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S. 4.55 (1A) Modification Application for Development Consent DA 2019/0574 for Ivanhoe Hotel at part 19-23 The Corso Manly to reinstate extended trading hours for the gaming room between 9am and 3am Monday to Saturday, and between 9am and 12 midnight Sunday

Introduction

Please find **enclosed** a completed application form and the required fee for an application under s.4.55(1A) of the *Environmental Planning and Assessment Act 1979 (the EP&A Act 1979)* to modify development consent DA 2019/0574 (**enclosed**) for Ivanhoe Hotel (*the Hotel*) located at part 19-23 The Corso, Manly (*the Subject Site*).

DA2019/0574 permits a change of use to a pub, alterations and additions to the Hotel including fitout and signage. The trading hours of the gaming room are restricted to between 7am and 1am daily as per condition 19.

Enclosed is the advice from Hatzis Cusack Lawyers, Liquor & Gaming Specialists to the Applicant in support of this Application.

This modification application seeks to reinstate extended trading hours for the Hotel gaming room to between 9am and 3am Monday to Saturday, and between 9am and 12 midnight Sunday, consistent with the existing hours of the Hotel (*the Application*). A modification application is required to rectify Council's error on imposing reduced trading hours on the gaming room. It is confirmed in the assessment report that a relocation of the gaming room does not result in intensification of use

We refer to the email (**enclosed**) from Claire Ryan dated 29 October 2019 stating that the hours of operation imposed on the condition was taken from a draft condition under DA196/2008 that was not formally applied to the consent. As the court case DA196/2008 did not list specific hours of operation for the gaming room, Council has erroneously imposed trading hours for the gaming room to between 7am and 1am daily. A s.4.55(1A) is therefore required to amend the trading hours.

This Statement describes the site and surrounding area, the nature of the proposed modifications and sets out the statutory and policy context. It addresses the requirements for an application and undertakes an assessment of the application under the heads of consideration in s.4.15 of the *Environmental Planning and Assessment Act, 1979*.

About Ivanhoe Hotel

The Hotel currently occupies 25, 27, and part 31 The Corso, Manly. DA2019/0574 permits the relocation of the gaming room to part 19-23 The Corso. Upon the relocation of the gaming room, the existing gaming room at the rear of 31 will be converted to storage and no longer publicly accessible. The Sports Bar at the front of 31 The Corso will remain in use until the lease lapses on 15 July 2024. Upon expiry of the lease, the Hotel will no longer operate at 31 The Corso.

19-23 The Corso is a strata lot with a four storey mixed use building and a two storey commercial building. The four storey building at 19-21 The Corso has retail on ground level and residential units above. The two storey commercial building at 23 The Corso has retail on ground level and offices on the upper level. The ground level of 19-23 has been merged into one shop front and is currently occupied by a chemist.

Relevant Site Planning History

DA 196/08 was approved by Land and Environment Court on 18 March 2009 (**enclosed**). Restrictions were placed on the trading hours of the coffee shop/takeaway (between 7am and 2:30am) and the bottle shop (9am and 12 midnight) as per condition 8. No other trading hour restrictions were placed on the Hotel.

DA2019/0574 was approved on 3 October 2019. It permits a change of use to a pub, alterations and additions to the Hotel including fitout and signage. The trading hours of the gaming room are restricted to between 7am and 1am daily via condition 19.

Proposed Modifications

This modification application seeks to reinstate the Hotel gaming room's extended trading hours to between 9am and 3am Monday to Saturday, and between 9am and 12 midnight Sunday, consistent with the Hotel's existing trading hours. The Hotel's existing gaming room trades the above hours at 31 The Corso and a relocation should not result in a reduction of hours. There is no proposed work as part of the Application.

The following section outlines the amendments to conditions necessary to effect the Application. Text proposed to be deleted is shown in ~~strikethrough~~ with new text shown in **bold**.

19. **Hours of Operation**

The hours of operation for the gaming room are to be restricted to:

Player Lounge:

9:00 ~~7:00am~~ to **3:00** ~~1:00am~~ (following day) ~~daily~~ **Monday to Saturday; and**
9:00am to 12 midnight Sunday

Upon expiration of the permitted hours, all service (and entertainment) shall immediately cease, no patrons shall be permitted entry and all customers on the premises shall be required to leave within the following 30 minutes.

Assessment of the Application

This section undertakes an assessment of the Applications under the heads of consideration in Section 4.15 of the EP&A Act 1979. The relevant planning controls are as follows.

- Manly Local Environmental Plan 2013 (*the LEP*); and
- Manly Development Control Plan 2013 (*the DCP*).

Manly Local Environmental Plan 2013

The Application complies with the aims for Manly in the LEP. The proposed hours between 9am and 3am Monday to Saturday and between 9am and 12 midnight Sunday is consistent with the Hotel's existing trading hours. It is confirmed in the planner's report of DA 2019/0574 that a relocation of the gaming room will not result in intensification of use. Upon relocation of the gaming room, the existing gaming room will be converted to storage and no longer publicly accessible. The Sports Bar at the front of 31 The Corso will remain in use until the lease lapses on 15 July 2024. Upon expiry of the lease, the Hotel will no longer operate at 31 The Corso.

There is no proposed work as part of the Application therefore would not have any adverse impact on the heritage significance or amenity of the Hotel and surrounding area.

The Hotel is located within a B2 Local Centre. *Commercial premises* are permitted with consent in this zone, therefore *food and drink premises* must also be permitted with consent.

