

DA NO: DA-2021/264

ADDRESS: 315 PENSHURST STREET, NORTH WILLOUGHBY NSW 2068

PROPOSAL: EXTEND WILLOUGHBY HOTEL GROUND AND FIRST FLOOR TRADING HOURS FROM 12.00AM TO 2.00AM MONDAY TO SATURDAY AND 10.00PM TO 12.00AM SUNDAY.

RECOMMENDATION: APPROVAL

ATTACHMENTS:

1. SITE DESCRIPTION AND AERIAL PHOTO
2. DEVELOPMENT CONTROLS, STATISTICS, DEVELOPER CONTRIBUTION & REFERRALS
3. SUBMISSIONS TABLE
4. SECTION 4.15 (79C) ASSESSMENT
5. SCHEDULE OF CONDITIONS
6. NOTIFICATION MAP

RESPONSIBLE OFFICER: RITU SHANKAR - TEAM LEADER

AUTHOR: PETER WELLS - CONSULTANT PLANNER

REPORT DATE: 22 MARCH 2022

MEETING DATE: 29 MARCH 2022

1. PURPOSE OF REPORT

The purpose of this report is to seek determination by *Willoughby Local Planning Panel (WLPP)* of Development Application DA-2021/264 to extend Willoughby Hotel, at 315 Penshurst Street, North Willoughby, ground and first floor trading hours from 12.00am to 2.00am Monday to Saturday and 10.00pm to 12.00am Sunday.

The application is required to be referred to the WLPP for determination as more than 10 public submissions have been received.

2. OFFICER'S RECOMMENDATION

THAT the Willoughby Local Planning Panel:

2.1 Approve Development Application DA-2021/264 to extend Willoughby Hotel, at 315 Penshurst Street, North Willoughby NSW 2068, ground and first floor trading hours from 12.00am to 2.00am Monday to Saturday and 10.00pm to 12.00am Sunday, subject to conditions contained in Attachment 5, for the following reasons:

2.1.1 It has been demonstrated that the proposal satisfies acoustic requirements.

2.1.2 The proposal is reasonable on the basis of the documentation submitted and the plan of management aimed at mitigating amenity impacts on surrounding residential properties.

2.1.3 A trial period for the extended hours will gauge the applicant's commitment to the Plan of Management.

3. BACKGROUND

The site is the Willoughby Hotel, which is located on the corner of Penshurst Street and Macmahon Street.

The Willoughby Hotel currently operates under a Liquor Licence (LIQH400406580) which does not contain any requirements in relation to patron capacity. The following requirement applies to the premises:

“The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) by more than 5 dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5 Hz – 8 kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am”.

The Liquor Licence is authorised at present to trade under the following hours:

Monday to Saturday: 5am to 12am [proposed to be extended 12am to 2am]

Sunday: 10am to 10pm [proposed to be extended 10pm to midnight]

There is an existing Approval to Occupy Footway (FRL-2012/13) which relates to the footpath fronting Penshurst Street and Macmahon Street. The proposed extension of trading hours does not relate to the footpath occupation.

The subject development application was DA-2021/264 was lodged on 15 September 2021. On 4 November 2021 Council wrote to the applicant seeking additional information, primarily seeking clarification on acoustic issues and seeking a response to the public submissions. On 4 February 2022 the applicant responded with an updated acoustic report and response to the public submissions.

A description of the site and surrounding area, including an aerial photograph is contained in **Attachment 1**.

4. DISCUSSION

The controls and development statistics that apply to the subject land are provided in **Attachment 2**.

A table of the issues raised in the submissions objecting to the proposal and the assessing officer's response is contained in **Attachment 3**.

A detailed assessment of the proposal for approval is provided in **Attachment 4**.

The **plans** used for this assessment can be found in a file named **WLPP Plans** under the DA tracking functionality for this application on Council's website:

<https://eplanning.willoughby.nsw.gov.au/pages/xs.track/SearchApplication.aspx?id=513077>

5. CONCLUSION

The Development Application DA-2021/264 has been assessed in accordance with Section 4.15 (79C) of the *Environmental Planning and Assessment Act 1979*, *WLEP 2012*, *WDCP*, and other relevant codes and policies. It is considered that the proposal is acceptable in the particular location, subject to the consent conditions included in Attachment 5.

