

PALS-J PTY. LTD.
Trading as: Jacobys Tiki Bar
154 Enmore Rd Enmore 2042
ACN: 611 111 892
ABN: 81 611 111 892

6/9/2021

Att: Inner west council

Regarding: DA No: 201600314

We are asking to modify condition of our DA to continue our existing trading hours. This is to satisfy condition 19(d) of our DA, to ensure that the extended hours of operation are reviewed and assessed in light of our performance, and to ensure that the use does not interfere with the amenity of the area. We are requesting permission on a 24 month trial basis to extend our trading hours on selected days in order to take better advantage of our Small Bar licence which allows trading till 2am, given Council approval. Given our track record of 4 years trading with no issues or complaints, we wish to apply to continue our trading hours as currently approved.

This application is in line with the objectives and controls of part 5.3 of Marrickville DCP 2011, as the applicant has sufficiently demonstrated that it can operate responsibly within its 1 year trial period under DA201600314 without adversely impacting on the amenity of nearby residences. The applicant has in fact traded for 4 years now with no adverse impacts or complaints against the property. As per previous correspondence, Council records show that there have been no complaints against this property.

The application is also in line with Section 79(1)(c) of the Environmental Planning and Assessment Act 1979, as the applicant does not wish to increase patronage numbers, and wishes to remain as currently approved 60 persons maximum capacity.

Pasan Wijesena, an owner of Jacoby's Tiki Bar is a member of the Independent Bar Association which has a seat on the NSW Liquor Accord Governance Committee. The aim of this committee is to coordinate resources and efforts for strengthening the Accord network "to identify and understand issues and risks" and to leverage effective strategies across the network. The ultimate goal of the committee is to identify positive impacts of liquor accords on a venues business, and local community. As a result Pasan works closely with Newtown LAC on a regular basis, as well as attending State level Licensing meetings.

Recommendations from the Noise Assessment report carried out by Acoustic Group Pty Ltd prior to trading have been followed and there are no noise complaints in the history of the property. The applicant has been operating under a strict Plan of Management (POM) and with regard for all compliance matters relating to our operation, specifically the Statement of Environmental Effects and Social Impact Report. They have been responsible operators with no violent incidents or complaints against them. They work closely with Newtown Local Area Command by assisting them with CCTV footage of Enmore road whenever asked. In all instances this has been in relation to incidents that do not involve the venue, but where investigations might benefit from access to the CCTV footage of the main road and footpath.

All current management practices detailed in the Plan of Management will continue. These include the ceasing of service of alcohol 30 minutes prior to close, crime scene preservation protocol as per the Liquor Accord recommendations, the continuation of CCTV and presence of a security guard on premise until 30 minutes past close, maintaining an up to date incident register and a ban on stock piling of drinks prior to close.

The owners operate with a strict early intervention policy with regards to intoxication, and offer their venue as a safe space for female and LGBTI guests. We do not serve RTD's, energy drinks and we also offer a range of non alcoholic and low alcohol drink options. Our venue specialises in upscale cocktails, boutique natural wines and craft beer. A security guard is on duty on 7 days a week to act as a door host, whilst ensuring intoxicated people are not permitted to enter, and that guests leave quietly and safely. We have also been involved in a number of charity events both raising money in the venue and donating time out of the venue.

We employ 8 staff, all of whom live locally and in our short time of operation we have won best bar and best bar team in the Sydney Time Out awards, we were also nominated for Best bar in Australia Gourmet traveler, won best rum bar Australian bartender awards and Highly Commended for Best New Bar at the ALIA Awards (Liquor industry awards). We are listed in the top 20 bars in the 2019 Good Food guide, and also as the focal point for Enmore being the 14th best suburb in the world as chosen by Time Out Global. We strive to be operators that represent best practice when it comes to our product, the community we serve as well as the people we employ. Our business model is heavily dependent on late night, specifically after gigs at the

Enmore theatre or after dinner at local restaurants. For this reason we do everything in our power to be considerate and act appropriately to our neighbours and the community to ensure our continued utility of these hours and our businesses viability.

We are in close proximity to neighbouring venues which have larger patron capacities and also trade until 3am on weekdays, and 5am on weekends. As a result, it is not anticipated that our 60 person venue will have any adverse impact on the local area. In fact there will be multiple venues still trading beyond our requested extended hours.

Listed below are a sample of nearby venues, their proximity to Jacobys tiki bar, their capacity and trading hours along with our current and proposed trading hours for your review.

