

Notice of decision SSD 7683 MOD 3

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development modification
Application number and project name	SSD-7683-Mod-3 Overseas Passenger Terminal - Restaurant/Micro-Brewery – Extension to hours of operation
Applicant	Jimmy's On The Mall Pty Ltd
Consent Authority	Minister for Planning

Decision

The Director under delegation from the Minister for Planning has, under 4.55(2) of the *Environmental Planning and Assessment Act 1979 (the Act)* modified the consent subject to the recommended conditions and any additional conditions

A copy of the instrument of modification and conditions is available [here](#).

A copy of the Department of Planning and Environment's assessment report is available [here](#).

Date of decision

4 October 2022

Reasons for decision

The following matters were taken into consideration in making this decision:

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2021*;
- the reasons given by the consent authority for the grant of the original consent;
- the objects of the Act;
- all information submitted with the modification application during the assessment and information considered in the Department's Assessment Report;
- the findings and recommendations in the Department's Assessment Report;
- the submissions made concerning the modification.

The findings and recommendations set out in the Department's Assessment Report were accepted and adopted as the reasons for making this decision.

The decision maker was satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted was modified.

The key reasons for granting the modification are as follows:

- the modification is permissible with consent, and is consistent with NSW Government policies
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards; and
- weighing all relevant considerations, the modification is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification application from 21 June 2022 until 13 July 2022. Two submissions were received, which included a submission from Council and NSW Port Authority, providing advice.

The key issues raised in submissions and considered in the Department's assessment report and by the decision maker include the extension of the trial evening outdoor operating hours from 1 am to 2 am. Other issues are addressed in detail in the department's assessment report.

<i>Issue</i>	<i>Consideration</i>
Extension of the trial evening outdoor operating hours from 1 am to 2 am	<p><i>Assessment</i></p> <ul style="list-style-type: none">• The Department does not support the Applicant's request to extend the trial evening outdoor operating hours from 1 am to 2 am Monday to Sunday as:<ul style="list-style-type: none">○ the size of the outdoor area is significant and can accommodate 430 patrons.○ the utilisation of the trial hours has been significantly affected by COVID-19 closures over two of the past three years○ the nature and extent of impacts on amenity and public safety is uncertain given COVID-19 closures during the trial period○ it exceeds the trial hours for outdoor areas in the Late Night Management Area in the Sydney Development Control Plan 2012 <p><i>Recommended Conditions</i></p> <ul style="list-style-type: none">• the previous trial outdoor operating hours are continued for a further two years to allow the venue to utilise the full three year trial period and demonstrate good management performance.