

**Item 7.****Development Application: 3 Joynton Avenue, Zetland - D/2024/148**

File No.: D/2024/148

**Summary**

<b>Date of Submission:</b>	5 March 2023
<b>Applicant:</b>	The Council of the City of Sydney
<b>Architect/Designer:</b>	Not applicable
<b>Developer:</b>	The Council of the City of Sydney
<b>Owner:</b>	The Council of the City of Sydney
<b>Planning Consultant:</b>	City Projects and Properties
<b>Heritage Consultant:</b>	City Projects and Properties
<b>DAP:</b>	Not applicable
<b>Cost of Works:</b>	Nil
<b>Zoning:</b>	'Special use zone 5(a) - Hospital' SSLEP 114 (Southern Industrial and Roseberry/Zetland Planning Districts)  Use permitted only with consent
<b>Proposal Summary:</b>	<p>The application seeks consent for a change of use to a community centre. The building known as the 'Banga Shed' occupies the former Pathology building at the former Royal South Sydney Hospital Site. The current use was established under development consent D/2014/1686 (condition (9)(b)) for a 'community shed' for the purpose of workshop spaces for craft activities.</p> <p>The application seeks to define the use more conventionally and broadly to allow a greater range of community related creative activities however the nature of the use would not substantively change, and the National Construction Code building classification remains 9b. The application also involves a change of operating hours,</p>

extending the permitted hours to 7am to 12am (midnight) Monday to Saturday, and 8am to 10pm on Sundays.

The application is referred to the Local Planning Panel for determination in accordance with the Local Planning Panel Direction - Development Applications and Applications to Modify Development Consents dated 6 March 2024 as the application represents a conflict of interest because the City of Sydney Council is the applicant and landowner to which the development relates.

The application was notified for 28 days in accordance with the City of Sydney Community Participation Plan 2023 and Schedule 1, Section 9B of the EP&A Act 1979 regarding Council-related development. No submissions were received.

The proposed hours of operation comply with the permitted base hours of operation for this category of premises with the exception of the proposed hours after 10pm (until 12am (midnight)) on Mondays to Saturdays which comply with the extended hours which may be permitted under Section 3.15 of SDCP 2012. The proposed extended trading hours are considered acceptable on the basis a trial period is undertaken.

The proposed use is consistent with nature and intent of the community creative and cultural precinct established at the former Royal South Sydney Hospital site and would have a positive social impact for the community.

**Summary Recommendation:** The development application is recommended for approval, subject to conditions.

**Development Controls:** Sydney Local Environmental Plan 2012 (Gazetted 14 December 2012, as amended)

Sydney Local Environmental Plan (Green Square Town Centre — Stage 2) 2013 (Gazetted 6 September 2013, as amended)

South Sydney Local Environmental Plan 1998 (Gazetted April 1998)

South Sydney Local Environmental Plan No 114 (Southern Industrial and Roseberry/Zetland Planning Districts)

SEPP (Resilience and Hazards) 2021

Sydney Development Control Plan 2012

Sydney Development Control Plan (Green Square Town Centre) 2012

**Attachments:**

- A. Recommended Conditions of Consent
- B. Reference Plans
- C. Plan of Management

**Recommendation**

It is resolved that consent be granted to Development Application Number D/2024/148 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The proposed development is permitted only with consent.
- (B) The proposed development is consistent with the objectives of the zone.
- (C) The potential impacts of the proposed use of the premises and hours of operation can be appropriately managed to ensure the amenity of the surrounding areas is maintained.
- (D) The proposed development is in the public interest.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 201 DP 1282950, known as 3 Joynton Avenue, Zetland which comprises the broader former Royal South Sydney Hospital site. It is generally rectangular in shape with an area of approximately 13,982sqm. The proposal involves the use of the 'Banga Shed' building, formally the Pathology building, which is located adjacent to Matron Ruby Grant Park. The site is located on the western side of Joynton Avenue between the intersections of Zetland Avenue to the north and Hansard Street to the south.
2. The site is located within the Green Square Town Centre locality and is part of the former Royal South Sydney Hospital site. The buildings have been adaptively reused as a community creative and cultural precinct, opened in 2018. Construction of Green Square Public School recently commenced at the northern end of the site.
3. The site is classified as operational land for the purpose of the Local Government Act 1993.
4. The surrounding area is characterised by a mixture of land uses, primarily being residential, mixed use and civic in nature.
5. The site is identified as a heritage item (Item 554A in Schedule 2 to South Sydney Local Environmental Plan 1994).
6. A site visit was carried out on 4 April 2024. Photos of the site and surrounds are provided below.