Venue	Proximity	Capacity	Mon	Tues	Wed	Thurs	Fri	Sat	Sun
The Duke	22m	150+	10AM-12AM	10AM-12AM	10AM-12AM	10AM-12AM	10AM-2AM	10AM-2AM	10AM-10PM
Queen Victoria	52m	300+	3PM-12AM	3PM-12AM	3PM-2AM	3PM-2AM	3PM-3AM	3PM-3AM	12PM-10PM
Sly Fox	170m	150+	CLOSED	CLOSED	6PM-3AM	6PM-3AM	6PM-6AM	6PM-6AM	CLOSED
Jacobys Current		60	5PM-12AM	5PM-12AM	5PM-12AM	5PM-2AM	5PM-2AM	5PM-2AM	5PM-12AM
Jacobys Proposed		60	5PM-12AM	5PM-12AM	5PM-12AM	5PM-2AM	5PM-2AM	5PM-2AM	5PM-12AM

We are asking to modify condition of our DA to increase our current trading hours as listed below:

Mon 5pm - 12am (No change)

Tues 5pm - 12am (No change)

Wed 5pm - 12am (No change)

Thur 5pm - 2am (Continuation of current extended hours)

Fri 5pm - 2am (Continuation of current extended hours)

Sat 5pm - 2am (Continuation of current extended hours)

Sun 5pm - 2am (Continuation of current extended hours)

No other changes to the DA are proposed.

Changes to conditions in Jacobys tiki bar's DA that are relevant are:

5. the maximum number patrons permitted in the bar at any one time 60. This is to comply with BCA

- we do not intend to change our capacity from 60 in this application section 4.55.

10. Whenever the venue operates after 12 midnight on Sunday through Thursdays and 10pm on Friday and Saturday nights the venue must employ the services of a licensed security guard until 15 minutes after the last patron leaves the venue. To ensure NSW police conditions are adhered to.

- We have over the past 2 years complied with this condition by employing a guard on the door 7 days a week and plan on upholding this condition indefinitely regardless of our section 4.55. A licensed security guard will remain on premises until 30 minutes past close.

11. No Live music or entertainment must be provided within the premises. To protect the amenity of the surrounding neighbourhood.

- We do not intend on having live music or entertainment at our venue.

14. The use of the premises must not give rise to:

- (a) Transmission of unacceptable vibration to any place of different occupancy.
- (b) A sound pressure level at any affected premises that exceeds the background (LA90) noise level in the absence of the noise under consideration by more than 5dB(A). The source of the noise level shall be assessed as an LAeq, 15min and adjusted in accordance with the environment protection authority guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content as described in the NSW EPA Environment Noise Control Manual and the Industrial Noise policy 2000 and the

- As per the Acoustic Report submitted with our DA, it is not anticipated that extended hours will give rise to any vibrations or noise pollution. Our current operation does not emit any vibrations or noise pollution and we have been trading within the parameters recommended by the report. The absence of complaints and proven track record leads us to believe that the amenity of our neighbours and local community will not be affected in any way by these changes.

19 .

- a) Hours of operation must be restricted to the hours of 4pm- 12am Monday – Sunday.
- b) For a period not more than 12 months from the issue of the occupation certificate (or interim occupation certificate) for the works approved in this consent, the hours of operation must be restricted to between the hours of 4:00pm to 12:00am Sunday to Thursday, 4:00pm to 1:00am the following day Fridays Saturdays and public holidays.
- As per our DA we are submitting a request for extended hours for review and assessment and in light of our performance we are requesting a further extension. This means in section 19.(b) it will read instead:
- For a period not more than 24 months from the successful sect 4.55 application for extended hours is approved, the hours of operation must be restricted to between the hours of 5:00pm to 12:00am Monday, Tuesday and Wednesday and between 5:00pm and 02:00am the following day Thursday, Friday, Saturday and Sunday and on public holidays.

Sections of Jacoby's tiki bar's Statement of environmental effects that will be affected are as follows:

1.1(Para. 2)

The small bar is to operate pursuant to a "Small Bar Licence" yet to be obtained from the Liquor and Gaming Authority. A Small Bar licence is a liquor licence suited to venues that want to operate a small, intimate bar but do not want to operate gaming machines or offer take away liquor sales. Standard trading hours for a small Bar Licence are 12 midday – 2am. The proposed bar will operate from 4pm – Midnight, with trading hours from midnight – 1am on a trial basis. This trial basis is to be reviewed on a yearly basis with consultation with residents and Newtown LAC.

