementary land uses and proper regard for their mutual cumulative impacts of development. The site is not suitable for a pub with operating until 4.00am, Monday to Saturday.

8. The Public Interest

The Development Application is not in the public interest. 14 submissions were received during the notification period, with the issues raised summarised as follows:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.

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- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.
- Illegal parking and traffic movements.
- Cigarette smoke impacting upon nearby residences.

The extended hours will contribute to a persistent risk of crime, noise intrusion to adjoining residential premises and antisocial behaviour. The inability of achieve compliance with the relevant planning provisions outlined in this report demonstrates the proposal is not in the public interested.

Ryde Night Time Economy Study and Action Plan

Council has recently undertaken a Night Time Economy (NTE) Study to better understand how an 'after 5' scene can offer more than 'shopping' and enhance economic growth, community and cultural cohesion as well as job and wealth creation.

The NTE is the economy that operates in the early evening after (5pm to 9pm) into the late night (2am to 6am). In the City of Ryde most night activity in town centres is between 6pm and 12pm. To ensure the right balance between vibrancy, safety and quality of life is achieved in the future, the NTE Study summarised the size and character of the desired NTE experience in Ryde and to identify strategies to enhance NTE activations.

Of relevance to this application are the outcomes of the NTE Study, which include:

- *Make night time places and activities more family friendly*
- *Improve lighting and way-finding and install more creative/colourful lighting throughout town centres.*
- *Encourage small wine bars rather than large pubs*
- *Explore extended retail and dining hours*
- *Encourage restaurants and activities located outside of shopping centres to activate the streetscape*
- *Provide more cultural/community events/festivals/popups.*

The proposed extension of hours under this application do not reflect the outcomes of the study, which specifically identifies the encouragement of 'small wine bars rather than large pubs'. Additionally, the extension of hours with no liquor, and only gaming in operations from midnight to 4am is not considered to 'make night-time places and activities more family friendly'.

The NTE Study further identifies 'Criteria for a great NTE', including:

- *Diversity of offer: At least four different NTE activities available in a variety of locations including outside shopping centres.*

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- *Transport: Train station and a major bus route.*
- *Wayfinding and connectivity: Clear connections between transport and NTE venues.*
- *Safety and risk: As identified in survey.*
- *Governance and partnerships: NTE included in the DCP, partnerships between local businesses, Chamber of Commerce, Council.*
- *Quality public domain: Public plazas and open space, footpaths, seating and lighting to support night time activity.*
- *Lighting and public art: Creative lighting installations, night lights, public art.*
- *Temporary uses: Regularly used for temporary uses e.g. markets, busking.*

As identified throughout this report, the extension of hours is out of keeping with the Ryde Town Centre. As the only premises in the area operating until 4am, the gaming only operations until the early morning does not have the supporting uses to provide 'diversity of offer', nor is there sufficient transport options or wayfinding and connectivity available, and further 'safety and risk' are key issues raised by NSW Police recommending the refusal of the application.

While it could be said the approval of the extension of hours is a 'first step' in establishing a NTE, however the type of use that is extended as a result of the hours is not considered to be in keeping with the desired character of the NTE experience identified in the study. Based on the above the proposed extension of hours of a hotel which operates gaming only from midnight, will not provide a positive contribution to the Ryde NTE and approval of the application would not be in the public interest. Approval of the Development Application would create an undesirable precedent for late night trading which would negatively transform and erode the character of the local area. NSW Police have indicated to Council an extension of trading hours for this application has the potential to have the following negative impacts upon the local area and accordingly approval of the application would not be in the public interest:

- a. An increase in alcohol related assaults/crime
- b. Intoxication related issues such as Excluded Person offences
- c. Disturbance to the local neighbourhood.
- d. An increase in patron migration

9. Submissions

The application was notified from 3 April 2020 to 29 April 2020. In response, fourteen (14) submissions were received objecting to the proposed modifications. Key issues raised include:

- Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.

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- Anti-social behaviour, including swearing, fighting, and public urination.
- Sleep disturbance associated with the noise impacts.
- Noise from the premises, include from poker machines, music, and patrons.
- Littering of bottles and other rubbish around neighbouring buildings.
- Illegal parking and traffic movements.
- Cigarette smoke impacting on residences.

9.1 Noise from patrons leaving the premises, including noise made directly by patrons and by the vehicles of patrons, particularly around the current closing time of the venue.

Council Assessment:

Noise from patrons leaving the premises late at night is a common theme of the submissions received in response to the application. While it is noted there may be no evidence to substantiate that the source of the noise is from patrons of the Hotel, it remains that there are no other premises within the immediate vicinity of the site that have hours of operation until 2am.

The infrequency of public transport services services, regardless of direction results in patrons to be more likely to linger either outside the premises or at nearby bus stops, or to rely on private transport to leave the premises, and park in the surrounding streets (shown at **Figure 13**). Parking areas are within close proximity to residential properties, and irrespective of whether passengers are intoxicated, results in additional movements of people and vehicles at an early hour. This also has the potential for further exacerbation from patron migration, being the (proposed) latest operating licenced gaming venue within Ryde.



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The behaviour and amenity impacts from the existing operations to 2am is reportedly causing impacts to residents including sleep disturbance, and regardless of any Plan of Management, is difficult to manage due to the distance patrons may park from the Hotel and the lack of enforcement that is actually possible by hotel security in controlling the behaviour of patrons who are leaving the premises.

The management of the noise impacts of residents leaving the premises is reliant on the successful implementation of the Plan of Management. In fact, the extensive nature of the Plan of Management itself including measures that apply after midnight, is a strong indicator for the potential for adverse impacts to be caused on the amenity of the location.

The protection of the amenity is dependent on the Hotel's successful management of not only the immediate vicinity of the premises, but a periphery of up to 100m from the Hotel. To support an extension of hours earlier into the morning will not only increase the period in which patrons can come and go from the premises, leading to more vehicle movements and potential noise impacts, but also it moves the closure time to an hour where public transport is less available and thus increases reliance on private transport.

9.2 Noise from the premises, including from poker machines, music, and patrons.Council Assessment:

The site is located within a mixed-use neighbourhood. Residential properties are as close as 3.5m from the area of the Hotel seeking extended hours of operation. The Hotel relies on an acoustic baffle walls and upgrades to the ceiling over the gaming room, which has been proposed with minimal information regarding its design and effectiveness; and extensive management procedures to control patron behaviour.

As indicated in the NSW Police referral to MOD2018/235: "Police submit that some of the recommendations above will be difficult to enforce. Noise emissions as patrons enter and leave the premises, by simply opening the Hotel door may cause noise that disturbs neighbours. Police are not aware of a double door or air lock door system at the premises to reduce this noise. Police are concerned management, especially between the hours of 2am and 4am will be unable to ensure there is no yelling or screaming in the outdoor gaming area. Patrons who have won amounts of money on a machine or lost amounts of money on a machine may yell or scream."

Extension of hours for 12 hours a week within the most sensitive hours of the morning is likely to exacerbate the existing impact on living amenity of the adjoining residential area.

9.3 Associated existing impacts from Hotel patrons in surrounding streets including:

- **Littering of bottles and other rubbish around neighbouring buildings**

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- **Anti-social behaviour, including swearing, fighting, and public urination.**
- **Illegal parking and traffic movements.**
- **Cigarette smoke impacting upon nearby residences**

Council Assessment:

It is noted that the associated existing impacts of the use of the site for the purpose of a Hotel is not anticipated to be exacerbated as a result of the change in hours, rather it will simply move the time of impact to earlier in the morning when sleep disturbance is more sensitive.

What the above existing impacts do indicate is that the existing management of the premises and of patrons leaving the premises is unable to be completely managed. While take away alcohol is permitted up to 11:00pm, it remains that as the only licenced premises within the vicinity of the site, it is highly likely the littering of liquor bottles is from the Hotel, and is causing impact on the amenity of the neighbourhood.

The submissions received demonstrate that the operation of the Hotel is currently affecting the amenity of the locality. Any further extension of the hours would result in the amenity of the area being further adversely affected which would prejudice the residents of the adjoining residential developments.

10. ReferralsNSW Police

The referral from the NSW Police MOD2018/0235 states that “*Police have reviewed the recent application and note the application does not substantially differ from the original application in 2018*”. The referral from the police to have objected to the application due to the likely negative social impacts, suitability of the site and it is not in the public interest.

The referral to the subject application has not supported the extension of trading hours as extensively detailed in this report.