ATTACHMENT 1: SITE DESCRIPTION AND AERIAL PHOTO

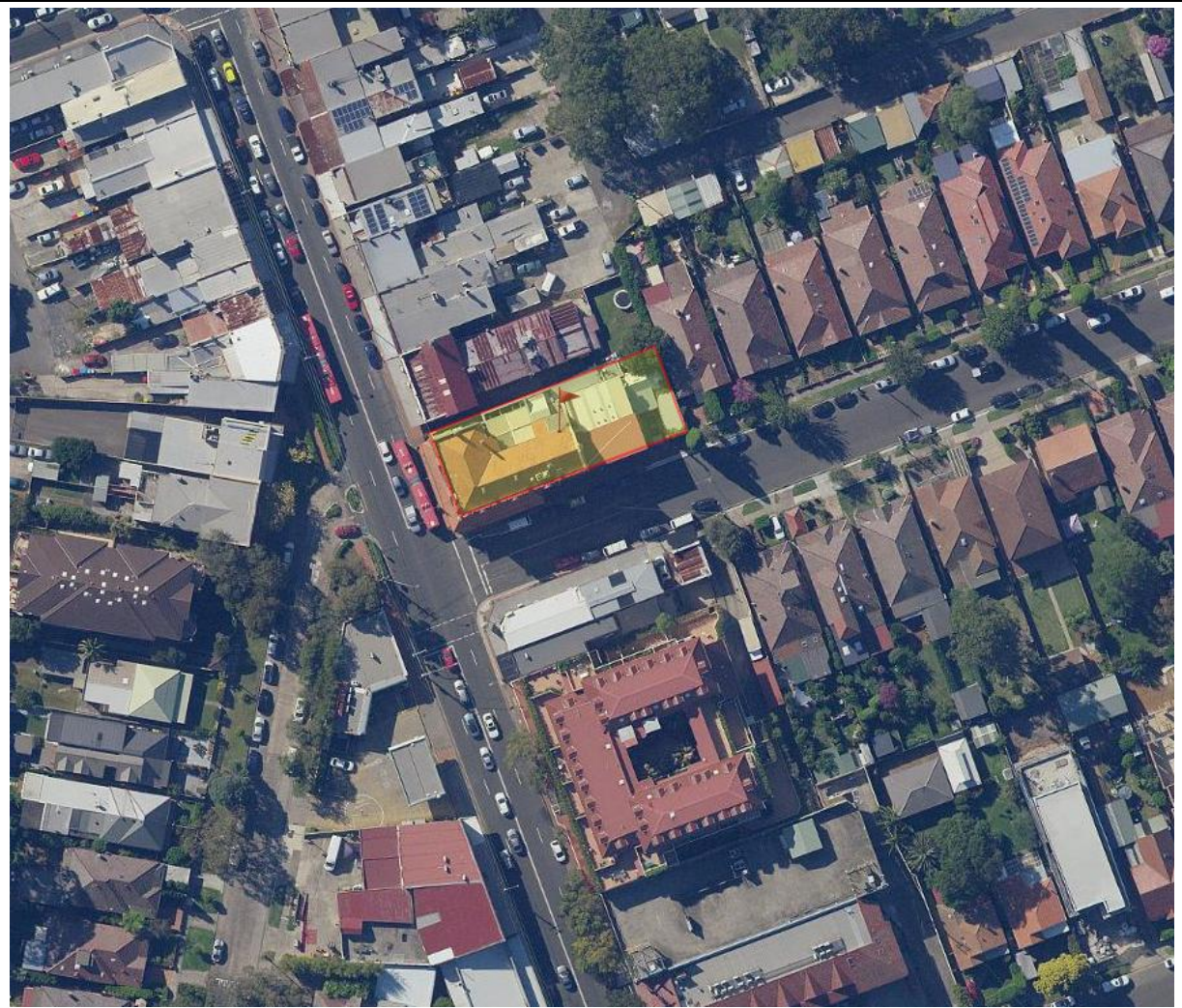


Image 1: The subject site at 315 Penshurst Street.

ATTACHMENT 2: CONTROLS & DEVELOPMENT STATISTICS AND REFERRALS

Willoughby Local Environmental Plan 2012 Zoning: B2 Local Centre	
Existing Use Rights	No
Additional Permitted Use	No
Conservation area	No
Aboriginal Heritage	No
Heritage Item	Yes (I223) Hotel Willoughby (including original interiors)
Vicinity of Heritage Item	No
Natural Heritage Register	No
Bushfire Prone Area	No
Foreshore Protection Area	No
Flood related planning control	No
Adjacent to classified road	Yes
Road/lane widening	No
BASIX SEPP	No
Infrastructure SEPP - Rail	No
Infrastructure SEPP – Road	No
Coastal Management SEPP	No
Acid Sulphate Soil Category	5
Development near Lane Cove Tunnel	No
Contaminated Land	No
Adjacent / above Metro	No
Other relevant SEPPS	SEPP 55 Remediation of Land.
Other relevant REPS	Sydney Regional Environmental Plan (Sydney Regional Harbour catchment)
Relevant policies and resolutions	WDCP

Development Statistics						
Site Area (m ²)		790.4m ²				
<u>WLEP 2012</u>						
Clause	Control	Existing	Proposed by applicant	Calc. by Council	Standard	Numerical Compliance
CI.5.10	Conserve heritage significance	-	No demolition or alteration to detail, fabric, finish or appearance	N/A	N/A	N/A
<u>WDCP</u>						
Part	Control	Existing	Proposed by applicant	Calc. by Council	Standard	Numerical Compliance
C.11	Safety by				Max. height 1.8 with	

	design				1m setback	
Part H Heritage Items and Conser vation Areas	Retain heritage significance	-	No works to building proposed	-	N/A	N/A

Developer's Contribution Plans:

S7.11/7.12 Section 94A contribution:	N/A COW <\$100,000.00
a. Applicable rate (%):	N/A
b. The cost of development (Part A CI 25J) (\$)	N/A
c. Date of accepted cost of development:	N/A
d. The total contribution payable (\$)	N/A

Referrals

Heritage	<p>The Willoughby Hotel is not located within an HCA and there are no physical alterations proposed to the item itself, and therefore the heritage assessment is somewhat limited by these factors.</p> <p>The primary consideration for this proposal is the potential noise impacts on residents in the near vicinity as a result of extended trading hours in the early hours of the morning. It is noted that more than 60 submissions have been received in relation to this proposal, with many citing concerns around increased noise and traffic impacts.</p> <p>The rear yard and garage will not be used during the extended trading hours.</p> <p>From a heritage perspective, it cannot be concluded that there will be any adverse impacts on the Hotel itself as a heritage item as there are no alterations proposed to the physical fabric and the building will continue to be used for its original purpose, however noise impacts on surrounding residents is an important consideration.</p>
Environmental Health	Acceptable subject to a 12-month trial.

ATTACHMENT 3: SUBMISSIONS TABLE

Council was in receipt of 56 individual submissions. The issues raised are itemised, and discussed below the table.

Property	Issues raised
32A Macmahon Street, North Willoughby	<ul style="list-style-type: none"> Noise impacts. Loss of sense of safety due to patrons leaving hotel late. Compromised well-being. Impact on value of property. <p>Oppose trading hours 12am to 2am Monday to Saturday and 10pm to 12am Sunday.</p>
37 Macmahon Street, North Willoughby	<ul style="list-style-type: none"> Noise impacts, including impacts from upstairs balcony of hotel. Behaviour of patrons leaving the hotel, including urinating, talking loudly, tooting horns, driving away noisily. Current closing time of midnight means patrons may leave as late as 1.00am. Hotel waste removal truck attends early in the morning, this causes disturbance. Impact on parking in the street.
8/214 Sydney Street, North Willoughby	<ul style="list-style-type: none"> Noise impacts from balcony and when patrons leave the hotel. Behaviour of patrons leaving the hotel including urinating.
28 MacMahon Street, North Willoughby	<ul style="list-style-type: none"> Behaviour of patrons including parking across driveway, noisy and belligerent, tooting horns, vomit on pavement. Suggests alternative means of serving the community – as opposed to extension of trading hours, “serve good, modern food with friendly local staff who care”. Says that “betting and inebriation” appeal to the “wrong crowd”. Suggest live music to attract patronage, such as jazz.
8/214 Sydney Street, North Willoughby	<ul style="list-style-type: none"> Noise impacts, including when patrons leave the hotel. Sleep disturbance as some residents must get up for work at 5am. Loss of value of property.
16 MacMahon Street	<ul style="list-style-type: none"> Behaviour of patrons including yelling, talking loudly, leaving food rubbish and bottles, broken glass on the road and footpath, occasionally in the front yard of the objector’s property. Behaviour has also included fighting and damage to cars.
19/15 Kooringa Road	<ul style="list-style-type: none"> Noise impacts from first floor balcony of hotel
198 Sydney Street	<ul style="list-style-type: none"> Behaviour of patrons including yelling, talking loudly, loitering, smashing glass, littering, urinating. Unavailability of late night public transport buses. Limited parking in the area. Increased gambling time.
20A MacMahon Street	<ul style="list-style-type: none"> Limited parking. Noise impacts relating to main entrance of hotel located on Macmahon Street, first floor balcony of hotel.