1.1(Para. 2)

The proposed bar will operate from 5pm – Midnight on Monday Tuesday and Wednesday. Trading hours of operation on Thursday, Friday, Saturday and Sunday from midnight – 2am on a trial basis. This trial basis is to be reviewed on a yearly basis with consultation with residents and Newtown LAC.

3. (Para. 6)

The proposed use as a small bar pursuant to a Small Bar Licence with limited capacity and trading till 12am, with a trial period of midnight to 2am on Thursday, Friday, Saturday and Sunday, is not expected to cause any disturbance to nearby residential properties. The hours of operation proposed are within the standard hours specified for a Small Bar, and within the range of trading hours of nearby venues. All high impact, large capacity venues in the area currently trade well beyond the 2am time being sought for this site. The Duke of Edinburgh trades till 2am, the Sly Fox trades till 1am on Tuesday, 3am on Wednesday and Thursday, 6am on Friday and 8am on Saturday. The Queen Victoria Hotel is open till 2am every day. These venues also operate gaming machines, which will not be part of the offering at Jacoby's. In fact, Jacoby's is aiming to provide a more intimate and

boutique alternative to late night "beer barns" and poker machine offerings.

3. (Para. 6)

The proposed use as a small bar pursuant to a Small Bar Licence with limited capacity and trading till 12am, with a trial period of midnight to 2am on Thursday, Friday, Saturday and Sunday till 12am, is not expected to cause any disturbance to nearby residential properties. The hours of operation proposed are within the standard hours specified for a Small Bar, and within the range of trading hours of nearby venues.

4.3

The proposed hours of operation for the bar are from 5pm to 12 midnight, 7 days a week, with a trial period of trading hours from Midnight to 2am on Thursday, Friday, Saturday and Sunday, subject to a review every 24 months.

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The proposed hours of operation for the bar are from 5pm to 12 midnight, 7 days a week, with a trial period of trading hours from 5pm to 2am on Thursday, Friday, Saturday and Sunday till 12am, subject to a review every 24 months.

Sections in Jacoby's tiki bar's Plan of management that will be affected are as follows:

3 (b) For a period of not more than twelve months from the issue of an Occupation Certificate for the works approved in this consent, the hours of operation being restricted to between the hours of 12:00 noon and 2am Mondays to Sundays including Public Holidays.

3(b)

For a period of not more than twelve months from the issue of this section 4.55 certificate of consent, the hours of operation being restricted to between the hours of 5pm-12am Mondays, Tuesdays and Wednesdays and 5pm-2am Thursdays, Fridays, Saturdays, Sundays including public holidays.

f) A closing procedure will be implemented to ensure the orderly and timely exit of patrons at close of trading each night. With a Proposed closing time of 2am the following will apply:

By 11:20pm when operating with core hours or 1:20am when operating with extended hours, last drinks will be called

At 11:25pm when operating with core hours or 1:20am when operating with extended hours, no new entry to the venue will be permitted, lighting levels will be slightly raised and music levels slightly lowered

At 11:35pm when operating with core hours or 1:35am when operating with extended hours, all drinks service will cease, all lighting turned up 100% and all music will stop

At 11:40pm when operating with core hours or 1:40am when operating with extended hours, patrons

will be given 15 minutes to finish drinks and start exiting the venue, as monitored by the approved manager and or a licensed guard. Patrons will be advised to exit up along Enmore road towards the train station. As with all other times of operation, Patrons will be asked to keep noise to a minimum and respect our neighbours while leaving.

At 10:00pm when operating with core hours or 2am when operating with extended hours, the venue should be empty of all patrons

5.2(f)

with the proposed closing time of 2am the following will apply:

At 11:25pm when operating with core hours or 01:20am when operating with extended hours last drinks will be called.

At 11:25pm when operating with core hours or 01:20am when operating with extended hours No new entry will be permitted, Lighting levels will be slightly raised and music levels slightly lowered.

At 11:35 when operating with core hour or 1:35am when operating with extended hours all drinks service will cease, all lighting turned up 100% and all music will stop.

At 11:40pm when operating with core hours or 01:40am when operating with extended hours patrons will be given 15mins to finish their drinks and start exiting the venue.

At 12:00am when operating with core hours or 02:00am operating with extended hours, the venue should be empty of all patrons.