**Figure 1:** Aerial view of site and surrounds





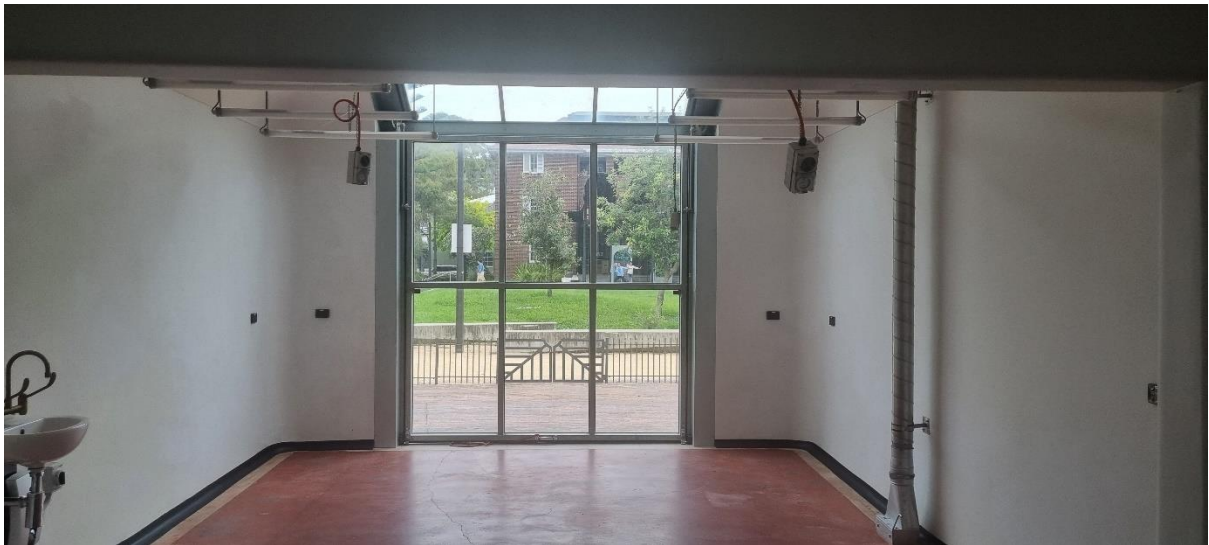
Figure 2: Site viewed from Joynton Avenue facing west



Figure 3: Site viewed from the south from within Matron Ruby Grant Park



**Figure 4:** Eastern internal space within 'Banga Shed'



**Figure 5:** Southern internal space within 'Banga Shed'





**Figure 6:** Facilities at the rear of 'Banga Shed'



**Figure 7:** Adjoining residential flat buildings towards the southwest of 'Banga Shed'

## History Relevant to the Development Application

### Development Applications

7. The following applications are relevant to the site and the current proposal:
  - **D/2011/1022** – Development consent was granted on 26 September 2011 for demolition of buildings of lesser significance, and partial internal demolition/rectification works to heritage listed buildings, the removal of 26 trees from the site and removal of the northern car park, ancillary pathways, services and site rectification works.