Acoustic Consultant

As detailed in the background section of this report, the application is subject to Class 1 proceedings in the Land and Environment Court for Deemed Refusal. At the time of the appeal no acoustic comments had been provided by Council’s EHO. Nonetheless, the Acoustic Consultant, in the preparation of Statement of Facts and Contentions raised the following issues which are provided here to provide further background and detail on Council’s assessment of the submitted Acoustic Report:

The acoustic report prepared by Acoustic Logic does not provide sufficient information and evidence as to whether the development will comply with the

ITEM 1 (continued)

relevant regulations and protect the acoustic amenity of the surrounding residential receivers.

The selection of attended monitoring location A3 does not represent the worst case octave band noise levels. Given the noise levels at location A1 (shared boundary with Receiver 1) were lower across several octave bands, this would be more appropriate for the establishment of octave band noise criteria.

The overall results of attended monitoring location A1 (41 dBA) does not correspond with the results of the long term unattended noise monitor for the same time period (37-38 dBA). These two locations are located approximately 5 metres apart based on Figure 1. It would be expected that these results are consistent. There is no discussion within the report as to why these results are not consistent, as a 4 dB difference is significant.

Attended noise monitoring to determine octave band noise levels was undertaken for a total period of one hour (for three locations) on one Saturday night only. No attended noise monitoring was undertaken on other nights of the week to confirm octave band noise levels.

There is conflict between the text in Section 5.3.2 and Table 6 as to which receiver category has been selected (urban or suburban) for the establishment of NPI amenity criteria 12528750/12528750-LET_LEC Proceedings - Patrick Gallagher v. CoR – 2 Ryde Hotel - 68 Blaxland Road, Ryde - acoustic input into SFC.docx.

The noise assessment fails to provide insertion loss data for the proposed 2.4 metre long attenuator.

The noise assessment discusses potential noise sources within the gaming room, including gaming machines, patron noise and background music, however fails to provide noise levels for these individual noise sources.

The noise assessment fails to provide octave band data for individual noise sources, or overall noise source levels used for the calculation of transmission to the receiver.

Attended monitoring was not undertaken within the gaming room to supplement the unattended noise logger to assist with determining suitable sound levels for the noise generating activities within the gaming room.

Attended noise monitoring of existing maximum noise level events from the gaming room was not undertaken at the nearest residential receiver.

Simultaneous measurements at the nearest residential receiver and within the gaming room were not undertaken to determine the transmission of noise.

ITEM 1 (continued)

Details of the location of the noise monitor within the gaming room, number of gaming machines within the area directly under the proposed roof and attenuator, and proximity of the monitor to the gaming machines, have not been provided.

There is no detailed explanation as to the selection of source levels of 70 dBA (L10 assessment) and 80 dBA (Lmax assessment).

The noise assessment fails to consider other potential noise sources, which I have observed in similar gaming rooms, such as patrons speaking with loud voices (potentially shouting or celebrating after a significant payout or feature) and patrons slapping the gaming machine buttons, which may result in noise levels above the source levels in item k).

The information presented in Section 6.1.2 does not provide enough information to determine the noise levels of noise generating sources in the gaming room, such as descriptors (ie Sound Power Level, Sound Pressure Level, Lmax, L10, Leq etc), distance from noise monitor and duration of the event.

Noise logger charts for the unattended noise monitor located within the gaming room have not been provided.

No assessment of mechanical plant noise has been provided.

The applicant has not provided sufficient detail to determine whether noise from the proposed use of the outdoor gaming area between 2 am and 4 am will negatively impact the acoustic amenity of the residents of the nearest residential receiver, given the close proximity to the gaming area.

The report recommends that the proponent "Install a 2.4m long attenuator in the location indicated on the attached drawings". However this is not shown on any submitted drawings.

Building Surveyor

Council's Building Surveyor reviewed the subject application and provided the following comments in relation to Clause 94 of the EP&A Regulation:

- *Ensure compliance with BCA is listed in DA conditions; this will ensure partial conformity with BCA.*
- *It is not deemed appropriate to upgrade the building due to:*
 - a) *Volume of building work is less than half of total work*
 - b) *An existing AFSS is in force and deemed the fire measures are appropriate*
- *Regarding the Fire Safety and Accessibility Audit Report, the author does not list his/her qualifications/accreditations/professional memberships. An RFI is required to address this.*

ITEM 1 (continued)

- *No objections are raised regarding the fire protection of openings, or the recommendation and amendment to AFSS.*
- *Access assessment was very limited in scope. It did not conduct an assessment under the Disability Discrimination Act, Premises Standards, AS1428.2 etc. A RFI for an Access Report is to be requested and signed by a qualified access consultant.*
- *Performance Solution Report for access requirements are not deemed satisfactory in its methodology, assessment and reasoning. I think the major problem with the report is not demonstrating equivalency to the current building standards. A RFI for a performance solution report is required. I think the best pathway of for this performance solution report is by Expert Judgement. However this will entail the expert list his qualifications and the report properly address this approach in its methodology of assessment. Currently I think it approaches by way of comparison to DTS provisions however this approach is really difficult to justify in numerical provisions (kind of like being short of the required frontage for a development however much less lenient in this case).*

11. Conclusion

After consideration of the development against Section 4.15(1A) of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, it is recommended the application be refused for the following reasons:

- The proposed extension of operating hours will create negative impacts on the surrounding built environment and is incompatible with the locality.
- The proposed extension of operating hours will create negative social impacts in the locality.
- Approval of the Development Application would create an undesirable precedent for late night trading which would negatively transform the character of the local area.
- The acoustic report prepared by Acoustic Logic does not provide sufficient information and evidence as to whether the development will comply with the relevant regulations and protect the acoustic amenity of the surrounding residential receivers.
- Insufficient information relating to the area affected by the extended hours and it is not clear which areas of the site are affected by the extended hours, and any relevant works (in addition to the awning referred to within the acoustic report).
- Inadequate information has been provided with regard to Clause 94 of the EP&A Regulations relating to fire safety and access.
- Insufficient information has been provided with regard to the existing and proposed floor space within the proposal.
- The site is not suitable to accommodate the development.
- The Development Application is not in the public interest.

ITEM 1 (continued)**12. Recommendation**

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- a. That the Ryde Local Planning Panel refuse Local Development Application No. LDA2020/89 for the following in reasons:
 - i. Pursuant to Section 4.15(b) of the EP&A Act, the proposed extension of hours would adversely affect the amenity of the surrounding residential area.
 - ii. Pursuant to Section 4.15(b) of the EP&A Act, the proposed extension of hours is not compatible with the existing, and desired future character of the Ryde Town Centre.
 - iii. Pursuant to Section 4.15(b) and Section 4.15(d) of the EP&A Act, past operations of the premises to 2am have not successfully demonstrated that impacts on the neighbourhood have been adequately managed based on the submissions received to the application.
 - iv. Pursuant to Section 4.15(a)(i) of the EP&A Act, the proposed extension of hours does not meet the objectives of the B4 Mixed Use zone under Ryde Local Environmental Plan 2014 it is located.
 - v. Pursuant to Section 4.15(a)(iii) of the EP&A Act, the proposal is inconsistent with the objectives and controls under Ryde Development Control Plan 2014 - Part 4.4 Ryde Town Centre.
 - vi. Pursuant to Clause 115 of the EP&A Regulations, the application has a lack of information regarding the proposed acoustic treatment for noise mitigation.
 - vii. Pursuant to Section 4.15(b) of the EP&A Act, approval of extended hours would set an undesirable precedent for other licenced premises within the Ryde area, and lead to potential detrimental cumulative impacts.
 - viii. Pursuant to Section 4.15(c) of the EP&A Act, the site is not considered suitable for the proposed extended hours of operation.
 - ix. Pursuant to Section 4.15(b) of the EP&A Act, the proposed extended hours of operation will result in negative social impacts and an increased risk for crime which cannot be eliminated through management practices.
 - x. Approval of the proposed extended hours would not be in keeping with the reasons for approval of the consent which is sought to be modified per Section 4.55(3) of the EP&A Act.
 - xi. Pursuant to Section 4.15(e) of the EP&A Act, approval of the application would not be in the public interest.
- b. That the persons who made submissions be advised of this decision.

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ATTACHMENTS

- 1 Plan of Management
- 2 A3 Plans - subject to copyright provisions

Report Prepared By:

Rebecca Lockart
Senior Coordinator - Major Development

Report Approved By:

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

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ATTACHMENT 1

Royal Hotel

**VENUE
MANAGEMENT PLAN**

68 BLAXLAND ROAD, RYDE

March 2020

ITEM 1 (continued)

ATTACHMENT 1

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Appendices

- A Liquor Promotions Guidelines
- B Intoxication Guidelines

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Purpose

1. This Plan of Management (the “Plan”) is to ensure that the hotel is run at all times in a way that is consistent with good management, does not disturb the quiet and good order of the community, considers the community and meets the requirements and intents of the Environmental Planning and Assessment Act, the Liquor Act and the Gaming Machines Act. It provides a clear, concise and practical framework for the safe and proper management of the hotel.