Sections of Marrickville councils DCP that are relevant to this application are as follows:

5.3 commercial/ light industrial/ residential interface

Council actively encourages a mix of land uses where the uses are deemed compatible. Providing a mix of land uses can be an effective way to activate areas at more hours of the day, encourage environmental sustainability and provide improved security for residents and businesses.

Council needs to ensure that any proposed commercial or light industrial uses are compatible with, and do not impact upon, residential amenity. Matters to be considered include noise and odour impacts, proposed hours of operation, lighting and security measures and garbage collection.

In some cases, Council may require the submission of a Plan of Management (POM) to address amenity issues, to be submitted as part of a Development Application. The aim of a POM is to ensure careful consideration is given to the potential amenity impacts of commercial uses on residential areas.

Council may impose trial periods for uses where the ongoing impacts of the proposed development needs to be monitored, as a condition of consent.

5.3 commercial/ light industrial/ residential interface

The extension of hours proposed which are within the normal allowable hours for the small bar license go some way to not only “activate areas at more hours of the day” but “provide improved

security for businesses and residents". During these extra hours we will provide an on street security guard 7 days a week and generate foot traffic providing more security and more vitality to the far end of Enmore road both of which are key objectives of this section of the DCP. We have had no complaints in any of the areas pertaining to this section in our past 2 years of trading and in view of our clean record believe that we are reasonable candidates for extended hours on a trial basis. With our proven track record, the POM submitted with our DA and the revisions made to the POM above, we feel we have shown we can and will uphold the amenity of the local area.

5.3.1.4 Hours of operation

Where residential and commercial or light industrial uses are located in close proximity, there is potential for activities associated with the uses to have a detrimental impact on the amenity of the neighbouring residents.

The determination of suitable hours of operation will depend on the type of uses proposed, its location in relation to residential properties and the impact of operating hours on the occupiers of those properties.

Council will seek to ensure that proposed hours of operation are compatible with the type of activities carried out on the premises and the relationship with neighbouring residential occupiers. Council may issue trial periods for operating hours as a condition of consent where ongoing review is deemed necessary.

Some applicants may seek approval for trading hours outside of traditional hours of operation. Council needs to ensure that the potential impacts of these proposals are considered, particularly where sites are located in proximity to residential land uses. This applies to both new applications seeking approvals outside of traditional trading hours, as well as existing uses seeking to extend their approved trading hours.

Such applications should ensure that all details of operations are provided within its Plan of Management for the use, including security measures for patrons and staff, proposed lighting plan, proposed measures to control noise within the site, including management of patrons entering or exiting premises.

5.3.1.4 Hours of operation

We believe our proven track record, our positive relationship with our Newtown LAC, our neighbours, the community and the absence of any complaints against our business indicates we are operating responsibly whilst also ensuring the amenity of local residents.

5.3.1.2 Noise and vibration generation

The quality of life enjoyed by residents must not be hampered by excessively noisy commercial or light industrial activities. Although the co-location of these activities can have many benefits, it is essential that the potential amenity impacts are identified and assessed by Council.

Logical design of efficient business premises can minimise the use of equipment, movements per site and number of vehicle movements per site per day. Developments can incorporate sound proofing for machinery or activities considered likely to create a noise nuisance during the design of the development.

5.3.1.2 Noise and vibration generation

We do not anticipate the quality of life enjoyed by residents will be affected by our extended hours, as we have been trading for 2 years with no complaints. An extension to trading hours will not change the way noise impact is address, rather it will place further emphasis on the proper management of this issue. The venue design incorporates many sound dampening and sound proofing features such as heavy sound reduction curtains, door seals, feature walls purposely made from sound reducing materials, decibel limiters on our audio amplifier and speakers, and many soft furnishings to further increase sound absorption. Signs are prominently displayed at our exit asking customers to leave quietly and as they do so via Enmore road (which is a main artery). Noise generated by patrons leaving does not exceed the usual sound levels for this area. Our guard also ensures that the crowd disperses in a safe and orderly fashion at end of trade.

Our efforts so far show that we respect our neighbours and can call many of them customers and friends. This is not unexpected, given that we have taken into account their interests and amenity when deciding our hours of operation and conduct. The proposed hours will not in any way affect sound or vibration generated by garbage collection, deliveries, ventilation systems, parking areas and air-conditioning as none of these will differ from those that the business currently generates. As per condition 14 of our DA.