- **D/2012/835** – Development consent was granted on 15 October 2012 for alterations and additions to the former administration building on the former Royal South Sydney Hospital site which is located immediately to the north of the former Pathology Building on the site. The approval facilitated the future re-use of the building for infrastructure associated with the Green Square Town Centre.
- **D/2014/1313** – Development consent was granted on 23 February 2015 for alterations and additions to the former Outpatients Building of the former Royal South Sydney Hospital site for use as a single storey childcare centre. This consent has been modified four times (A-D).
- **D/2014/1686** – Development consent was granted on 21 April 2015 for the adaptive reuse of two former Royal South Sydney Hospital buildings and establishment of a new public park, known as Matron Ruby Grant Park. The former Esme Cahil Building houses community uses, classrooms and workshops and the former Pathology Building houses a community shed (now known as Banga Shed) with a new amenities building to the rear.
- **D/2014/1686/A** – A modification application was granted consent 14 January 2016 modifying condition 18 'Noise Limiters' and deleting condition 19 'Additional Noise Conditions'.
- **D/2021/1245** – A State Significant Development application (SSD-10381) was granted consent by the Central Sydney Planning Committee (CSPC) for the construction of the Green Square Integrated Community Facility and School, being a public primary school, community facilities and associated works. This consent has been modified four times (A-D).

### Amendments

8. Following a preliminary assessment of the proposed development by Council officers, a request for amendments was sent to the applicant on 18 April 2024 requesting minor updates be provided to the submitted plan of management to address staffing requirements.
9. The applicant responded to the request on 22 April 2024, and submitted an amended plan of management.

### Proposed Development

10. The existing development consent (D/2014/1686) identified the approved use of the subject building as a "community shed". Condition (9)(b) defines the use of the community shed building (now known as Banga Shed) as follows:

*The primary use of the Community Shed is to provide three workshop spaces for use by the community as an active craft working space. Activities include woodwork, furniture restoration, toy making, adjusting furniture for people and children with disabilities and other practical activities.*

11. The application seeks consent for the following:
  - (a) Change the use of Banga Shed to a more conventional and broadly defined use as a community centre. The proposed use of the community facilities entails:

- Provision of physical, social, cultural or intellectual development or welfare services or activities
- Meetings, classes, workshops, conferences, functions, community events
- Administrative, clerical, technical, professional or similar activities
- Small scale cultural activities including: live entertainment, (being an event at which one or more persons are engaged to play or perform live or pre-recorded music, or a performance at which at least some of the performers are present in person), including the presentation or rehearsal of music, film, performing arts, spoken word, comedy or dance, or
- the production, or an event in association with an exhibition of, art, craft, design, media, image or immersive technology, or
- teaching or discussion related to the above.
- The proposed use is in accordance with the relevant LEP definition for a community centre, as reproduced in paragraph 28 below.

(b) Extension of the existing hours of operation

	Existing	Proposed
<b>Monday to Friday</b>	8am to 6pm	7am to 12am (midnight)
<b>Saturday</b>	9am to 5pm	
<b>Sundays</b>	Closed	7am to 10pm

12. A plan of the existing building is provided below for reference although there are no physical works or installation of signage proposed under this application.