In this plan, “*vicinity of the hotel*” means any public place within 50 metres of any part of the hotel building.

Responsibilities and Requirements

2. The licensee of the hotel is responsible for the implementation of, and adherence to, this Plan.
3. A copy of this Plan shall be kept with the hotel’s register of certificates of Responsible Service of Alcohol and Responsible Gaming Practices.
4. All staff and security officers employed at the hotel are to be familiar with the contents of this Plan.

Amenity of Neighbourhood

5. At all times the licensee shall consider the amenity of its neighbours and shall take all reasonable measures to ensure that adverse impacts on the surrounding area do not occur.
6. The licensee will take all reasonable measures to ensure that the behaviour of staff, security officers and patrons, when entering or leaving the hotel, do not detrimentally affect the amenity of the community.
7. The hotel shall be conducted so as not to interfere with, or materially affect, the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, vapour, steam soot, ash, dust, waste water, waste products, grit, oil or otherwise.

Hours of trade

8. This Plan of Management has been updated to accompany an application to Council to extend the current approved trading hours which are 10.00 am until 2.00 am Monday to Saturday inclusive; and from 10.00 am until 12.00 midnight on Sunday.
9. The proposed hours of trade of the Hotel are:

Monday to Saturday: 10:00am to 4.00 am on the following day; and

Sunday: 10:00am to 12.00 midnight.
10. It is proposed that the extension of hours after 2.00 am Monday to Saturday, initially be granted for a trial period.

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11. Staff or authorised persons may be in the hotel at any time.

Signage at and in the hotel

12. The hotel's name shall be displayed on the exterior of the hotel building.
13. The hotel is to display all internal signage required by the Independent Liquor and Gaming Authority, regarding the sale of liquor or the provision of gaming.
14. Signs are to be prominently displayed in the hotel requesting patrons to leave the hotel quietly, respecting the rights of neighbours and the neighbouring community to quiet and good order.
15. Outside the main entrance to the hotel, a plaque shall display a telephone number to which any complaints about the hotel or its patrons may be made whilst the hotel is trading.
- 15A. Signage will be prominently displayed both inside and outside the hotel advising of the dedicated email address to receive and address noise and/or disturbance complaints during or outside the hotel's trading hours. The email address will enable all emails received and sent to automatically be copied to Ryde Council.
16. At positions, agreed with the Ryde LAC of the NSW Police Force and Ryde City Council, signs will be displayed on the exterior of the hotel informing the public that its surrounds are under CCTV surveillance.
17. Signs shall be displayed inside the hotel notifying patrons that a CCTV system is operating at all times.

Footpaths

18. No signs, goods or obstructions (other than waste bins put out for collection) shall be placed on the footpath outside the hotel.
19. The footpath adjoining the hotel is to be swept daily and kept clean and safe for the public.

Noise

20. Activities in or at the hotel while it is open for trade shall not result in an LA10 noise level being emitted the background noise level in any octave band from 31.5Hz to 8000Hz centre frequencies inclusive by more than 5dB at the boundary of the nearest affected residential property.
21. The hotel shall not conduct entertainment after 12.00 midnight, other than background music.
22. Amplified speakers shall not be directed towards any footpath or face any external openings from Hotel boundary walls.

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Behaviour of Patrons/Responsible Service of Alcohol/Responsible Conduct of Gaming

23. The licensee shall take all reasonable steps to control the behaviour of the patrons throughout the hotel (particularly the outdoor gaming area during the after-midnight period) and as they enter or leave the hotel.
24. The licensee shall take all reasonable steps to ensure that there is no loitering in the vicinity of the hotel by persons who have been denied admittance to the hotel or removed from the hotel.
25. The licensee, as far as is reasonably possible, will endeavour to monitor the behaviour of prospective patrons approaching the hotel.
26. Patrons shall not be permitted to take glasses or other open containers of liquor out of the hotel.
27. Patrons shall not be permitted to drink beverages supplied by the hotel on the footpath outside the hotel.
28. The dress policy will be enforced at all times. Patrons are not to wear hats whilst on the premises.
29. All employees are to be trained to establish good customer relations in order to provide the highest standard of service. Regular meetings and training sessions will be held to maintain these standards.
30. The following operational policies for the responsible service of alcohol shall apply at all times, together with the NSW Office of Liquor, Gaming and Racing's "*Liquor Promotions Guidelines*" and "*Intoxication Guidelines*".
 - (a) All managers and staff employed at the hotel shall complete an approved course in the Responsible Service of Alcohol unless they have completed one within the last five years.
 - (b) The licensee shall not engage in any liquor promotion that is likely to promote the irresponsible service or consumption of liquor.
 - (c) No person who is intoxicated will be served alcohol in the hotel.
 - (d) No person who is already intoxicated will be permitted to enter the hotel.
 - (e) The hotel will promote the service of non-alcoholic beverages and food.
 - (f) The hotel will not permit intoxication or any indecent, violent nor quarrelsome conduct on the premises. The hotel will comply with Eastwood Gladesville Local Liquor Accord's Barring Policy Guidelines.
 - (g) No person under the age of 18 shall be served liquor in the hotel.

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- (h) No person under the age of 18 years shall be admitted to the hotel unless in the company of a responsible adult and then only into the part of the hotel which is subject to the minors area authorisation.

Production of photographic identification will be required where the age of a person seeking to enter the hotel is an issue. The only acceptable proof of age identification will be:

Photo driver's license;

Proof of age card (RTA); or

Current passport

- (i) Low-alcohol beer and non-alcoholic beverages will be available at all times when full-strength liquor is available in the hotel.
- (j) Food will be available whenever liquor is available for consumption in the hotel.
- (k) Staff will request patrons leaving the hotel during the after-midnight period to leave the area in a prompt and orderly manner, assist patrons in arranging safe transport from the hotel to home. Staff will arrange for a taxi to collect any patron when he or she requests such a service.
- (l) Staff will, on request, escort any patron to their vehicle parked in the vicinity of the hotel.
- (m) The licensee will maintain a register containing copies of each certificate showing the satisfactory completions of the Responsible Service of Alcohol courses undertaken by the licensee or staff that are required to complete the course. That register shall be made available for inspection on request by a NSW Police officer, or Inspector from Liquor & Gaming NSW.
- (n) All conditions imposed on the hotel's licence shall be met.

CCTV conditions

31. The licensee shall install and maintain surveillance cameras and recorders to monitor and record activities in:-
- i. the public areas of the hotel including its entrances, bars and gaming areas; and
 - ii. the immediate vicinity of the hotel.
- Recordings are to be made continuously, half an hour before opening to half an hour after close.
32. The time and date must automatically be noted on all recordings. All recordings are to be kept for a period of thirty (30) days before they can be re-used or destroyed. Any recording (or a copy thereof) is to be provided to the Ryde LAC within a

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reasonable time following a request for it. Notwithstanding this requirement, should any recording exist, regardless of whether or not it falls within the thirty (30) day period, it must be supplied to Police or other regulatory officers following request.

33. If requested by Police or any regulatory officer, the licensee is to archive any recording until such time as it is no longer required by that officer or authority.
34. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any Windows computer.
35. The CCTV control system should be located in the office of the hotel and only be accessible to authorised personnel. At all times whilst the hotel is trading, there must be, on the premises, a person with access to the system and the ability to use the system in order to make copies of any recordings requested by Police or any other regulatory officer.
36. The CCTV system shall be maintained by a registered security surveillance company. If, at any time, the CCTV system is not in full operational condition, the licensee is to notify the Ryde LAC within a reasonable time of the fault being discovered.
37. If the CCTV system is not operational, immediate steps are to be taken by the licensee to ensure that it is returned to a fully operational condition as soon as possible.
38. At all times the premises is open for trade an employee will be present within the hotel who is capable of operating the CCTV system and is able to immediately provide Police a copy of the recordings upon request.

Management/Security officers

39.
 - (i) The licensee or a member of staff who is designated as a duty manager shall be on duty at all times the hotel is open for trade.
 - (ii) In addition to that person, the licensee shall arrange for the provision of security officers to be on duty at the hotel at times specified below.
40. Any security officer, other than referred to in 40(i) working at the hotel shall:-
 - (a) Report to the licensee or duty manager before commencing duty to obtain a briefing on any specific duties to be addressed. Those duties may include patrolling in the vicinity of the hotel (including the adjacent bus zone area).
 - (b) Request any hotel patron – in or in the vicinity of the hotel – to behave in a quiet and orderly manner, leave the area promptly on exiting the hotel and to have regard for nearby residents, if that request is considered necessary or appropriate.