Property	Issues raised
	<ul style="list-style-type: none"> • Increased traffic issues. • More rubbish in front gardens, driveways, footpaths and nature strips. • Increased incidences of urination in front gardens and public places.
6/214 Sydney Street	<ul style="list-style-type: none"> • Extension of trading hours will cause a breach of the Liquor and Gaming NSW requirements which requires inaudibility within any habitable room between midnight and 7am. • Noise impacts.
220 Sydney Street	<ul style="list-style-type: none"> • Behaviour of patrons including yelling, talking loudly, and a loss of sense of well-being and safety. • Noise impacts. • Dangerous driving, reduced safety. • No benefit for the community.
45 MacMahon Street	<ul style="list-style-type: none"> • Behaviour of patrons including yelling, talking loudly, littering, urinating. • Health impacts arising from noise impacts and sleep disturbance. • Reduce value of property.
178 Sydney Street	<ul style="list-style-type: none"> • Proposal not appropriate for existing peaceful, family, residential environment, which will be put at risk. Young families and aged residents live in the area. • Refers to other hotels including The Great Northern Hotel (Chatswood), Greengate Hotel (Killara) have a midnight closing time. • The above point may mean Willoughby Hotel become a last stop for those on a night out.
11/214 Sydney Street	<ul style="list-style-type: none"> • Noise impacts, as existing noise impacts emanate from the first floor balcony. • Behaviour of patrons including yelling, talking loudly, arguments, urinating.
222 High Street	<ul style="list-style-type: none"> • Gamblers likely to be only patrons of the hotel in the extended late night hours, morally wrong of the hotel to obtain revenue in this way. • Noise impacts.
234 High Street	<ul style="list-style-type: none"> • Noise impacts.
30 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • Increase in foot and road traffic. • Refers to other hotels including The Great Northern Hotel (Chatswood), Greengate Hotel (Killara) have a midnight closing time. • Impact on quality of life.
39 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts.
224 High Street	<ul style="list-style-type: none"> • Refers to other hotels having a midnight closing time, which may mean Willoughby Hotel become a last stop for those on a night out. • On street parking.

Property	Issues raised
	<ul style="list-style-type: none"> • Behaviour of patrons including urination, cars damaged and houses vandalised. • Noise impacts from tooting horns, tyres screeching.
12/303-307 Penshurst Street	<ul style="list-style-type: none"> • Noise impacts whilst leaving hotel • Drunken patrons already block driveways.
36 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • Safety, in that disorderly patrons may cause residents to feel threatened "when returning home or undergoing normal activities such as putting out bins". • Vandalism, litter. • Anti-social behaviour. • Extension of hours will amplify existing amenity impacts associated with the hotel.
42/303 Penshurst Street	<ul style="list-style-type: none"> • Deficiencies in the acoustic report, including the placement of the residential receptor, and the cumulative external noise level. • Concerns as to the accuracy of the Statement of Environmental Effects, in particular the changing patron behaviour.
18A MacMahon Street	<ul style="list-style-type: none"> • No benefit to the community. • Noise impacts. • Anti-social behaviour.
255 High Street	<ul style="list-style-type: none"> • Noise impacts. • Anti-social behaviour.
28A MacMahon Street	<ul style="list-style-type: none"> • Noise impacts, including cars • Anti-social behaviour and diminished sense of safety.
30A MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • Obstruction to traffic and parking. • Damage and mess to private property. • Anti-social behaviour. • Decrease in value of property. • Does not promote family friendly environment.
4 MacMahon Street	<ul style="list-style-type: none"> • Amenity impacts associated with loud and anti-social behaviour.
303 Penshurst	<ul style="list-style-type: none"> • Noise impacts. • Anti-social behaviour.
29 Macmahon Street	<ul style="list-style-type: none"> • Noise impacts. • Public transport not available late at night. • Impact on community health and well-being. • Impact on security
10 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • Not in the interest of residents.
212 Sydney	<ul style="list-style-type: none"> • Noise impacts.

Property	Issues raised
Street	<ul style="list-style-type: none"> • Littering.
27 Patrick Street	<ul style="list-style-type: none"> • Noise impacts. • Anti-social behaviour and diminished sense of safety.
210 Sydney Street	<ul style="list-style-type: none"> • Noise impacts.
253 High Street	<ul style="list-style-type: none"> • Impact to on-street parking. • Noise impacts. • No other hotels in the region including The Oaks, The Great Northern, The Commodore, The Belrose, The Bridgeview have extended hours to the extent that is the subject of the proposal.
316 Penshurst Street	<ul style="list-style-type: none"> • Noise impacts (amplified and live music, and patron noise). • False assumptions in acoustic report. • Anti-social behaviour and diminished sense of safety. • Obstruction to traffic, parking in no-stopping zones and across private driveways. • Unsafe residential environment due to patrons vomiting and urinating that must be cleaned up by residents where staff are not willing to assist.
8 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • Anti-social behaviour.
8A MacMahon Street	<ul style="list-style-type: none"> • No benefit to residents and ratepayer or Willoughby as a whole. • Noise impacts. • Anti-social behaviour. • Damage to property. • Effect on property values.
12/15 Kooringa Road	<ul style="list-style-type: none"> • Does not add value to existing quiet neighbourhood. • Out of character to have late pub hours with noise impacts and "social unrest" impacts.
159 Sydney Street	<ul style="list-style-type: none"> • Noise impacts. • Proposed hours are irresponsible and shows a lack of consideration for the local community.
24/303-307 Penshurst Street	<ul style="list-style-type: none"> • Illegal parking • Safety issues related to alcohol consumption, including aggression, Noise impacts. • Anti-social behaviour.
32 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • No benefits to neighbours. • Anti-social behaviour.
41 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • Anti-social behaviour. • Littering.