Under Schedule 5 of the LEP, the Hotel is listed as part of item I106 (Group of commercial buildings) and is of local heritage significance. The Hotel is also located within the Town Centre Conservation Area. There is no proposed work as part of the Application therefore has no adverse impact to the heritage significance of the Hotel and the Heritage Conservation Area.

Under Section 209(3) of the *Gaming Machines Act 2001*, Council cannot take gaming related issues into account when considering the Application.

Manly Development Control Plan 2013

- Control 1.7 Aims and Objectives of this Plan

The objective of this plan is to encourage development that contributes to the quality of our streetscapes and townscapes, and to ensure that the development has considered the community needs, positively responds to the qualities of the site, heritage and character of the surrounding area.

The Application complies with the controls in that the use as a hotel is located with the town centre and is compatible with surrounding land uses. The Application to rectify trading hours

for the Hotel gaming room as a result of Council's error. The consistent trading hours will enhance customer experience at the Hotel as they will have access to different services within the Hotel during trade. The Application is to rectify trading hours and the relocation of the gaming room would not result in an intensification of use as confirmed in the assessment report of DA2019/0574.

- Control 3.2 Heritage Considerations

The control is to ensure that Heritage and Heritage Conversation Area are retained, conserved and any development in vicinity of heritage items and/or heritage conservation areas so not to detract from the significance of those items.

There is no proposed work as part of the Application therefore would not detract from the significance of the heritage item and the Heritage Conservation Area.

- Control 3.4.2.3 Acoustic Privacy (Noise Nuisance)

The control is to ensure that noise impacts are considered for developments. The Acoustic Report (**enclosed**) was assessed based on the existing trading hours of the Hotel. It demonstrates that such trading hours would not have any additional adverse impact to surrounding sensitive land uses. This is also confirmed in the DA2019/0574 assessment report that a relocation of the gaming room would not result in an intensification of use.

- Control 4.2.5.6 Late Night Venues

The objective of this control is to ensure that the people can enjoy Manly's late night venues without disturbing the peace of the community.

Social Impact Assessment

Social impact is an impact on individuals, or on groups of people ie community.

Social impacts are changes that occur in:

- *The social fabric of the community (composition of the social structures);*
- *People's way of life (how they live, work, play, rest and relate to one another on a day-to-day basis);*
- *Their community (its cohesion, stability, character, services and facilities)*
- *People's health (physical and mental health of stakeholders)*
- *Employment and the local economy (growth or reduction of local jobs)*
- *Access and transport (pathways, cycle ways, public transport availability, other sustainable transport use, eg car sharing)*
- *Safety and minimisation of crime (pedestrian safety, anti-social behaviour)*
- *Culture and arts (shared beliefs, customs, values and self-expression).*

The Application seeks to rectify the trading hours for the gaming room. The publicly accessible area for the Hotel remains the same therefore there would have no adverse impact on the social fabric of the community, people's way of life, the community and people's health.

It is not anticipated that employment would increase as the Hotel will contain the same facilities that exist today.

There is no change in access and transport to the Hotel with multiple transport modes available within walking distance of the Hotel.

The Application would result in increased safety and minimisation of crime. The proposed trading hours of the gaming room would increase passive surveillance on The Corso until 3am.

Light from the gaming room would penetrate onto The Corso at night but the gaming machines will not be visible from the street.

a) Access to Public spaces

There is no change to the access to public space as a result of this Application.

b) Hours of Operation (maximum)

The Hotel is permitted to trade 24-hours as per the liquor licence (**enclosed**). The proposed hours of operation for the gaming room is between 9am and 3am the following day Monday to Saturday, and between 9am and 12 midnight on Sunday, consistent with the Hotel's existing trading hours.

c) Noise Control

The control is to ensure that noise impacts are considered for any Application. The Acoustic Report (**enclosed**) demonstrates that the proposed trading hours would not have any additional adverse impact to surrounding sensitive land uses.

d) Security

Security personnel will be provided as per the approved Plan of Management (**enclosed**).

e) Access to Public spaces

There is no change to the access of the Hotel as part of the Application.

- Control 5.1.2.12 Street Level Uses to Encourage Activity

The Application complies with this control in that the Application would maximise the contribution to liveliness and safety of the street, both day and night. The proposed trading hours for the gaming room would see more activity at 23 The Corso and contribute to increased liveliness and passive surveillance to the street both day and night.

There is no Planning Agreement that has been entered into under Section 7.4, nor is there any draft Planning Agreement that the Applicant is offering to enter into under Section 7.4.

It is understood that no matter prescribed by the Regulations is relevant to the Subject Site or the Application.

Conclusion

As detailed above, the Application is considered to be consistent with Council's relevant planning controls and policies. The environmental assessment demonstrates that there would be no unacceptable level of adverse impact arising from the extension of trading hours for the Hotel gaming room between 9am and 3am Monday to Saturday, and between 9am and 12 midnight Sunday. Although this Application seeks an extension of trading hours, it must be noted that the existing gaming room at 31 The Corso already trades such hours. This Application is only to rectify Council's error on trading hours and would not intensify the use.

Under these circumstances, the Application is considered to be acceptable with regard to all relevant planning and environmental issues and approval would have no detrimental impact on the public interest.

It is therefore concluded that there are no valid town planning reasons why modified consent should not be granted to the Application as proposed.

Should you require any further information please do not hesitate to contact the writer.

Regards,
DESIGN COLLABORATIVE



James Lidis
Managing Director