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- (c) Prevent any person detected as intoxicated entering the hotel and bring to the notice of the licensee or duty manager any person in the hotel who might be considered intoxicated.
 - (d) Take all reasonable steps to prevent patrons leaving the hotel with open drinking containers.
 - (e) Record details of any incidents in a log book together with an hourly estimate of the number of patrons in the hotel.
 - (f) At the end of each shift bring any incidents recorded in the log book and the actions taken in response to them to the attention of the licensee or duty manager and ensure they are entered into the hotel's Incident Register.
 - (g) At closing time, monitor patron behaviour in the vicinity of the hotel until all patrons have left the vicinity of the premises, taking all practical steps to ensure the quiet and orderly departure of patrons.
 - (h) Security officers are to ensure that patrons leaving the premises do not loiter or linger in the vicinity of the hotel and leave the area promptly or cause nuisance or annoyance to the neighbourhood.
 - (i) Co-operate with Police and any other private security personnel operating in the vicinity of the hotel.
 - (j) On nights that the hotel trades past midnight, at least one licensed security officer will be provided from 9.00 pm until 30 minutes after close and include the patrolling of the vicinity of the hotel (including the adjacent bus zone area).
41. Each security officer is to have a communication device to allow communication with any other officer on duty, the licensee or duty manager and the Ryde LAC (if the LAC consents to that and appropriate technology is reasonably available).
42. The licensee shall keep an incident register in which all incidents recorded at or in the vicinity of the hotel which involved hotel patrons shall be recorded. The licensee shall make the incident register available to Police, Council Officers or New South Wales Officer of Liquor & Gaming NSW (L&GNSW) officers upon receipt of a request to do so and will assist in identifying and resolving any incidents relating to any matters at, or in the vicinity of, the hotel.

Recording and reporting of incidents

43. Maintenance of an effective relationship with the Ryde LAC is essential to the provision of effective hotel security. That includes keeping the LAC informed of incidents. The licensee shall ensure that the following protocols are observed.
44. In the event of any **serious incident that requires the immediate attendance of Police**, staff or the security officer alerted is to report it, as soon as possible, to the duty manager and, if instructed to do so, to the Police or other emergency service.

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Additional Measures to Apply when the Hotel Trades After Midnight

45. It is proposed that various additional measures and restrictions will apply on any days that the Hotel trades after midnight to minimise the likelihood of adverse impacts.

Patron Restriction

46. On any morning that the Hotel trades after midnight, no more than 50 patrons are to be in the Hotel at any one time after midnight.

Closure of certain areas of the Hotel

47. The door to the gaming room from the TAB bar area must be locked at midnight to prevent patron access to the areas of the Hotel that are closed.

No Sale or Supply of Liquor

48. From 11.30 pm until 11.45 pm, there will be a limit of two alcoholic drinks per person.

49. From 11.45 pm until 12.00 midnight there will be a limit of one alcoholic drink per person.

50. There will be no sale or supply of liquor after 12.00 midnight.

Exit and entry from the Hotel

51. Exit from and entry to the Hotel after midnight will be restricted to the Blaxland Road entrance closest to Church Street.

Restriction on Entertainment

52. No live entertainment or entertainment provided by a DJ or other performer is to be provided at the Hotel after midnight. Music provided at the Hotel after that time is to be limited to background music only.

Additional Security Requirements

53. On any evening that the Hotel trades past midnight, the following security requirements are to apply:-

- At least one licensed security officer is to be in attendance from 9.00pm until half an hour after close to monitor patron behaviour within the hotel (and the outdoor gaming area during the after-midnight period) and to patrol the vicinity of the hotel (including the adjacent bus zone area).
- At least one manager must be in attendance from midnight until close. That manager must maintain radio contact with the security officer(s) at all times.
- The guard will wear a vest with the word "security" prominently displayed. As is presently the case, the guard will have a communication device to

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allow communication with other security, the licensee or duty manager of the Hotel as well as the Ryde LAC.

- At closing time, the guard(s) is/are to be stationed outside the hotel to assist with the orderly and prompt dispersal of patrons and the licensee will liaise with the Police as to the most suitable location for these officers to be stationed from time to time.

Incident Register

54. Prior to commencing exercising the Hotel licence during any extended trading hours, the licensee will implement an incident register at the Hotel and upon the commencement of trading the extended hours any required incident will be recorded in that register.

Additional Noise Control Measures Between 2:00am and 4:00am

55. Between 2:00am and 4:00am, on any day the Hotel is operating, the front entry windows and doors are to remain shut *except* when anyone is entering or exiting the Hotel building.

Transport Options

56. There are various transport options available, including abundant parking available nearby.
57. The hotel is only metres away from a bus stop.
58. Management will provide a service of contacting taxi companies to collect patrons from the front of the hotel.

Maintenance

59. The hotel premises shall be kept in a clean and tidy condition and be regularly maintained to the reasonable satisfaction of Council both internally and externally.
60. Any graffiti found on the hotel building is to be removed as soon as possible at the hotel's expense.

Fire Safety

61. The licensee shall ensure that all exit signs and emergency lights are located in the appropriate places and kept in good order.
62. Nominated staff will be trained in Fire Safety and Occupational Health and Safety, and will be given regular training in these matters so as to ensure that the hotel is operated safely and can be safely evacuated in the event of an emergency.

House Policy

63. The hotel will be conducted in accord with a House Policy provided to Ryde LAC.

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64. The House Policy will be periodically updated to reflect legislative requirements and Police, L&GNSW and industry recommendations.
65. A copy of the House Policy will be maintained in the register in which the certificates of completion of responsible service of alcohol course are filed.

Responsible Conduct of Gambling

66. The licensee and staff of the hotel shall comply with any measures specified by any legislation, regulation or code of practice adopted by the Australian Hotels Association, in relation to responsible gambling.

Operational Integrity

67. The licensee will undertake to ensure the integrity of the hotel's operations and compliance with this VMP by arranging for independent, periodic covert surveillance of its operation in the form of a formal surveillance report. Such reports shall be retained and shall be made available upon receipt of a request from an authorised person.
68. The licensee shall join, and be an active member of, the Eastwood Gladesville Local Liquor Accord.

Waste management

69. The licensee shall ensure that solid waste from the hotel is minimised and that as much as is reasonably possible will be recycled. To that end, waste shall be separated into putrescible, cardboard and paper and glass and cans.
70. All wastes shall be stored in the designated waste storage areas until removed for collection from the hotel.
71. All waste containers and storage areas shall be kept clean.
72. The licensee shall arrange for contractors to collect wastes from the hotel. All collections shall be made before 7am on any day.
73. Putrescible waste (in bins) may be placed on the footpath outside the hotel after the hotel closes but the emptied bins are to be taken inside the hotel before 7am.
74. Bins containing other wastes are to be collected by trucks standing in the hotel's loading dock.
75. Putrescible wastes shall be collected twice weekly.
76. Other wastes shall be collected weekly.

Amendment to this Plan

77. If, in circumstances where experience shows that it is reasonable or desirable to modify any provision of this plan for the better management of the hotel, that modification shall be made to the plan after consultation with the Ryde LAC.

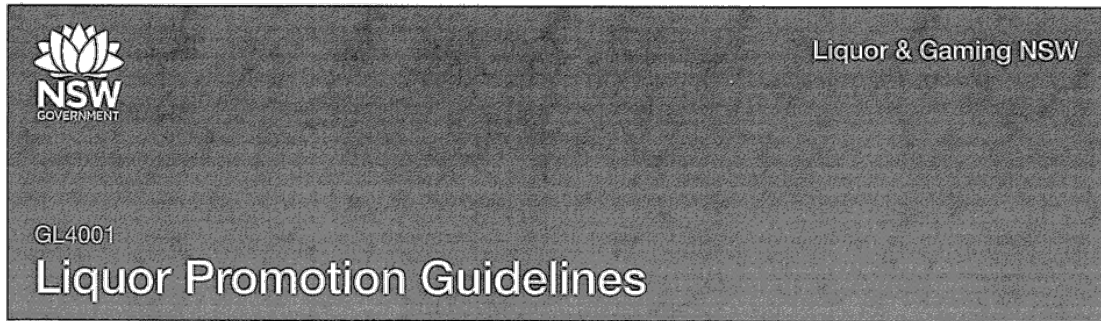
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APPENDIX A—Liquor Promotion Guidelines

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ATTACHMENT 1



Introduction

Promotions and activities that surround the sale and supply of alcohol can have a significant influence on patrons and the way they behave.

Undesirable or poorly managed liquor promotions can encourage people to drink irresponsibly and excessively, and lead to alcohol-related violence and anti-social behaviour and adverse health impacts.

Promotions that appeal to minors, are indecent, offensive, or are generally out of step with community standards can also encourage risky drinking and may lead to behaviours which harm or offend others.