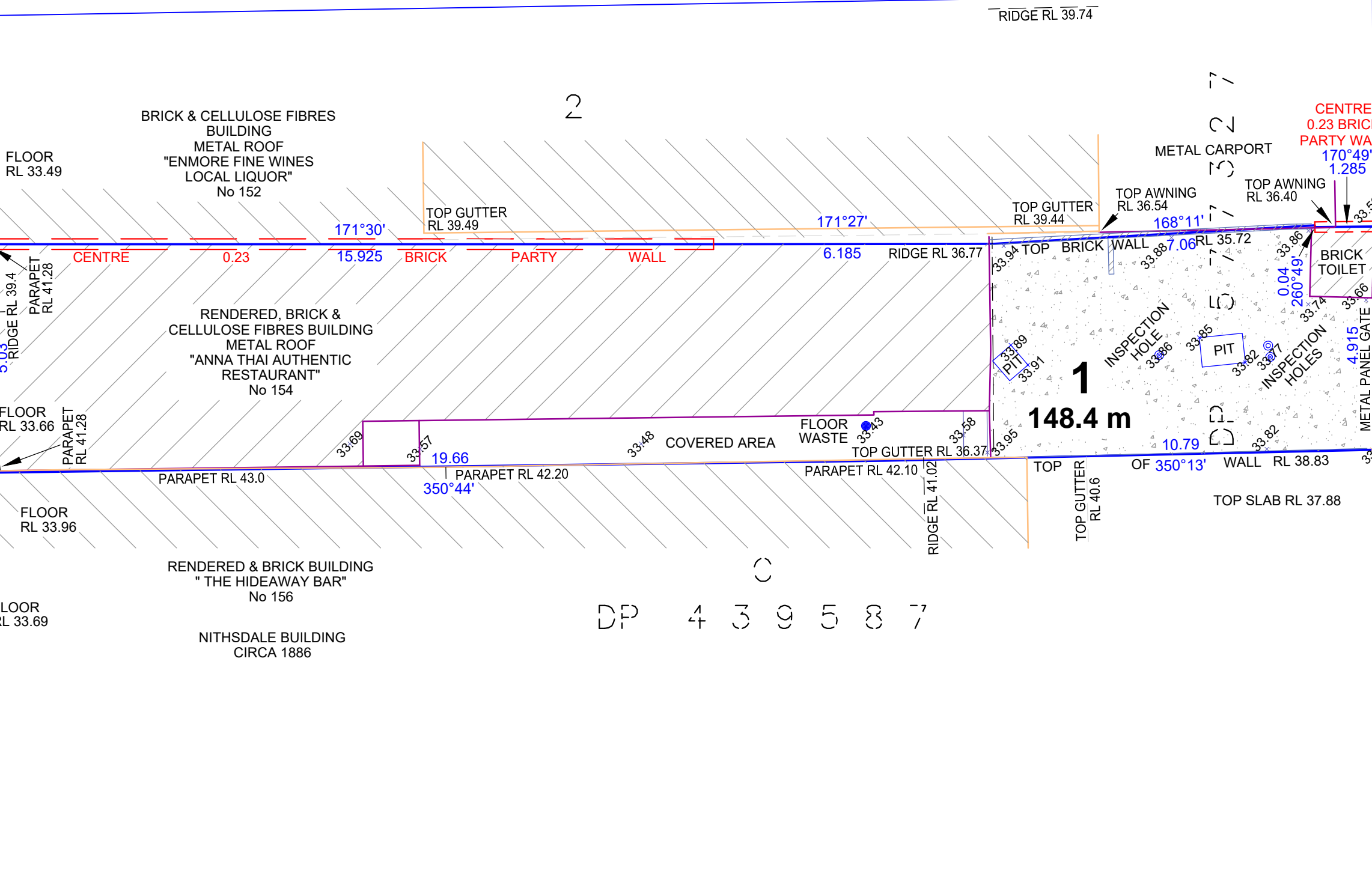
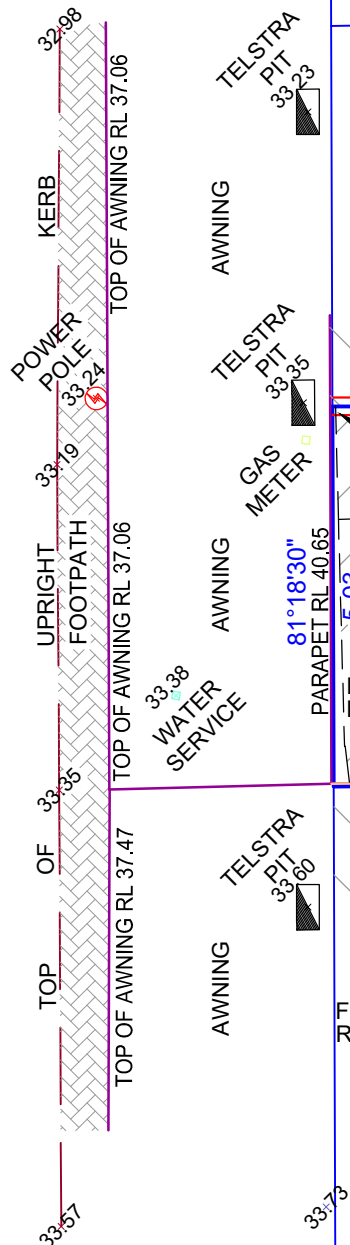
I look forward to hearing from you.