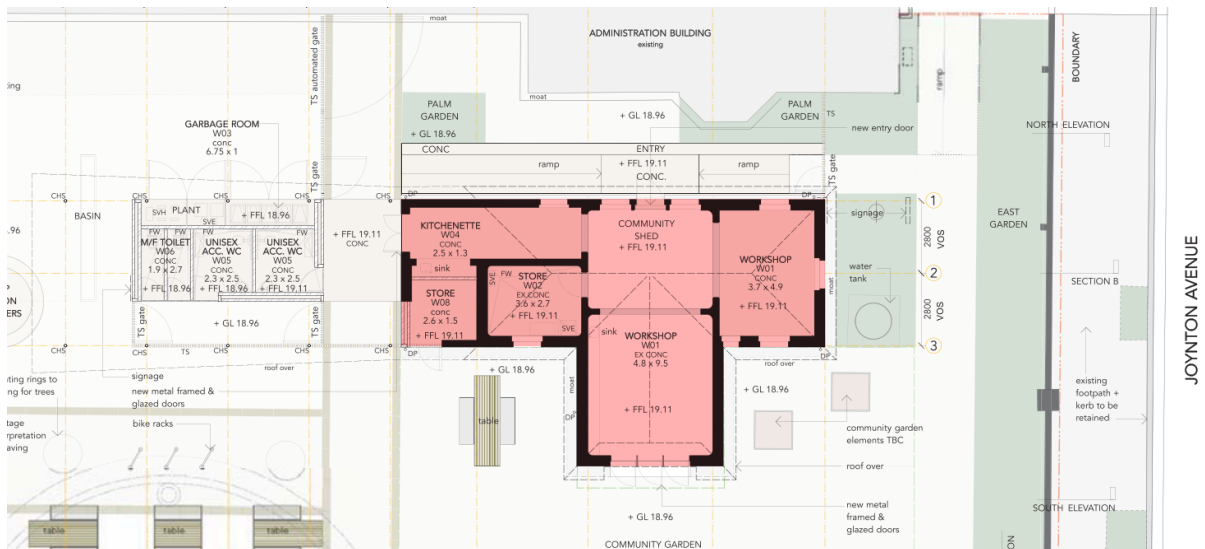


Figure 8: Existing floorplan with 'Banga Shed' shaded red

## Assessment

13. The proposed development has been assessed under Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act).

## State Environmental Planning Policies

### State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4

#### Remediation of Land

14. The aim of SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land is to ensure that a change of land use will not increase the risk to health, particularly in circumstances where a more sensitive land use is proposed.
15. The assessment of the previous development application (D/2014/1686) identified that the subject site was contaminated. Remediated works were undertaken in accordance with a condition of that development consent and a statutory Site Audit Statement was provided on 20 June 2018 confirming that the site is suitable for the intended use subject to the implementation of a Long-term Environmental Management Plan (LTEMP).
16. The proposed use, noting that no substantive change to the use is proposed, remains consistent with the uses that the Site Auditor deemed the site to be suitable for. The consent authority can therefore be satisfied that the land is considered suitable for the proposed use in accordance with subsection 4.6(1)(b) of the SEPP.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

17. The site is identified as a 'Deferred Matter' within the Land Application Map of SLEP 2012. The Land use zoning map identifies the site is subject to the following environmental planning instruments:
  - (a) Sydney LEP (Green Square Town Centre - Stage 2) 2013; and
  - (b) South Sydney LEP 114 (Southern Industrial and Roseberry/Zetland Planning Districts)
18. The provisions of SLEP 2012 do not apply with the exception of Clause 5.10 which is called up by Clause 29A of the South Sydney Local Environmental Plan 1998. Subclause 29A(2) states:

*Clause 5.10 Heritage Conservation of SLEP 2012 applies to development on land to which this Plan applies as if that land were land to which that Plan applies and that clause applies to a heritage item in Schedule 2 as if the heritage item were a heritage item within the meaning of that Plan.*
19. As outlined further below regarding the South Sydney Local Environmental Plan 1998, the subject site, being the former Royal South Sydney Hospital, is listed as a heritage item (Item 554A) in Schedule 2 of that Plan. An assessment against Clause 5.10 is provided in the table below:

**Part 5 Miscellaneous provisions**

5.10 Heritage conservation	Yes	The proposed change of use would not adversely affect the heritage significance of the buildings.
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**Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013**

20. This Plan does not apply to the subject site because the land is identified as a 'Deferred Matter'.

**South Sydney Local Environmental Plan 1998**

21. This Plan does not apply to the subject site because the land is identified as a 'Deferred Matter'.
22. However, pursuant to Subclause 2(3) of the Plan, to the extent Schedule 2 Heritage Items relates to land subject to the South Sydney Local Environmental Plan No 114 (Southern Industrial and Roseberry/Zetland Planning Districts) this Plan also applies to that land.
23. The former Royal South Sydney Hospital site is listed as a heritage item (Item No. 554A) under Schedule 2 of the Plan. The site was inserted under Amendment No. 17 Gazetted 22 December 2006).
24. Additionally, Clause 29A calls up provisions of SLEP 2012 that apply. This includes Clause 5.10 in SLEP 2012 which has been addressed above.