Property	Issues raised
43 MacMahon Street	<ul style="list-style-type: none"> • Anti-social behaviour • Impact on quality of life' • Noise impacts
7 Chaleyer Street	<ul style="list-style-type: none"> • Studies have shown consistent links between the availability of alcohol and alcohol-related problems. Also, a link between rates of violence to the density of alcohol outlets. • Extension of trading hours is a negative step for Willoughby's youth population.
7 MacMahon Street	<ul style="list-style-type: none"> • Noise impacts. • Anti-social behaviour. • Littering. • Increased parking requirements.
92 Victoria Avenue	<ul style="list-style-type: none"> • Noise impacts. • Traffic impacts. • Anti-social behaviour.
208 Sydney Street	<ul style="list-style-type: none"> • Noise impacts.
22/301-307 Penshurst Street	<ul style="list-style-type: none"> • Noise impacts.
25 MacMahon Street	<ul style="list-style-type: none"> • Current hours influenced decision to buy. • Noise impacts.
3A MacMahon Street	<ul style="list-style-type: none"> • Noise impacts and sleep disturbance. • Littering.
45 MacMahon Street	<ul style="list-style-type: none"> • Noise • Traffic • Illegal parking • Safety • Environmental concerns
80 Victoria Avenue, Chatswood	<ul style="list-style-type: none"> • The hotel has not engaged with residents on the proposal. • Noise impacts. • Statement of Environmental Effects over-emphasises the commercial aspects and downplays the residential nature of the area. • Other opportunities exist to differentiate the business and attract additional customers, including an emphasis on families
19 MacMahon Street	<ul style="list-style-type: none"> • Impact on amenity of residential area • Mostly semi-detached dwellings with bedrooms and single glazed windows fronting the street • Anti-social behaviour • Plan of Management cannot be relied upon • Not in the public interest

Comments:

Noise impacts

The acoustic report prepared by Day Design Pty Ltd (Report Ref: 5623-3.1R Rev A, dated 10 December 2021) finds that the proposal will not be audible within habitable rooms of surrounding properties to the hotel. A detailed discussion of the acoustic report is provided later in this report. Conditions of consent, including a trial period for the extended hours, are set to ensure the potential for noise impacts is sufficiently limited.

Behaviour of patrons leaving the hotel

This concern has been carefully considered. The approval of extended trading hours has the potential to increase the presence of (potentially drunk) persons in the street.

The Plan of Management (page 5) deals with Behaviour of Patrons and says that “the Hotel shall make all reasonable efforts to ensure that patrons in the Hotel are behaving in accordance with Social and Community standards. The Hotel shall take reasonable steps to ensure the arrival and departure of patrons is conducted in a quiet, peaceful and prompt manner”.

Failure to earnestly execute the Plan of Management would highly likely result in an unsuccessful trial period and loss of the extended trading hours.

Under the sub-heading “Security Street Patrol” of the Plan of Management (page 7), a designated street patrol is to operate “where required” from Wednesday to Sunday. The Plan of Management says “Patrols will be conducted up to 1 hour after hotel close. Any street patrol Security Guard will maintain observations of the street and hotel perimeter and report any suspicious behaviour of persons or vehicles, threats or incidents to Venue Management”.

It is considered reasonable to require that the designated street patrol be appointed to operate every Wednesday, Thursday, Friday, Saturday and Sunday night for the entire duration of the trial period, from 10pm till 1 hour after close. This will ensure a satisfactory response to concerns raised by neighbours with respect to anti-social behaviour. This has been imposed as a condition of consent.

In addition, a proposed condition of consent requires the Plan of Management to be updated to include the requirement for the Hotel to keep a Complaints Register, so as to ensure that any complaints made to the Hotel are captured and available for viewing by Council at any time.

Subject to the conditions of consent the proposal is considered to have satisfactory impacts on the existing built environment, and likely acceptable social impacts with pursuant to Section 4.15 (1) (b) Planning and Assessment Act 1979.

Not in the public interest

The acoustic report concludes there is an acceptable noise impact on surrounding residential properties, and the Plan of Management deals suitably with (inter alia) late night patron behaviour in the street.

Subject to the conditions of consent the proposal satisfies the public interest considerations pursuant to Section 4.15 (1) (e) Planning and Assessment Act 1979. It is also in the public interest that, should the Hotel demonstrate it is not capable of satisfactorily executing its Plan of Management, the extended hours be terminated.

The hotel has not engaged with residents on the proposal

Whilst it is not a statutory requirement that applicants approach neighbours before lodging an application, it is always recommended they do so.

Impact on parking in the street

The increase in patronage for the hours sought is not considered to unreasonably increase the demand on on-street parking.

Illegal parking

This is a police matter, and an issue which will not necessarily increase with the extended hours.

Safety

The execution of the hotel's Plan of Management should reasonably uphold a sense of safety and well-being for families in the surrounds of the Hotel. In the event this is not achieved, the trial period will reflect a poor performance of the Hotel and a likely termination of the extended trading hours.

Demand for extension of hours

Concerns were raised that there is no evidence to suggest that patronage has increased since covid 19 restrictions commenced. Regardless of trends that may or may not have resulted from covid, the application is assessed on the basis of reasonableness and the supporting information.

Public transport not available late at night

The limitation of bus services at the late hours is noted and is expected that taxis or other arrangements will be made for patrons to leave the premises quietly and safely. This is not a reason to refuse the application, based on the earnest execution of the Plan of Management to ensure patron behaviour is satisfactory, socially acceptable and lawful.

ATTACHMENT 4 - SECTION 4.15 (79C) ASSESSMENT

The application has been assessed under the provisions of S.4.15 (79C) of the *Environmental Planning and Assessment Act*.

