

1 May 2023

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Maitland City Council
PO Box 220
Maitland NSW 2320

Dear Sir/Madam,

s4.55(1A) Modification to DA18/0064 at 358 New England Highway, Rutherford NSW 2320

1 Introduction

SLR Consulting Australia (SLR) acts on behalf of O'Hara Hotels (the Client) in lodging this s4.55(1A) application to Maitland City Council to modify DA18/0064 Extension of Trading Hours.

The proposed amendment to the approved Development Application (DA) aims to extend the existing trading hours for Monday through Saturday.

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) states that a consent authority may, on application, modify a development consent involving substantially the same development and minimal environmental impact. Further details on approval pathway are detailed in Section 5.

1.1 Consultation

1.1.1 Police Consultation

SLR Consulting Pty Ltd sought out preliminary consultation with the NSW Police Licensing Officer (Cameron McMurray) and the Client on Thursday 28 February 2023 pertaining to the proposed extension of hours for the existing premises located at 358 New England Highway, Rutherford. Consultation occurred on site with the purpose of discussing any issues that may arise as a result of the extension to hours from the perspective of Police.

The following items were highlighted by Police:

- Only one (1) venue entrance / exit must be permitted after 1 am, in order to effectively regulate and manage patron movements.
- ID scanning must be used from 8pm on nights of extended trading authorisation.
- A courtesy bus must be operated within a 5 km radius from venue for the convenience of patrons.
- The following items were raised regarding bar and entertainment operations:
 - The bar is to close at 1:30 am on Friday and Saturday night;
 - A maximum of four (4) alcoholic drinks per person is permitted to be served after 9pm
 - A maximum of two (2) alcoholic drinks per person is permitted to be served after 10pm;
 - A maximum of one (1) alcoholic drink per person is permitted to be served after 12.30am; and

- No live music may be permitted after 12 am.

An Alcohol Management Plan (AMP), included at **Appendix A**, addresses the items raised by Police as part of this consultation, in addition to the information provided within this SEE. The AMP, completed by Liquor and Gaming Solutions Pty Ltd, was done with ongoing consultation with SLR, the Client, as well as Police. As such the AMP has been finalised to ensure all relevant aspects of alcohol management are included to the satisfaction of the Client and Police.

2 Site Details

The site is located on the corner of New England Highway and Denton Park Drive, Rutherford (refer to **Figure 1**). The site is approximately 9,014m² in size. It is legally identified as Lot 2 DP 270669.

The site is located within the B6 Enterprise Corridor zone. On the opposite side of Denton Park Place to the west development consists of a service station with food and drink premises. Development to the north comprises motel accommodation and residential uses. Grassy public recreation land is situated to the east of the development. Development along New England Highway consists of large retail outlets including Officeworks.

Figure 1 Aerial Plan (Source: SIX Maps)



3 Background

DA18/0064 Extension of Trading Hours was approved on the 25 September 2018 and included the provision of a 12-month trial period which was to operate at the date of the consent (Condition 2). However, due to the sale of liquor an amended liquor licence was required to be obtained prior to the commencement of the hours.

In correspondence dated 03 June 2019, Council confirmed that commencement of the trial period from the date of the issue of the amended liquor licence was acceptable. The amended liquor licence was issued on the 15 July 2019 commencing the trial period from this date.

A subsequent modification was lodged to reset the trial period as a result of COVID-19 restrictions which was approved on the 11 March 2021.

Another modification was lodged on 11 November 2021 to remove the trial period components of the consent and make permanent the extended trading hours, which was approved on 4 March 2022.

4 Proposed Modification

The purpose of the s4.55(1A) modification is to extend the trading hours of the TAB, Main Bar, Lounge, and Gaming Room from 1am to 2am Monday to Saturday.

Condition 2 currently states:

2. *The hours of operation/trading for the TAB, Main Bar, Lounge, and Gaming Room, shall be confined to within the following times:*

Monday to Saturday 9am to 1am (the following morning)

Sunday 10am to 12am (midnight)

Condition 2 is proposed to state:

2. *The hours of operation/trading for the TAB, Main Bar, Lounge, and Gaming Room, shall be confined to within the following times:*

Monday to Saturday 9am to ~~1am~~ 2am (the following morning)

Sunday 10am to 12am (midnight)

Justification

The proposed extension in trading hours to 2am aims to respond to community demand for entertainment in the locality in a way that is mindful of the conditions of consent that The Bradford Hotel currently operates under. The hotel has been operating with no received complaints to either the operation or to Council. The addition of 1 hour to the existing operational times will not challenge the land use controls that the site was granted consent under and will not add any significant acoustic or safety issues to neighbouring properties.

5 Approval Pathway

The appropriate approval path for the proposed modification is a s4.55(1A) under the EP&A Act.

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—

(a) it is satisfied that the proposed modification is of minimal environmental impact, and

(b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and

(c) it has notified the application in accordance with—

(i) the regulations, if the regulations so require, or

(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and

(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.

Subsections (1), (2) and (5) do not apply to such a modification.

The proposed amendment does not change the overall design, layout, appearance, or land uses of the development (as approved). Therefore, the proposal is substantially the same development for which consent was originally granted and of minimal environmental impact.

6 Conclusion

The amendment to the consent to extend the trading hours of the TAB, Main Bar, Lounge, and Gaming Room from 1am to 2am Monday to Saturday is considered to have minimal environmental impact and will not change the approved design or land use(s) at the site. It is therefore considered a s4.55(1A) application under the EP&A Act 1979.

Given the absence of any significant adverse impacts resulting from the modification and consistency with all relevant planning legislation and Council policy, the proposed modification is considered to be worthy of Council's support.

Yours sincerely,



Kaveen Wickremaratchy
Project Consultant - Planning

Checked/MK
Authorised by: MK