Kind regards,

Pasan Wijesena
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154 Enmore Road
Enmore NSW 2042
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pasan@jacobys-tiki-bar.com



ENMORE ROAD



ENMORE LANE



BM NAIL IN KERB
RL 33.60 (AHD)

NOTE:

THIS PLAN IS PREPARED FOR DETAIL AND LEVEL PURPOSES ONLY AND AS SUCH THE BOUNDARIES OF THE LAND HAVE NOT BEEN SURVEYED OR MARKED.

ANY STRUCTURES RELATED TO PHYSICAL FEATURES (BUILDINGS, TREES, ETC.) MUST BE CONFIRMED PRIOR TO FINAL DESIGN

ALL SERVICES MUST BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.

THIS DETAIL SURVEY IS NOT A 'SURVEY' AS DEFINED BY THE SURVEYORS ACT 1929. IF ANY CONSTRUCTION IS PLANNED IT WOULD BE ADVISABLE TO CARRY OUT FURTHER SURVEY WORK TO DETERMINE THE BOUNDARY DIMENSIONS.

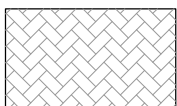
THE BEARINGS ON THESE PLAN BOUNDARIES ARE FROM LAND TITLE OFFICE PLANS. IF ACCURATE TRUE NORTH IS REQUIRED A FURTHER SURVEY WOULD BE NECESSARY.

AUSTRALIAN HEIGHT DATUM (AHD) HAS BEEN OBTAIN FROM GNSS OBSERVATIONS UTILISING SmartNet Aus. IF AHD HEIGHT IS CRITICAL ADDITIONAL SURVEY CONNECTIONS TO LOCAL CO-ORDINATED MARKS SHOULD BE MADE.

DISCLAIMER OF LIABILITIES TO ANY THIRD PARTIES : THIS PLAN IS MADE SOLELY FOR THE USE AND BENEFIT OF THE CLIENT NAMED ABOVE AND NO LIABILITY OR RESPONSIBILITY WHATSOEVER IS ACCEPTED TO ANY THIRD PARTY WHO MAY RELY ON THIS PLAN WHOLLY OR IN PART. ANY THIRD PARTIES ACTING OR RELYING OF THIS PLAN WHETHER WHOLLY OR IN PART ARE IN BREACH OF OUR COPYRIGHT AND DO SO AT THEIR OWN RISK.

NOTE:
CROSS EASEMENTS ARE NOT ON TITLE

LEGEND:



PAVED SURFACE



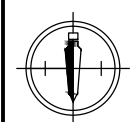
CONCRETE



BUILDING

NO INVESTIGATION OF UNDERGROUND SERVICES HAS BEEN MADE. ALL RELEVANT AUTHORITIES SHOULD BE NOTIFIED PRIOR TO ANY EXCAVATION ON OR NEAR THE SITE

DEVELOPERS & EXCAVATORS MAY BE HELD FINANCIALLY RESPONSIBLE BY THE ASSET OWNER SHOULD THEY DAMAGE UNDERGROUND NETWORKS.



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PLAN SHOWING DETAILS & LEVELS OVER
LOT 1 IN DP577327 AT
No 154 ENMORE ROAD, ENMORE

DATUM:

AHD

DATE:

10.06.2016

RATIO:

1 : 100 (A2)

PRINCIPAL:

PASAN WIJESENA

SHEET 1

OF 1 SHEETS

REFERENCE

35392 / D