**South Sydney Local Environmental Plan No 114 (Southern Industrial and Roseberry/Zetland Planning Districts)**

25. This Plan is the applicable principal planning instrument for the site on the basis that the site is classified as a Deferred Matter in each subsequent LEP that would otherwise apply to the land.
26. The Site is zoned 5(a) Special Use Zone – Hospital. The relevant objective of the 5(a) Special Use Zone is:

*"to identify land which is currently used by public authorities, institutions, organisations or **the Council to provide certain community facilities, services or utilities**" (bold emphasis added).*



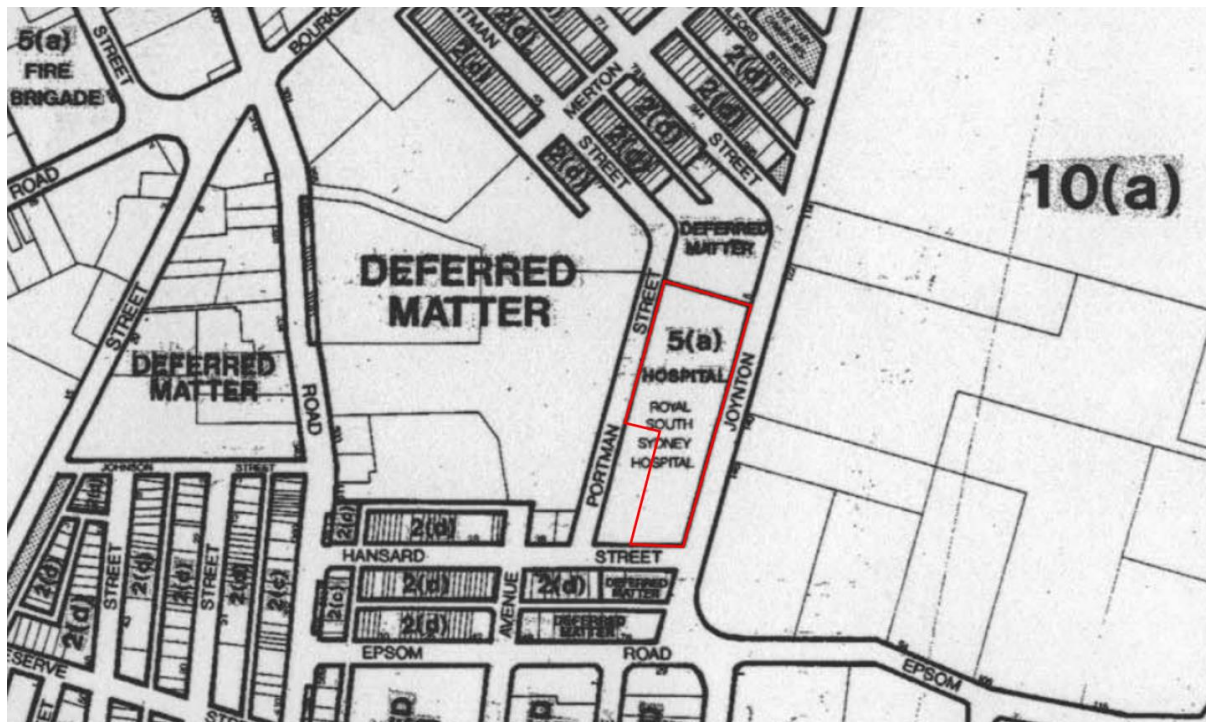


Figure 9: Extract from South Sydney LEP No 114 Map 1 Zoning (site shown outlined red)

27. The zone permits development for:

"3 Only with Development Consent"