Ensuring liquor promotions are run responsibly helps to minimise the harms that can arise. It also makes good business sense, and supports the sustainability and responsible development of the industry in NSW.

The Secretary, Department of Industry, has the power to ban or restrict 'undesirable' liquor promotions run by licensed venues in NSW by issuing a notice under section 102 of the *Liquor Act 2007* (the Act).

Before the Secretary can exercise this power, publicly available guidelines must be released under section 102(4) of the Act. These Guidelines fulfil this requirement and indicate the kinds of promotions or activities that the Secretary would consider being the subject of a notice.

The Secretary is also able to ban or restrict any activities at licensed venues that are likely to encourage the misuse and abuse of liquor under section 102A of the Act. This does not require guidelines and can be relevant for promotional activities as well as broader activities run on licensed premises.

The Secretary may also ban or restrict licensees from selling or supplying specific liquor products where they are considered 'undesirable' under section 101 of the Act.

Running promotions responsibly in NSW - The Law

What are my obligations as a licensee?

All licensees and staff have obligations under the *Liquor Act 2007* (the Act) to maintain responsible attitudes and practices towards promoting and selling alcohol.

These Guidelines convey principles for running promotions responsibly in NSW, and help to set standards for licensees to follow by providing examples of unacceptable practices.

If a licensee runs a promotion that is inconsistent with any of the principles or related standards set out in the Guidelines, they may be subject to regulatory scrutiny and intervention.

Liquor & Gaming NSW actively monitors liquor promotions run by licensed venues and also assesses complaints raised by the public.

What makes a promotion undesirable?

A promotional activity can be 'undesirable' and subject to a ban or restriction if the Secretary considers it contravenes one of seven principles in section 102 of the Act. These include that a promotion:

1. Must not have a special appeal to minors, because of the design, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or for any other reason.
2. Must not be indecent or offensive.
3. Must not involve the use of non-standard measures that encourage irresponsible drinking and is likely to result in intoxication.
4. Should not use emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication.
5. Should not involve the provision of free drinks, or extreme discounts or discounts of a limited duration, that creates an incentive for patrons to consume liquor more rapidly than they otherwise might.

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

6. Should not otherwise encourage irresponsible, rapid or excessive consumption of liquor.
7. Should not otherwise be considered to not be in the public interest.

What can I do to ensure a promotion complies?

When running promotions licensees should always consider how the principles apply, as well as what actions they can take to minimise any risk of harm.

Examples of unacceptable promotions that are clearly inconsistent with the principles and must not be undertaken are provided in these Guidelines to help demonstrate relevant standards in relation to each principle. However, they are not intended to be a definitive list of what can and cannot be done.

The Guidelines also include information about some of the practical steps that can be taken by licensees to help manage any associated risks.

What happens if my promotion doesn't comply?

If a licensee runs a liquor promotion that may be considered 'undesirable' it can be actively investigated by Liquor & Gaming NSW.

Typically, Liquor & Gaming NSW will first contact the licensee to seek an explanation when there are concerns that standards are not being met, and may request changes or withdrawal of the promotion.

If any concerns are not addressed then the Secretary, or a Liquor & Gaming NSW delegate, can ban or restrict any promotion considered to be undesirable by issuing a written notice under section 102 of the Act.

Section 102A can also be used to restrict or prohibit any activities likely to encourage the misuse or abuse of liquor.

If a licensee does not comply with a ban or restriction, they face fines of up to \$5,500.

What promotions do the Guidelines apply to?

All NSW licensees should be mindful that the Guidelines apply to all types of promotional activities - whether they are run using more traditional channels like flyers or posters or over the Internet, social media or SMS.

They extend to promotions that use social media influencers or other third parties, including any promoters engaged by a licensee.

The Guidelines also apply across different licensed environments where risks can differ and alcohol is being promoted:

- ▲ for consumption on premises; and
- ▲ for take-away or home delivery.

Past examples of promotions investigated by Liquor & Gaming NSW are included in the Guidelines to help demonstrate how each of the principles apply in these different contexts.

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

Principle 1 - Appeal to Minors

Promotions must not have a special appeal to minors, because of the design, names, motifs or characters in the promotion that are, or are likely to be, attractive to minors, or for any other reason.

Explanation

It is illegal to sell alcohol to minors or to supply alcohol to minors on licensed premises.

Promotions that hold particular appeal to minors can pose a significant risk as they may lead to increased levels of alcohol-related harm in a vulnerable group.

The National Health and Medical Research Council Guidelines refer to the increased risks of harm from alcohol for minors. Early drinking is related to increased alcohol consumption in adolescence and young adulthood. These drinking patterns are also related to the possibility of damage to the developing brain and development of alcohol-related harms in adulthood.

Examples of unacceptable promotions

- ▲ Using characters, imagery, motifs, naming or designs that would appeal to minors.
- ▲ Including merchandise that primarily appeals to minors.
- ▲ Using interactive games or technology that would appeal to minors.
- ▲ Using images of people that look under 18 years of age that suggests they are or have been consuming liquor or may be about to.

Managing related risks

Care should be taken in using celebrities or other role models that have a special appeal to minors as part of the liquor promotion. This may be construed as having a special appeal to minors under the Act.

Licensees should also exercise extra caution if running any promotions in environments where young people are more likely to be present.

For example, minors can readily be exposed to promotional material published over digital and social media platforms.

Placing promotional material at or close to primary or secondary schools, or other areas mostly used by minors, is likely to be 'unacceptable' in all cases.

Minors can also access most licensed premises in the company of a responsible adult, so licensees also need to be aware of their presence when running any promotions on-site.

Past examples of promotions that have been investigated

On-premises environment

- ▲ Cartoon animal characters that would appeal to minors were depicted on a hotel's Facebook page promoting a liquor activity.

Take-away environment

- ▲ A take-away liquor store packaged bottles of vodka with a box of Skittles and included instruction on how to mix Skittle bombs.
- ▲ Images on a licensee's Facebook page depicted young people in a heavily drunken state.
- ▲ An image on a licensee's Facebook and Instagram account paired an image of a large crowd of young people at a concert with a large-sized bottle of liquor on stage with the provocative title 'Raise your hand if you have been personally victimized by vodka'.

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

Principle 2 – Indecent or Offensive

Promotions must not be indecent or offensive.

Explanation

The use of indecent or offensive material in a liquor promotion is of poor taste and is against general community standards.

While determining what is indecent or offensive can be subjective, licensees should be mindful of what would reasonably be considered offensive in the broader community.

Indecent and offensive promotions may be a catalyst for crime or violence, including sexual crime against women.

Examples of unacceptable promotions

- ▲ Using images, including of human bodies, that may be considered offensive to a reasonable adult.
- ▲ Offering free or discounted drinks for participating in an activity that may be offensive to a reasonable adult present on the premises, for example, encouraging participants to remove items of clothing.
- ▲ Using insulting or offensive language.
- ▲ Using any form of discriminatory, demeaning or vilifying language or imagery.
- ▲ Using sexual, degrading or sexist images, symbols, figures or innuendo.

Managing related risks

Some drink brands and cocktails have provocative language in their names. While the sale of these products is largely accepted in society, care should be taken not to use language that may be insulting or offensive as a key part of the branding of any related liquor promotions. Branding a promotion with this language is likely to be considered 'undesirable'.

Caution should be exercised in promoting these products within or externally to a venue to limit the potential to cause offence.

Past examples of promotions that have been investigated

On-premises environment

- ▲ A hotel's Facebook post promoted ANZAC Day celebrations using sexual imagery with the title 'Let's re-enact Gallipoli;' 'Screw battle, we're getting drunk;' and 'Terrible shape for Dawn Service.'

Take-away environment

- ▲ A producer/wholesaler posted a promotion for a liquor product on its Facebook and Instagram pages depicting the consumption of liquor with sexual acts.
- ▲ A producer/wholesaler shared a video on its Facebook page created by another account user which promoted cheap liquor and excessive drinking using obscene language. The video was tagged 'Like watch and share'.

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

Principle 3 – Non-Standard Measures

Promotions must not involve the use of non-standard measures that encourage irresponsible drinking and is likely to result in intoxication.

Explanation

A standard measure is the level of alcohol used to work out safe drinking levels. Standard measures enable patrons to make informed decisions about their alcohol intake. In Australia, a standard measure contains 10 grams of pure alcohol. Licensees may refer to the National Guidelines for Alcohol Consumption on the Australian Department of Health website for further details on standard measures.

Where standard measures aren't used the likelihood of irresponsible drinking is increased as the alcohol content of the drink is unknown.

This principle, and the use of standard measures, is most relevant for promotions that offer liquor for consumption on licensed premises.