The most relevant matters for consideration are assessed under the following headings:

Matters for Consideration Under S.4.15 (79C) EP&A Act Considered and Satisfactory ✓ and Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> State Environmental Planning Policies (SEPP) 	✓
	<ul style="list-style-type: none"> Regional Environmental Plans (REP) 	✓
	<ul style="list-style-type: none"> Local Environmental Plans (LEP) 	✓
	Comment: The proposal does not breach relevant SEPPs or the LEP.	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"> Draft State Environmental Planning Policies (SEPP) 	N/A
	<ul style="list-style-type: none"> Draft Regional Environmental Plans (REP) 	N/A
	<ul style="list-style-type: none"> Draft Local Environmental Plans (LEP) 	✓
	Comment: There are no draft SEPPs that apply to the subject land.	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"> Development control plans (DCPs) 	✓
	Comment:	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"> Clause 92 EP&A Regulation-Demolition 	N/A
	<ul style="list-style-type: none"> Clause 93 EP&A Regulation-Fire Safety Considerations 	N/A
	<ul style="list-style-type: none"> Clause 94 EP&A Regulation-Fire Upgrade of Existing Buildings 	N/A
	Comment:	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"> Context & setting 	✓
	<ul style="list-style-type: none"> Access, transport & traffic, parking 	✓
	<ul style="list-style-type: none"> Servicing, loading/unloading 	✓
	<ul style="list-style-type: none"> Public domain 	✓
	<ul style="list-style-type: none"> Utilities 	✓
	<ul style="list-style-type: none"> Heritage 	✓
	<ul style="list-style-type: none"> Privacy 	✓
	<ul style="list-style-type: none"> Views 	✓
	<ul style="list-style-type: none"> Solar Access 	✓
	<ul style="list-style-type: none"> Water and draining 	✓
	<ul style="list-style-type: none"> Soils 	✓
	<ul style="list-style-type: none"> Air & microclimate 	✓
	<ul style="list-style-type: none"> Flora & fauna 	✓
	<ul style="list-style-type: none"> Waste 	✓
	<ul style="list-style-type: none"> Energy 	✓
	<ul style="list-style-type: none"> Noise & vibration 	✓
	<ul style="list-style-type: none"> Natural hazards: Overland flowpath 	✓
	<ul style="list-style-type: none"> Safety, security crime prevention 	✓
	<ul style="list-style-type: none"> Social impact in the locality 	✓
	<ul style="list-style-type: none"> Economic impact in the locality 	✓
	<ul style="list-style-type: none"> Site design and internal design 	✓

Matters for Consideration Under S.4.15 (79C) EP&A Act
Considered and Satisfactory ✓ and Not Relevant N/A

	<ul style="list-style-type: none"> Construction 	✓
	<ul style="list-style-type: none"> Cumulative impacts 	✓
	Comment: The proposal is satisfactory.	
(c)	The suitability of the site for the development	
	<ul style="list-style-type: none"> Does the proposal fit in the locality? 	✓
	<ul style="list-style-type: none"> Are the site attributes conducive to this development? 	✓
	Comment: The proposal is satisfactory, noting that measures are to be put in place to attenuate noise impacts to surrounding residential properties.	
(d)	Any submissions made in accordance with this Act or the regulations	
	<ul style="list-style-type: none"> Public submissions 	✓
	<ul style="list-style-type: none"> Submissions from public authorities 	N/A
	Comment: A response to the submissions is provided in the report.	
(e)	The public interest	
	<ul style="list-style-type: none"> Federal, State and Local Government interests and Community interests 	✓
	Comment: The interests of the community has been carefully considered in this application and, on balance, considered worthy of support subject to conditions of consent.	

Acoustic Assessment

The applicant provided an updated acoustic report (Ref: 5623-3.1R Rev A, dated 10 December 2021) prepared by Day Design Pty Ltd.

The report identifies that the “for the noise emission to be inaudible within a habitable room of any nearby residential dwelling, the level of noise should not exceed the background level minus 10 dBA outside the nearest window during the night (ie 27 dBA)”. It means that the target sound pressure levels at the “R1” receiver at 45 Macmahon Street (closest residential receiver), for hotel operations to be inaudible within a habitable room are:

10pm to 12am: 35dBA
 12am to 2am: 27dBA

A necessary aspect of acoustic assessment is the identification of number of persons accommodated in the hotel. The acoustic report uses the following ratios of persons to floor area, based on the use of the floor:

- 1 person per 0.5m² (bar – standing)
- 1 person per 1m² (general bar and restaurant areas)
- 1.5 persons per gaming machine

The above ratios reflect the Building Code of Australia and are accepted as a guide for the purposes of acoustic modelling. Based on the floor areas of each respective space the following number of persons are accommodated:

Ground floor bar (approximately $101\text{m}^2/1$) = 101 persons
Ground floor sports bar (approximately $42\text{m}^2/1$) = 42 persons
Ground floor courtyard (approximately $19\text{m}^2/1$) = 19 persons
Outdoor gaming / Gaming machines (approximately $81\text{m}^2/1$) = 45 people for 30 machines
First floor restaurant (approximately $120\text{m}^2/1$) = 120 persons
First floor bar (approximately $61\text{m}^2/0.5$) = 122 persons

Table 1: Persons accommodated in respective spaces

The following assumptions have been made in the report:

- The first floor restaurant may operate at full capacity until 12am during a function;
- All other areas listed above will operate at full capacity between 10pm and 12am and at half capacity between 12am and 2am.
- All external doors and windows of the hotel will be closed and are constructed with standard 4mm thick glazing; and
- Background music will be played in the ground floor and first floor bars during operation.

The above assumptions mean that the noise output has been modelled on the following number of patrons within the following spaces between 12am and 2am (half of full capacity in all rooms [rounded up], and nil in the first floor restaurant):

Ground floor bar = 51 persons
Ground floor sports bar (approximately $42\text{m}^2/1$) = 21 persons
Ground floor courtyard (approximately $19\text{m}^2/1$) = 10 persons
Outdoor gaming / Gaming machines (approximately $81\text{m}^2/1$) = 23 persons
First floor restaurant (approximately $120\text{m}^2/1$) = nil persons
First floor bar (approximately $61\text{m}^2/0.5$) = 61 persons

It is important to note that the ground floor outdoor seating and first floor verandah serving the first floor restaurant does not form part of the application. In other words, the ground floor level outdoor seating will continue to operate in accordance with its current approval with no extension of hours, and the first floor verandah is not proposed to be used for the extended hours. This is confirmed by drawings that accompanied the initial development application, shown below in images 2 and 3:

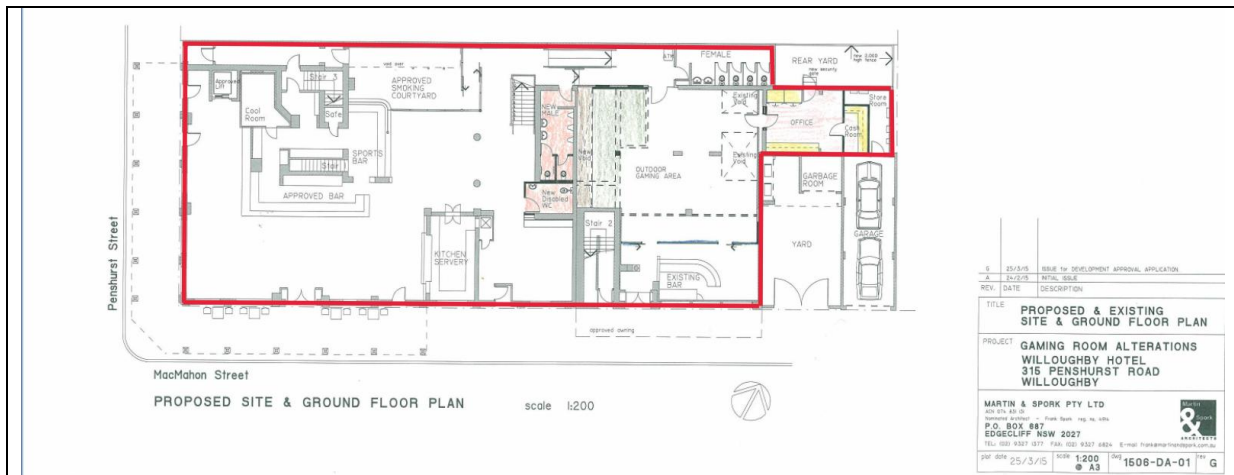


Image 2: The red line identifies that part of the ground floor plan that the extension of trading hours relates.

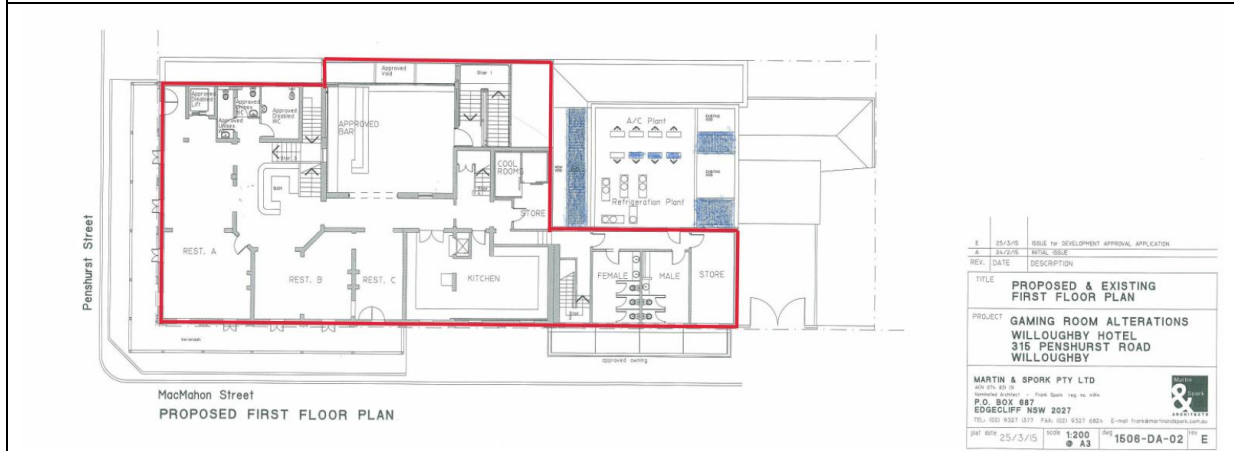


Image 3: The red line identifies that part of the first floor plan that the extension of trading hours relates.

The acoustic report models the following noise emission from the different areas of the Hotel:

Ground floor bar	50% male 50% female	Talking with loud voice 20% Talking with raised voice 20% Talking with normal voice 10% Not talking or listening 50% Background music
Ground floor sports bar	50% male 50% female	Talking with loud voice 20% Talking with raised voice 20% Talking with normal voice 10% Not talking or listening 50%
Ground floor courtyard	50% male 50% female	Talking with loud voice 10% Talking with raised voice 40% Not talking or listening 50%
Outdoor gaming	60% male 40% female	Talking with loud voice 10% Talking with normal voice 40% Not talking or listening 50%

		30 gaming machines set to low volume
First floor restaurant	50% male 50% female	Talking with raised voice 20% Talking with normal voice 30% Not talking or listening 50%
First floor bar	50% male 50% female	Talking with loud voice 20% Talking with raised voice 20% Talking with normal voice 10% Not talking or listening 50%