*The particular purpose indicated by lettering on the map or a use ancillary or incidental to that purpose or permissible with or without consent in the adjacent zone; advertising structures; child care centres; open space; recreation areas; recreational facilities; utility installations; **any other purpose which by virtue of its type, function or scale or the services to be provided is, in the opinion of Council consistent with the objectives of the zone*** (bold emphasis added)

28. The proposed use of the 'Banga Shed' is most appropriately characterised under SSLEP 114 as a community centre. Section 5 Interpretation provides:

**community centre** means a building or place owned or controlled by the Council, or a body of persons associated for the purpose of the physical, social, cultural, economic or intellectual welfare of the community, and used to provide facilities for administering or providing services for any one or more of the following –

- (a) a public building,
- (b) public health services,
- (c) rest rooms,
- (d) meeting rooms,
- (e) indoor recreation,
- (f) child minding,

(g) *any other like place or activity.*

29. The use of the building for the purpose of a community centre as summarised under the Proposal heading is considered to be permissible only with consent because it is for a purpose, which by virtue of its type, function or scale or the services to be provided is consistent with the objectives of the zone noting the objective of the zone is specifically to provide community facilities.
30. It is noted the assessment report for the existing development consent (D/2014/1686) identified the use of the community shed (now known as Banga Shed) and adjoining the Matron Ruby Grant Park as a recreation area on the basis the community shed was a community facility, forming part of the recreation area definition. Notwithstanding, use of Banga Shed can appropriately be characterised as a community centre.

### Part 3 Special Provisions

Provision	Compliance	Comment
10 Floor space ratio	N/A	The site is denoted as a 'special site including special uses and open space' where no floor space ratio standard is prescribed.  Notwithstanding, the floor space ratio remains unchanged.
11 Height of buildings	N/A	The site is denoted as a 'special site including special uses and open space' where no height of buildings standard is prescribed.  Notwithstanding, the height of the building remains unchanged.
22 Development on all land to which this plan applies	Yes	Water, sewerage and drainage services sufficient to cater for the needs of the development are available.
23 Flood liable lands	Yes	The existing development consent deemed the finished floor levels of the building acceptable.
24 Contaminated lands	Yes	Contamination is addressed under SEPP (Resilience and Hazards) 2021 above.

### Development Control Plans

#### Sydney Development Control Plan (Green Square Town Centre) 2012

31. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan (Green Square Town Centre) 2012 is provided in the following sections.

Provision	Compliance	Comment
GSTC 1.4 Objectives	Yes	The proposed use is consistent with the objectives, particularly objective (e) regarding community uses within the former Royal South Sydney Hospital site.

### Section 2 – Desired Future Character

Provision	Compliance	Comment
GSTC 2.1 Locality Statement	Yes	The proposed development is consistent with the Locality Statement and Principles.
GSTC 2.2 Principles	Yes	

### Section 4 – Land uses

Provision	Compliance	Comment
GSTC 4.1 Location of desired activities	Yes	The proposed use is consistent with the desired community uses for the site as identified in Figure 4.1.

### Section 5 – Heritage

Provision	Compliance	Comment
GSTC 5.1 Heritage Impact Statement	N/A	A HIS is not warranted given that there is no substantive change to the current use of the building or any physical works.

### Section 6 – Building layout, form and design

Provision	Compliance	Comment
GSTC 6 Development Sites		The building forms part of site 13B in Figure 6.1.
GSTC 6.11 Accessible Design	Yes	The existing arrangements are considered acceptable
GSTC 6.12 Safety and Design	Yes	The existing arrangements are considered acceptable

**Section 8 – Waste**

Provision	Compliance	Comment
GSTC 8.4 Waste Management	Yes	There is a waste enclosure at the rear of the building sufficient to store waste generated by the facility between collections.