Separate requirements apply to packaged liquor sales to ensure standard drink information is clearly stated on liquor products (Food Standards Australia New Zealand) and to restrict the sale or supply of undesirable liquor products that may encourage irresponsible drinking (section 101 of the Act).

Examples of unacceptable promotions

- ▲ Encouraging the consumption of liquor in a yard glass for skolling.
- ▲ Encouraging the consumption of laybacks, slammers, blasters, bombs or consumption from a water pistol or test tubes with no stand.
- ▲ Encouraging an individual to purchase and consume on their own an alcoholic drink intended to be shared (that is, a drink containing a significant number of standard drinks).
- ▲ Encouraging the consumption of multiple shooters or shots by an individual.

Managing related risks

Care needs to be taken where liquor is being served in vessels that are not well recognised (e.g. schooner or wine glass) to ensure patrons have the ability to judge how much they consume.

If a promotion is being undertaken where an alcoholic drink is being sold in a large volume (such as jugs) or 'novelty' drinkware (such as teapots or jam jars) the following approach should be taken:

- ▲ Accurate standard measures should be used to pour the drink into the vessel.
- ▲ If the drink is meant to be shared, standard sized drinking vessels should be provided.
- ▲ Patrons should be made clearly aware of the alcohol content of the drink. For example, details of the number of standard drinks should be available on the drinks menu or on other suitable promotional material for the drink such as posters.

Past examples of promotions that have been investigated

On-premises environment

- ▲ A hotel supplied liquor in three litre cocktail balloons and two litre towers. Large vessels such as these can make it difficult for patrons to monitor their rate of alcohol consumption.
- ▲ A registered club promoted 'Mid-week Fishbowl Cravings' offering cocktails served in fishbowls with a straw.
- ▲ A hotel promoted \$10 cocktail buckets where patrons consumed the cocktail directly from the bucket with straws.

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

Principle 4 – Emotive Description or Advertising

The promotion should not use emotive descriptions or advertising that encourages irresponsible drinking and is likely to result in intoxication.

Explanation

The use of emotive descriptions in a liquor promotion can encourage irresponsible drinking.

A promotion that focuses on drinking irresponsibly or uses emotive descriptions to encourage excessive or rapid drinking can influence the actions of consumers and increase the likelihood of drinking to excess, intoxication and other alcohol related-harm.

Examples of unacceptable promotions

- ▲ Promoting events which focus primarily on the excessive consumption of alcohol e.g. 'Mad Monday'.
- ▲ Using language, labelling or titling that suggest irresponsible or excessive consumption of alcohol (e.g. 'Drink like a fish', 'beat the clock' and challenges to drink within certain timeframes).
- ▲ Engaging a person who, as part of the promotion, enthusiastically talks up excessive consumption of alcoholic beverages, encourages intoxication or irresponsible or illegal behaviour.
- ▲ Encouraging consumers to get drunk. This may involve the use of language images or slogans such as 'drink till you drop' or 'drink your money's worth'.
- ▲ Encouraging patrons to post pictures on social media of themselves in an intoxicated state.

Managing related risks

Licensees should take particular care in determining whether the name of a promotion or any promotional material used contains descriptions that may encourage irresponsible drinking.

Past examples of promotions that have been investigated

On-premises environment

- ▲ A hotel promoted a challenge to drink 30 tequila shots in 10 minutes. The challenge encouraged excessive drinking and posed significant risk to patron health and safety.
- ▲ A restaurant promoted a five-litre beer stein challenge for Oktoberfest.
- ▲ A bar promoted frozen cocktails with the tag line 'let's get slushie sloshed.' Emotive tag lines may encourage people to drink irresponsibly.
- ▲ A hotel challenged patrons to drink six beers in 60 minutes.

Take-away environment

- ▲ A takeaway liquor store promotion used the words 'stock up, party and don't risk running out of drinks.'

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

Principle 5 - Extreme Discounts

Promotions should not involve the provision of free drinks or extreme discounts, or discounts for a limited duration that create an incentive for patrons to consume liquor more rapidly than they otherwise might.

Explanation

Discounting alcohol can be used as a marketing tool for licensees to encourage business. However, discounts should not be excessive to the point where the promotion could encourage irresponsible drinking and intoxication.

Examples of unacceptable promotions

- Providing free drinks which encourage rapid consumption of alcohol (e.g. all you can drink in a limited time frame).
- Using drink cards, promotional cards, vouchers or shopper dockets which encourage rapid consumption of alcohol over a short period of time (e.g. \$50 voucher redeemable between 9pm and 10pm).
- Promoting happy hours encouraging or facilitating the rapid consumption of alcohol.
- Promotions that link the consumption of alcohol to unpredictable events (e.g. free drinks until the first points scored).

Managing related risks

It is important for licensees to consider implementing harm minimisation measures to reduce any risk of irresponsible drinking and intoxication that can arise from discounting practices. Licensees need to be aware that some discount promotions pose higher risks and are likely to be 'unacceptable' unless these risks are managed appropriately.

Examples of promotions likely to be 'unacceptable' without appropriate measures include those that:

- Encourage the purchase of large amounts of alcohol with rewards of free or discounted drinks (e.g. buy six drinks and get two free drinks) to be redeemed within the same trading period.
- Offer 'buy one, get one free' deals through discount vouchers, cards or 'shopper docket' offers without purchase limits or other suitable controls in place.
- Run for very short periods, creating incentive for patrons to stockpile or consume liquor rapidly.

- Run for extended periods over two hours, where patrons may drink more than they otherwise would.
- Offer 'all you can drink' for a set price or long periods of free drinks (e.g. \$50 entry and free drinks all night).
- Involve discounts of greater than 50% off the normal retail price.

There are a range of measures licensees can adopt to reduce the risk from discount liquor promotions, such as controls on the timing, drinks limits, promoting lower strength drinks, and close monitoring of patron behaviour on the premises during and after discount promotions.

Licensees should be cautious in offering discounts on drinks associated with rapid alcohol consumption (e.g. shots). Extreme discounting of any product designed for rapid consumption, whether for consumption on-premises or for take-away, is likely to be unacceptable.

Additional Information

Across the hospitality industry, there are a range of businesses that offer functions packages inclusive of all drinks for a set price (such as wedding packages, corporate events, etc). The Guidelines do not seek to prevent this type of activity. However, it is the responsibility of licensees to ensure the function is run safely and alcohol is served responsibly.

Past examples of promotions that have been investigated

On-premises environment

- A hotel promoted \$2 beers, this being at significant discount from the hotel's regular sale price.
- A restaurant promoted unlimited sake for two hours for \$17.90 per person.
- A night club promoted a \$30 door charge which included free house spirits, beer, wine and cider from 9pm till 3am.
- A hotel State of Origin promotion offered free middies until the first points scored.

Take-away environment

- A takeaway liquor store promoted packaged single shots for 50c each. Extreme discounts on products designed for rapid consumption are likely to encourage irresponsible consumption.

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

Principle 6 – Irresponsible, Rapid or Excessive Consumption

Promotions should not otherwise encourage irresponsible, rapid or excessive consumption of liquor.

Explanation

Licensees should always be mindful that liquor promotions they run do not encourage people to drink irresponsibly, rapidly or excessively.

It is important to consider how and when any alcohol will be consumed as a result of any promotion, and what related measures could help manage the risk of people drinking irresponsibly.

While promotions such as happy hours, competitions and games can enliven the environment on licensed premises, if not well managed they may incentivise irresponsible or excessive consumption.

Licensees should take care to ensure these types of promotions do not encourage people to drink in greater amounts or faster than they otherwise would.

Examples of unacceptable promotions

- ▲ Using drinkware which encourages rapid consumption, such as test tubes, water pistols or yard glasses.
- ▲ Drinking games, competitions, challenges, dares, scoreboards, lotteries or games of chance that involve the rapid or excessive consumption of liquor (e.g. beer pong, skolling games, flip and win, 'around the world', '60 shots in 60 minutes', pub golf).
- ▲ Challenging or daring patrons to drink a particular drink because of its higher alcohol content.
- ▲ Happy hours occurring late into the trading period or early hours of the morning.
- ▲ Encourage the stockpiling of drinks.

Managing related risks

While some competitions and games involving alcohol consumption are 'unacceptable', others can help to create enjoyable and safe environments in venues if run responsibly. Licensees should ensure that consuming alcohol is not required to take part in any competition or game. If there is a prize on offer, licensees are also encouraged to offer prizes other than liquor, such as meals, movie tickets or other products.

It is common for licensees to run happy hours to promote their business. When run responsibly, with suitable limits on duration, timing and frequency, this poses limited risk of irresponsible drinking.

There are many different harm minimisation measures licensees can adopt to manage risks relating to irresponsible, rapid or excessive consumption of alcohol from broader liquor promotions. A detailed summary of practical steps licensees can take is included at page 10 of these Guidelines.