Table 3: Composition of noise source

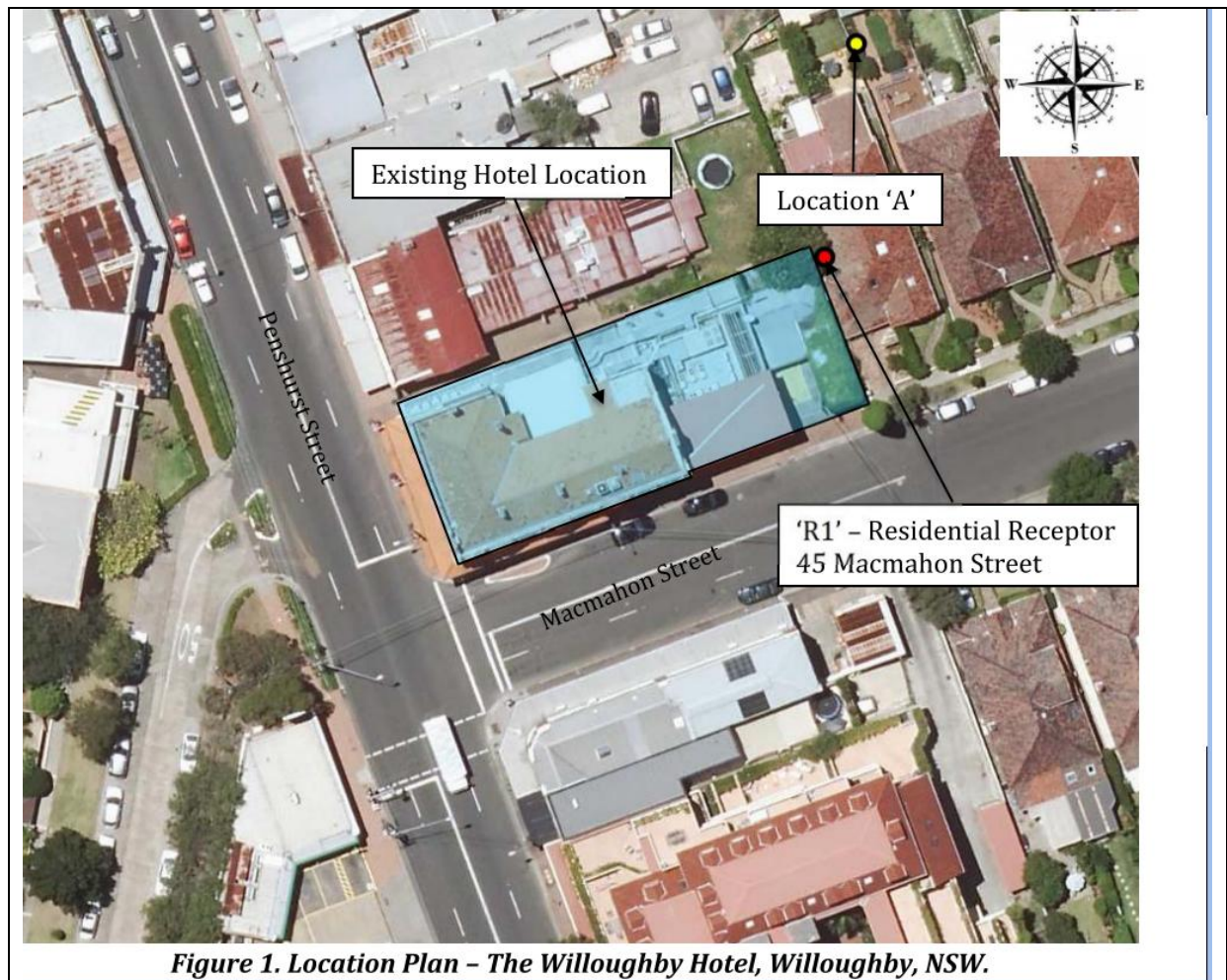


Image 4: The location of “R1” residential receptor (source: Acoustic Report)

The predicted L_{10} noise levels at “R1” (location shown below) for early night (10pm to 12am, and 12am to 2am) is provided:

Early night 10pm to 12am	dBA
Ground floor bar	13
Ground floor sports bar	11
Ground floor courtyard	21
Outdoor gaming	29
First floor restaurant	16
First floor bar	18

Cumulative external noise level	31
Early night criterion	45

Night 12am to 2am	dBA
Ground floor bar	12
Ground floor sports bar	10
Ground floor courtyard	19
Outdoor gaming	26
First floor bar	16
Cumulative external noise level	28
Early night criterion	37

To recap, the maximum sound pressure levels at the “R1” receiver at 45 Macmahon Street (closest residential receiver), for hotel operations to be inaudible within a habitable room are:

10pm to 12am: 35dBA

12am to 2am: 27dBA

The acoustic report finds that the Predicted Cumulative External Noise Level at “R1” receiver at 45 Macmahon Street is:

10pm to 12am: 31dBA

12am to 2am: 28dBA

As shown, the Predicted Cumulative External Noise Level at “R1” receiver at 45 Macmahon Street between 12am to 2am exceeds the maximum of 27dBA by 1dBA. The acoustic consultant states that an exceedance “of up to 2dB is deemed negligible and is not noticeable to the human ear” and concludes that the sounds pressure level complies with the recommended noise level of 27dBA to achieve inaudibility within a nearby habitable room.

The acoustic consultant has also considered noise output from existing hotel plant, and has assumed noise emissions from this plant remains unchanged from the current situation.

The acoustic consultant concludes that the proposal satisfies the relevant noise level criteria and recommends that the following noise management controls are implemented:

- That staff remind patrons that there are residential premises nearby and that they should enter and exit quietly. The consultant recommends that signs be placed next to entry doors notifying patrons to keep noise to a minimum while entering and exiting the hotel.
- Patrons should be discouraged from loitering around the hotel.
- Hotel staff to regular monitor the licensed areas of the hotel to ensure patrons are behaving appropriately.
- The first floor verandah should not operate outside the current approved hours.
- The ground floor outdoor seating should not operate outside of the current approved hours.
- Entry doors be kept closed (not left open) after 12am. After 12am patrons must enter and exit only via the Penshurst Street doors.
- All external windows be kept closed (not left open) after 10pm.

- The volume of each gaming machine in the gaming room be set to a maximum L10 level of 64dBA at 1 metre, which will enable patrons to hear the sound, but will not be loud enough to disturb nearby residents.
- The noise level from any speaker or television in the hotel be limited to a maximum L10 level of 72dBA at 1 metre, between 10pm and 2am, in order to meet the noise criteria at nearby residences.

Other Hotels in operation

For the purposes of comparison to other hotels operating in the area, the following trading hours are provided:

The Great Northern Hotel (Chatswood)

522 Pacific Hwy, Chatswood

Mon 11am – 11pm

Tue – Sat 11am – midnight

Sun 11am – 10pm

The Bridgeview Hotel

580 Willoughby Rd, Willoughby

Mon – Sat 10am – 1am

Sun 10am – 10pm

Greengate Hotel (Killara)

Cnr Pacific Hwy &, Greengate Rd, Killara

Mon, Tue 11am – 11pm

Wed – Sat 11am – 12am

Sun 11am – 10pm

The Commodore

206 Blues Point Rd, McMahon's Point

Mon – Thu 10am – 12am

Fri – Sat 10am – 1am

Sun 10am – 10pm

The Belrose

5 Hews Parade, Belrose

Mon – Sat 10am – 12am

Sun 10am – 10pm

Conclusion

The acoustic report prepared by Day Design Pty Ltd (Report Ref: 5623-3.1R Rev A, dated 10 December 2021) finds that the proposal will not be audible within habitable rooms of surrounding properties to the hotel. The Predicted Cumulative External Noise Level at "R1" receiver at 45 Macmahon Street exceeds the control by 1dBA 12am – 2am however the acoustic report describes this exceedance as inaudible. The acoustic report is considered satisfactory and to provide sufficient comfort that the extended hours will not cause impacts to the residential amenity of surrounding residential properties. Conditions of consent are proposed to ensure the recommended acoustic attenuation measures are implemented, and that patron numbers are limited to the number used in the acoustic modelling (ie half of full capacity between 12am and 2am, and nil patrons in the first floor restaurant space).

For added certainty that patron behaviour in the street will be acceptable in the later hours, a condition of consent is imposed to require a designated street patrol to operate every

Wednesday to Sunday night (inclusive), from 10pm till one hour after close, for the entire duration of the 12-month trial period.

The 12-month trial period will ensure that the Hotel's performance with respect to the extended trading hours is satisfactory. If it is not and there are incidences of unacceptable behaviour in the street that impacts on the amenity, well-being and sense of safety of neighbours, it is highly likely the extended hours will be terminated. A Complaints Register must be held and operated by the Hotel to capture such incidences – this is a requirement captured by a condition of consent.