**Section 9 – Social Sustainability and Impact**

Provision	Compliance	Comment
GSTC 9.1 Social Sustainability and Impact	Yes	A Social Impact Assessment is not warranted for the proposed development. The proposed use would have a positive social impact for the community by providing a place for community based creative activities and social interaction. The proposed development is consistent with the Social Sustainability requirements outlined in Table 9.1.

**Section 10 – Transport and Parking**

Provision	Compliance	Comment
GSTC 10.1 Managing transport demand	Yes	There is no substantive change to the use or size of the facility and therefore would not result in any increased transport demand.
GSTC 10.3 Vehicle parking	Yes	No onsite vehicle parking is provided.  Visitor bicycle parking is provided within the adjoining Matron Ruby Grant Park area.  Bicycle parking and end-of-trip facilities for staff are provided within the adjoining community building as part of the original development (D/2014/1686 - Condition (23)).
GSTC 10.4 Waste Management	Yes	Waste servicing vehicles are able to access the waste collection point on the western side of the building.



**Section 11 – Night trading management**

Provision	Compliance	Comment
GSTC 11 Night trading management	Partial compliance	<p>This DCP adopts the provisions of Sydney Development Control Plan 2012 in Section 3.15 Late Night Trading Management. This is addressed below.</p> <p>The site is not in a late night trading area identified in Figure 11.1 for the purpose of Schedule 3 Late Night Trading.</p>

**Sydney Development Control Plan 2012**

32. The provisions of Section 3.15 Late Night Trading Management and Schedule 3 Late Night Trading of SDCP 2012 are adopted by Section 11 of the SDCP (Green Square Town Centre) 2012. An assessment of the proposed development against the relevant provisions is provided in the following sections.

**Section 3 – General Provisions**

Provision	Compliance	Comment
Section 3.15 Late Night Trading Management		The premises is categorised as a Category B - Medium Impact Premises, falling under criteria (iv) where the occupier, on occasion, proposes to sell or supply liquor for consumption on the premises but is not a Category A premises.
Section 3.15.1 General		Section 3.15 applies as the application seeks approval for hours of operation, involving a Category B premises proposing hours of operation after 10pm.
Section 3.15.3 Matters for consideration	Yes	<p>The proposed hours of operation are considered appropriate having regard to the matters for consideration.</p> <p>Refer to discussion below.</p>
Section 3.15.4 Trading hours and trial periods	Yes	<p>A trial period is recommended.</p> <p>Refer to discussion below.</p>

## Discussion

### Late Night Trading

33. For the purpose of Section 3.15(1) of Sydney Development Control Plan (GSTC) 2012 the site is located in 'All other areas' in Table 3.8. The Table specifies the permitted indoor base hours are between 7am to 10pm and extended hours between 7am to 12 midnight for Category B premises on a trial basis.
34. The application seeks consent for base and extended hours, being 7am to 12 midnight Mondays to Saturdays and only base hours are sought for Sundays as outlined in the table below.

Control	Base Hours	Extended Hours	Proposed Hours of Operation	Compliance
Category B premises in - 'all other areas'				
<b>Monday to Saturday</b>	7am to 10pm	7am to 12 midnight	7am to 12 midnight i.e. base and extended hours	Yes
<b>Sunday</b>			7am to 10pm i.e. base hours only	Yes

35. Extended hours may be considered provided the matters for consideration in Section 3.15.3(1) of SDCP 2012 are satisfied. In this instance, the nature of the proposed use, being a community centre with a relatively small capacity, in its context and location is unlikely to give rise to unreasonable impacts on neighbourhood amenity provided it is appropriately managed.
36. The nearest residential neighbours are the Portland Street residential flat buildings, located approximately 40m to the southwest. Other surrounding land uses include other community facilities, a childcare centre, Gunyama Aquatic Centre and Green Square Public School which is currently under construction.
37. An acoustic report and amended plan of management has been submitted with this application that are considered to adequately address the ongoing management of the premises, including consumption of alcohol and measures to minimise any noise impacts to ensure that potential noise impacts do not affect the amenity of the surrounding area.
38. The proposed hours of operation are also consistent with the Esme Cahill building which is also a community facility located on the site.
39. In accordance with Section 3.15.4(3) extended hours beyond the base hours will be subject to a trial period. Condition (2) recommends a 1-year trial period for the extended trading hours in accordance with Section 3.15.4(8 and 9) of SDCP 2012.
40. Several conditions were imposed on the original development consent (D/2014/1686) regarding maximum noise levels and patron numbers. It is recommended that these conditions be imposed for the subject application.