Past examples of promotions that have been investigated

On-premises environment

- ▲ A restaurant promoted a Soju Bomb challenge on its Facebook page encouraging diners to create a new record for the number of bombs consumed in a sitting.
- ▲ A hotel promoted drinking games linked to scissor, paper, rock and toss the boss on its Facebook page. These and similar games, are unacceptable as they encourage patrons to drink more and in a shorter timeframe than they otherwise would.
- ▲ A karaoke venue's house policy instructed staff to 'make customers drink more.' Staff should never encourage patrons to drink more. This is an unacceptable practice.

Take-away environment

- ▲ A hotel promotion offered the chance to win 100 cans of beer when patrons download a mobile phone app.
- ▲ A hotel promoted a competition to win your height in a canned premixed alcoholic drink.

ITEM 1 (continued)

ATTACHMENT 1

Liquor Promotion Guidelines

Principle 7 – Not in Public Interest

Promotions should not otherwise be considered to not be in the public interest.

Explanation

A range of liquor promotions may not necessarily promote rapid or excessive consumption of alcohol, or meet the other principles in the Guidelines, but may be considered undesirable as they are not in the public interest.

Generally, if something is not in the public interest it goes against principles of fairness, equity, decency or lawfulness in society. Public interest is linked to the wellbeing of the community or risk of detriment to the community at large.

Licensees need to ensure promotions do not contain discriminatory or demeaning content, or promote unlawfulness.

Examples of unacceptable promotions

- ▲ Using images or messages that could be seen to be encouraging or condoning breaking the law or other anti-social behaviour.
- ▲ Using images or messages which link the promotion of alcohol with illicit drugs or allude to drug taking behaviour.
- ▲ Associating liquor consumption with aggressive or violent behaviour towards other people.
- ▲ Including discriminatory elements into a promotion such as a gender-based free drinks or discounts (e.g. 'women drink free').

Past examples of promotions that have been investigated

On-premises environment

- ▲ A hotel promoted a jelly wrestling event to raise money for a charity. VIP tickets were on sale that included unlimited drinks for three hours. The event schedule also included boat race drinking games. The promotion was not consistent with a number of Principles in the Guidelines. It was therefore considered to not be in the public interest.
- ▲ A club promotion alluded to drug usage with the consumption of shots. The promotion was titled 'Shots or Lines'.

Take-away environment

- ▲ A social media account associated with a producer/wholesaler shared a video of two males jumping off letter boxes with the caption 'Sink a couple and you too will become a gymnastics gold medalist #undertheinfluence.' Promoting any inappropriate activity while under the influence of alcohol is against the public interest.

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ATTACHMENT 1

Liquor Promotion Guidelines

Harm Minimisation Measures

What additional steps can licensees take to ensure their promotions are run responsibly?

Licensees should never run promotions identified in these Guidelines as being 'unacceptable'.

Beyond that, licensees also need to actively consider the risk of harm from any other liquor promotion activities.

There can often be risks that need to be managed through appropriate harm minimisation measures. It's up to individual licensees to manage and minimise these risks within their own business environment.

Adopting harm minimisation measures can help ensure liquor is consumed responsibly, and allows patrons to enjoy safer environments together with the benefits of a promotion. This makes good sense for the business and supports responsible industry development. It also reduces the potential for serious liquor law breaches.

On-premises environment

For venues selling liquor for consumption on the premises, it is particularly important to plan for, control and monitor how promotions could impact patrons and ensure it does not encourage excessive drinking and intoxication on the premises. Some suggested steps licensees can take to reduce risk with running liquor promotions include, but are not limited to:

▲ Consider the timing of a promotion

Time of day – Licensees should be mindful of the times they run promotions and consider doing so at a time that poses lower risk. Running a promotion during certain times of the day can pose higher risks of irresponsible consumption. Promotions run before 10pm typically pose less risk than during the later trading period, as patrons are less likely to have consumed as much and more likely to have eaten.

Duration – Where the duration of a promotion is either too short or too long it can elevate the risk. Short promotions may encourage patrons to consume alcohol rapidly (e.g. discounted drinks for the first 10 minutes of each hour). Promotions that run for too long can pose a risk of patrons drinking excessively over an extended period, especially where they have been at the same venue for a number of hours. Licensees should appropriately time the duration of promotions to reduce the risk of irresponsible drinking. For example, happy hours should not exceed one to two hours.

Frequency – Running multiple promotions during a single trading period can increase the likelihood of patrons drinking excessively, especially if patrons have been at a particular venue for a long time, and can take advantage of multiple promotions. Licensees should consider restricting the number of promotions run over a single trading period.

▲ Consider placing limits on volume and strength

Drink limits – A drink limit on the number of drinks a person can purchase during a promotion, or each visit to the bar, provides an opportunity for patrons to enjoy the benefit of a promotion while facilitating responsible service of alcohol. For example, maximum two drinks per person.

Liquor strength – Drinks containing high alcohol content can lead to patrons to become intoxicated quickly. Offering drinks containing lower alcohol content in a promotion is an easy way to reduce the likelihood of intoxication.

▲ Monitor and manage patrons during promotions

Drink stockpiling – Bar staff should always keep a look out for patrons who try to stockpile several unconsumed drinks. Stockpiling drinks poses a significant risk of excessive or rapid intoxication. Where bar staff see a patron attempting to do so, they should cease any further service.

RSA marshals – Employing RSA marshals during the course of a promotion can help venues monitor consumption of alcohol. It also makes it easier to identify and respond early to patrons who may be at risk of becoming intoxicated.

Take-away environment

For venues selling liquor for take-away it is important to consider and apply appropriate harm minimisation measures that are suitable for the take-away business environment.

▲ Consider placing limits on coupons

Discount promotions such as discount vouchers, cards or 'shopper docket' without purchase limits or other suitable controls in place can pose a risk of irresponsible drinking. If using coupons, licensees should consider applying limits on the volume of alcohol that can be purchased and/or restricting their use to one per person.

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ATTACHMENT 1

Liquor Promotion Guidelines


All licensed environments

- Apply common sense in discounting liquor
Discounts on alcohol designed for rapid consumption, such as shots, may pose significant risk of irresponsible drinking. Licensees should limit discounts on these products to ensure they are not excessive. It is also important to consider the normal retail price in determining the discount size. A 75% discount on an expensive bottle of wine may have a different effect to 75% off pre-packaged shots or cask wine.
- Apply strict controls on what promoters do for you
When a licensee engages any third party to run a promotion on their behalf, it is important to ensure it still complies with principles and standards set by the Guidelines. A notice may be issued to the licensee where a third party runs a promotion on their behalf that is considered undesirable.
- Be cautious in offering liquor as a prize
Licensees are encouraged to consider offering prizes other than liquor, particularly where the liquor can only be consumed on the licensed premises and there is increased risk of patrons consuming more than they otherwise would. If liquor is being offered as a prize in a trade promotion lottery, restrictions apply on how much liquor can be included. Licensees should refer to the NSW Fair Trading website for more details.
- Consider broader national advertising standards
Licensees should understand how their promotions operate within the broader national regulatory frameworks for alcohol advertising. This includes available national codes and guidelines relating to responsible advertising and marketing of alcohol. Codes such as the ABAC Responsible Alcohol Marketing Code and Outdoor Media Association Policies include standards relating to content and placement that span state and territory boundaries and are relevant for liquor promotions and broader forms of advertising.

For further information


For more information about liquor promotions contact us:

 liquorandgaming.nsw.gov.au

 1300 024 720

 [Contact us online](#)

To make a complaint about liquor promotions please contact the Compliance Unit:

 02 9996 0837

 [Contact us online](#)

Disclaimer

This publication avoids the use of legal language. Information about the law may have been summarised or expressed in general statements. This information should not be relied upon as a substitute for professional legal advice or reference to the actual legislation.

This publication is intended as a guide only. We suggest you seek professional advice when necessary.

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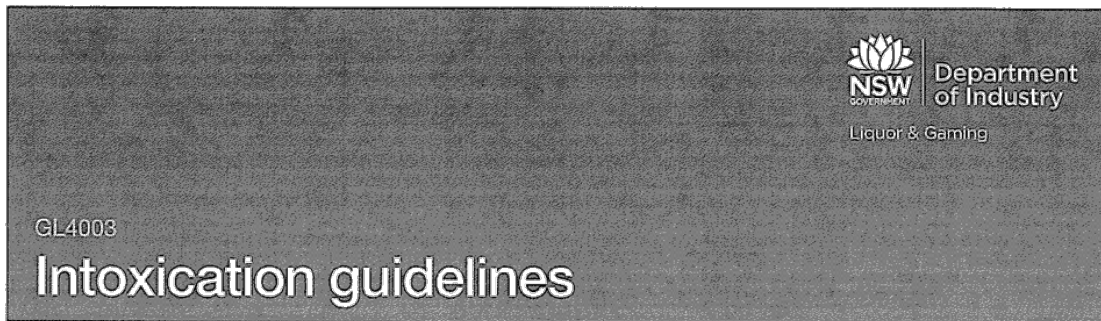
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ATTACHMENT 1

APPENDIX B—Intoxication Guidelines

ITEM 1 (continued)

ATTACHMENT 1



These guidelines are designed to assist you to determine whether or not a person is intoxicated.