ATTACHMENT 5: SCHEDULE OF CONDITIONS

SCHEDULE

Conditions of Consent: (Including reasons for such conditions)

CONSENT IDENTIFICATION

The following condition provides information on what forms part of the Consent.

1. Approved Plan/Details

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by
Existing Ground Floor Plan (scope of extension of trading hours)	1506-DA-01	Rev G	25.03.2015	Martin & Spork Pty Ltd
Existing First Floor Plan (scope of extension of trading hours)	1506-DA-02	Rev E	25.03.2015	Martin & Spork Pty Ltd

the application form and any other supporting documentation submitted as part of the application, except for:

- (a) any modifications which are “Exempt Development” as defined under S.4.1(1) of the *Environmental Planning and Assessment Act 1979*;
- (b) otherwise provided by the conditions of this consent.
(Reason: Information and ensure compliance)

PRIOR TO OCCUPATION OF THE DEVELOPMENT

The following conditions of consent must be complied with prior to the issue of an occupation certificate.

2. Complaints Register

Prior to the commencement of the operation of the extended trading hours, the Plan of Management must be amended to incorporate a requirement to keep and maintain a Willoughby Hotel Complaints Register. This Register must record any complaint or enquiry made to Willoughby Hotel regarding any issue of social disturbance, including noise impacts from the Hotel, or anti-social behaviour from patrons leaving the Hotel at any time. The Complaints Register must be made available for any officer of the Council to view at any time.
(Reason: Amenity, Compliance)

3. Street Patrol

Prior to the commencement of extended trading hours, the Willoughby Hotel Plan of Management must be amended to incorporate a requirement that a designated street patrol operate every Wednesday to Sunday night (inclusive), from 10pm till one hour after hotel close, for the entire duration of the 12-month trial period.

(Reason: Amenity, compliance)

4. Plan of Management

Prior to the commencement of the extended hours of operation, the Willoughby Hotel Plan of Management must be amended to incorporate the operating requirements contained in the acoustic report (Ref: 5623-3.1R Rev A), dated 10 December 2021 prepared by Day Design Pty Ltd, namely:

- (a) The first floor verandah is not to be occupied at any time, for any purpose, between midnight and 2am Monday to Saturday, and 10pm to midnight Sundays.
- (b) All external windows of the Hotel must be closed at 10pm every night and kept closed for the remainder of the night.
- (c) All first floor verandah doors must be closed and not opened for any purpose when the verandah is not in use.
- (d) The entry doors to the Hotel must be kept closed after 12am midnight.
- (e) The volume of each gaming machine in the gaming room must have its volume set to a maximum L_{10} level of no greater than 64dBA at 1 metre.
- (f) The noise level from any speaker or television in the Hotel must be limited to a maximum L_{10} level of no greater than 72dBA at 1 metre, between 10pm and 2am.

(Reason: Amenity)

ONGOING CONDITIONS THAT MUST BE COMPLIED WITH AT ALL TIMES

The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land, and relevant legislation.

5. First floor verandah not to be occupied at any time

The first floor verandah is not to be occupied at any time, for any purpose, between midnight and 2am Monday to Saturday, and 10pm to midnight Sundays.

(Reason: Reduce noise impacts to surrounding residential properties to an acceptable level)

6. Closure of external windows at 10pm

All external windows of the Hotel must be closed at 10pm every night and kept closed for the remainder of the night.

(Reason: Reduce noise impacts on surrounding residential properties)

7. Closure of verandah doors

All first floor verandah doors must be closed and not opened for any purpose when the verandah is not in use.

(Reason: Reduce noise impacts on surrounding residential properties)

8. Plan of Management

The Willoughby Hotel Plan of Management must be strictly executed and complied with at all times.

(Reason: Reduce impacts on surrounding residential properties)

9. Entry doors to be closed after midnight

The entry doors to the Hotel must be kept closed after 12am midnight.

(Reason: Reduce noise impacts on surrounding residential properties)

10. Gaming machines

The volume of each gaming machine in the gaming room must have its volume set to a maximum L_{10} level of no greater than 64dBA at 1 metre, in accordance with the Environmental Noise Impact Assessment, Ref: 5623-3.1R Rev A, dated 10.12.2021, prepared by Day Design Pty Ltd.

(Reason: Reduce noise impacts on surrounding residential properties)

11. Internal Speakers

The noise level from any speaker or television in the Hotel must be limited to a maximum L_{10} level of no greater than 72dBA at 1 metre, between 10pm and 2am.

(Reason: Reduce noise impacts on surrounding residential properties)

12. Limit on Patron Numbers

The maximum number of patrons between 12am and 2am Monday to Saturday are as follows:

Ground floor bar = 51 persons
Ground floor sports bar = 21 persons
Ground floor courtyard = 10 persons
Outdoor gaming / Gaming machines = 23 persons
First floor restaurant = nil persons
First floor bar = 61 persons

The number of persons occupying the above spaces must not exceed the figure shown for that space between 12am and 2am Monday to Saturday.

(Reason: Amenity)

13. Noise Control – Operation

The recommendations within the Environmental Noise Impact Assessment Ref: 5623-3.1R Rev A, dated 10.12.2021 prepared by Day Design Pty Ltd, must be fully complied with.

(Reason: Satisfactorily reducing acoustic impacts on nearby residential properties)

14. Trial Period on Hours of Operation

A trial period of twelve (12) months is to apply for the trading hours from the date of this consent, with the hours restricted to the times listed below:

Monday to Saturday	5:00am - 2:00am
Sunday	10:00am - 12:00am

The hours stated above shall cease to apply at the completion of a trial period of twelve (12) months at which time the hours of operation shall revert to the original approved hours

Monday to Saturday	5:00am - 12:00am
Sunday	10:00am - 10:00pm

Loading/unloading, deliveries and couriers are limited to weekdays	8:00am - 5:00pm
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Waste collection is limited to weekdays	8:00am - 5:00pm
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For the continuation of the increased hours of operation, an application under Clause 4.55 of the Environmental Planning and Assessment Act 1979, to modify this consent condition must be lodged prior to completion of the tenth month of the trial period for Council's consideration.

Hours of Operation means the timeframe in which clients can be within the premises, with no activities to occur outside of the approved hours. Staff may access the premises before and/or after the hours of operation to set up/close the premises however no clients are to be within the premises outside of the approved hours of operation.

(Reason: Amenity)

ATTACHMENT 6: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2021/264

At: 315 Penshurst Street NORTH WILLOUGHBY NSW 2068