### Acoustic Report

41. An acoustic report was submitted with the application and was considered satisfactory by Council's Environmental Health staff. It is noted that the recommendations of the acoustic report require windows and doors to be closed during the evening and night periods or when especially noisy activities are undertaken. The plan of management outlines this operational requirement. This recommendation is consistent with the acoustic report submitted with the previous development application (D/2014/1686) which established the use of the building and attenuated natural air ventilation was incorporated into the alterations to the building to maintain adequate ventilation. Conditions (3) and (4) are recommended requiring compliance with the plan of management and the acoustic report, respectively.

### Surrender of consent not required

42. The current consent (D/2015/1686) includes the operation of multiple buildings on the site and therefore it not recommended to be surrendered.

### Consultation

#### Internal Referrals

43. The application was discussed with Council's:
  - (a) Environmental Health Unit; and
  - (b) Licenced Premises Unit
44. The above advised that the proposal is acceptable subject to recommended conditions. Where appropriate, these conditions are included in the Notice of Determination.

### Advertising and Notification

45. In accordance with the City of Sydney Community Participation Plan 2023, the proposed development was notified for a period of 28 days between 7 March 2024 and 4 April 2024. A total of 855 properties were notified and no submissions were received.
46. The notification period also complies with Schedule 1, Section 9B of the Environmental Planning and Assessment Act 1979 for Council-relate development applications.

### Financial Contributions

#### Contribution under Section 7.11 of the EP&A Act 1979

47. The development is not subject to a Section 7.11 development contribution as it is a type of development listed in Table 2 of the City of Sydney Development Contributions Plan 2015 and is excluded from the need to pay a contribution.

**Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012**

48. Division 3 Affordable Housing, Part 7 of SLEP 2012 does not apply to the proposed development as the site is identified as a "Deferred Matter" and Clause 29A of SSLEP 1998 does not call up this provision.

**Housing and Productivity Contribution**

49. The development is not subject of a Housing and Productivity Contribution under the provisions of the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023.

**Relevant Legislation**

50. Environmental Planning and Assessment Act 1979.

**Conclusion**

51. Assessment of this Council-related development application has been undertaken in accordance with the management strategy prepared with the application, in accordance with the City's Council-related Development Application Policy, to manage the conflict of interest arising through the ownership of the land by the City.
52. The application seeks to more conventionally and broadly define the use of the 'Banga Shed' premises as a community centre, consistent with the relevant definition in SSLEP No. 114, to provide greater flexibility for the ongoing use of the premises than currently exists under the current consent.
53. The proposed hours of operation are considered acceptable having regard to the permitted base and extended hours of operation in Section 3.15 of SDCP 2012. The proposed extended hours are recommended to be subject to a trial period to ensure that any unanticipated noise impacts are appropriately addressed.
54. The use of the premises, when undertaken in accordance with the submitted plan of management and recommended conditions of consent, is unlikely to have an adverse impact on the amenity of the surrounding area.
55. The application was notified for 28 days in accordance with the City of Sydney Community Participation Plan 2023 and Schedule 1, Section 9B of the EP&A Act 1979 regarding Council-related development. No submissions were received.



56. The proposed development would support the community creative and cultural precinct established at the former Royal South Sydney Hospital site for the benefit of the wider Green Square community.
57. The application is recommended for approval, subject to the conditions of consent outlined in Attachment A.

**ANDREW THOMAS**

Executive Manager Planning and Development

Michael Stephens, Senior Planner