Overview

You must always have due regard to the following objectives of the liquor laws:

- ▲ Need to minimise harm associated with the misuse and abuse of liquor.
- ▲ Encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor.
- ▲ Ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

What is the law?

Section 5 of the *Liquor Act 2007* states that a person is intoxicated if:

- ▲ the person's speech, balance, co-ordination or behaviour is noticeably affected, and
- ▲ 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.

Liquor licensees have important obligations to ensure alcohol is served responsibly to help minimise alcohol-related harm.

Supporting responsible consumption practices and preventing intoxication lowers the risk of alcohol-related violence and neighbourhood disturbance, and helps to promote a safe venue for customers and staff.

The NSW liquor laws prohibit the sale and supply of alcohol to intoxicated persons. Licensees also have a legal obligation to prevent intoxication from occurring on their premises. Fines, higher annual licence fees, and possible suspension or cancellation of a licence can apply where alcohol is served to an intoxicated person or intoxication is permitted.

Intoxication offences under the NSW liquor laws are discussed in the GL4002 'Prevention of intoxication on licensed premises March 2015' guidelines. The guidelines outline the obligations of licensees and serving staff. They provide advice on steps that can be taken by licensees and staff to manage the risk of intoxication on licensed premises.

The GL4002 'Prevention of intoxication on licensed premises March 2015' guidelines are issued by the Secretary, NSW Department of Industry, under section 73(5A) of the *Liquor Act 2007* and are available from Liquor & Gaming NSW at liquorandgaming.nsw.gov.au.

What are the noticeable signs of intoxication?

These symptoms or signs are not exhaustive, and not necessarily conclusive of intoxication.

Speech

- ▲ slurring words
- ▲ rambling or unintelligible conversation
- ▲ incoherent or muddled speech
- ▲ loss of train of thought
- ▲ not understanding normal conversation
- ▲ difficulty paying attention.

Balance

- ▲ unsteady on feet
- ▲ swaying uncontrollably
- ▲ staggering
- ▲ difficulty walking straight
- ▲ cannot stand, or falling down
- ▲ stumbling
- ▲ bumping into or knocking over furniture or people.

Coordination

- ▲ lack of coordination
- ▲ spilling drinks
- ▲ dropping drinks
- ▲ fumbling change

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ATTACHMENT 1

Intoxication guidelines

- ▲ difficulty counting money or paying
- ▲ difficulty opening or closing doors
- ▲ inability to find one's mouth with a glass.

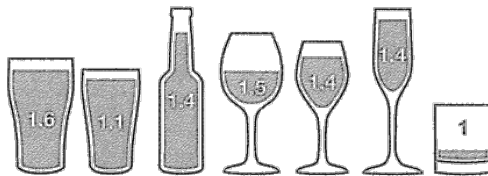
Behaviour

- ▲ rude
- ▲ aggressive
- ▲ belligerent
- ▲ argumentative
- ▲ offensive
- ▲ bad tempered
- ▲ physically violent
- ▲ loud / boisterous
- ▲ confused
- ▲ disorderly
- ▲ exuberant
- ▲ using offensive language
- ▲ annoying / pestering others
- ▲ overly friendly
- ▲ loss of inhibition
- ▲ inappropriate sexual advances
- ▲ drowsiness or sleeping at bar or table
- ▲ vomiting
- ▲ drinking rapidly.

Standard drinks

The concept of a standard drink enables people to keep track of how much alcohol they are consuming. A standard drink contains 10 grams of pure alcohol.

The [Standard drinks guide](#) can be used to help identify how many standard drinks have been consumed and is available from alcohol.gov.au.



How else to determine if someone is intoxicated

Make observations:

- ▲ Does the person smell of alcohol?
- ▲ How long has the person been drinking?

- ▲ When did the person enter the premises?
- ▲ Was the person affected by alcohol when they arrived?
- ▲ What type of alcohol has been consumed?
- ▲ How much alcohol have you seen the person drink?

Your observations will help you form a reasonable belief as to whether the person is intoxicated as a result of alcohol consumption.

Talk to the person and their friends to help determine whether the person is intoxicated or becoming intoxicated.

Reasonable belief that a person is intoxicated

The law requires you to form a reasonable belief that the person is intoxicated as a result of alcohol consumption. It is all right if you refuse service to a person on the basis of this belief, even if you are wrong.

Reasonable grounds for a belief that a person is intoxicated are what a reasonable person would believe in the circumstances, taking into account the relevant knowledge and facts presented.

You should be sure of your reasons for refusal of service and these reasons should not be discriminatory, for example due to race, sex, or disability.

A person has the right to take the matter to the Anti-Discrimination Board if they feel they have been subjected to discrimination.

Are there conditions that exhibit similar symptoms/signs to intoxication?

Some medical conditions, disabilities or the use of drugs may cause similar behaviours without the person being intoxicated as a result of alcohol consumption.

Prior to refusing service on the basis that a person is intoxicated, you should endeavour to determine whether the person has a medical condition or disability which may cause signs or symptoms similar to intoxication.

If the person has a medical condition or disability, it is likely that their friends will be able to tell you. Be sensitive to a person's right to privacy.

Examples only:

- ▲ acute infections
- ▲ acquired brain injury
- ▲ brain trauma/tumours
- ▲ delirium
- ▲ diabetes/hypoglycaemia

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ATTACHMENT 1

Intoxication guidelines

- ▲ epilepsy
- ▲ head injuries
- ▲ pneumonia
- ▲ seizures and post-seizure states
- ▲ stroke.

Even though a person has a pre-existing condition, if you have observed the person consuming alcohol and the person has been drinking for some time, then it would be reasonable to form a belief that the person is intoxicated as a result of alcohol consumption.

- ▲ Slow service down for the patron
- ▲ Wait for the patron to re-order, don't automatically top up drinks
- ▲ Do not conduct any activity or promotion that will result in patrons engaging in irresponsible, rapid, or excessive consumption of liquor.

What to do if someone is intoxicated

If there are reasonable grounds for you to form a belief that someone is intoxicated as a result of alcohol consumption, you must refuse service to that person. Under the law the person must also be asked to leave the premises.

Procedures for dealing with intoxication incidents should be in place and staff should be trained in these procedures.

When refusing service to a person:

- ▲ Introduce yourself to the person. Tell them your name and your role, and ask their name.
- ▲ 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.
- ▲ 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 (limit for cultural reasons); and adjust speaking pace to match the patron's.
- ▲ Give clear, concrete statement that by law they cannot be served another drink.
- ▲ Notify the manager/licensee/supervisor or security. Also notify other bar staff that you have refused service to the person. If a shift change is nearing, notify the new staff.

- ▲ 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 with them.
- ▲ If the person refuses to leave then you should contact police for assistance in removing the person from the premises.
- ▲ If considered necessary, management may consider imposing a short term ban.

The Liquor & Gaming NSW website has a number of resources which provide further information on refusing entry or removing patrons from a premises.

See the FS3030 'Refusal of entry and patron bans/barring' fact sheet for further information on refusing entry or removing patrons from a premises, or search for 'refusing entry' at liquorandgaming.nsw.gov.au.

Penalties

Supplying alcohol to an intoxicated person can be very expensive. The licensee or staff can be fined up to \$11,000 or be issued with an on-the-spot fine by way of a penalty notice. It is also an offence for other patrons to supply alcohol to an intoxicated person, with a maximum fine of \$1,100 applying.

For further information

Visit liquorandgaming.nsw.gov.au for more information about the liquor laws. Subscriptions to our e-news service are also available from this site.

Access to the liquor laws – the *Liquor Act 2007* and the *Liquor Regulation 2018* – is available from liquorandgaming.nsw.gov.au.

To find out more about the liquor laws, contact L&GNSW:

- 📞 liquorandgaming.nsw.gov.au
- ☎ 1300 024 720
- 📧 [Contact us online](#)

Publication details

These guidelines are published by the Secretary, NSW Department of Industry, under section 5 of the *Liquor Act 2007*. They are designed to assist you to determine whether or not a person is intoxicated.

These guidelines are subject to periodic review. Please go to liquorandgaming.nsw.gov.au to ensure you are using the latest guidelines.

There are no LPP Planning Proposals