

Relevant Information for Central Sydney Planning Committee

FILE: D/2018/1577 **DATE:** 8 November 2019

TO: The Central Sydney Planning Committee

FROM: Graham Jahn AM, Director City Planning, Development and Transport

SUBJECT: Information Relevant To Item 6: Development Application – 420 & 422-424 Kent Street and 275 & 277 Clarence Street, Sydney – D/2018/1577

Alternative Recommendation

It is resolved that:

- (A) the requirement of Section 51N of the City of Sydney Act 1988 to consult with the Central Sydney Traffic and Transport Committee not apply in this instance as the proposal does not require, or that might reasonably be expected to require, the carrying out of road works or traffic control works that are likely to have a significant impact on traffic and transport in the Sydney CBD;
- (B) the requirement under Clause 6.21 of the Sydney Local Environmental Plan 2012 requiring a competitive design process is unreasonable or unnecessary in the circumstances;
- (C) the requirement under Clause 7.20 of the Sydney Local Environmental Plan 2012 requiring the preparation of a development control plan is unreasonable or unnecessary in the circumstances; and

- (D) consent be granted to Development Application No. D/2018/1577 subject to the conditions set out in **Attachment A** to the subject report to the Central Sydney Planning Committee on 24 October 2019, and subject to the following amendment (with additional text shown in **bold italics** and deleted text shown in ~~strikethrough~~):

(9) USE – ~~SEPARATE DA REQUIRED~~ GENESIAN THEATRE

~~(a) No consent is granted or implied for the fit out or specific use of each of the individual retail tenancies of the development.~~

~~(b) No consent is granted or implied for the specific use of the Genesian Theatre as an adaptive performance space and food service venue.~~

~~(c) A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fit out and use of each retail tenancy, including use of the Genesian Theatre building, prior to that fit out or use commencing.~~

(a) *The area of the existing Church as shown on drawing number DA 2002, Revision 13 – General Arrangement Plan – Lower Ground – Kent Street is to be used for the purpose nominated on the plan, being an Adaptable Performance Space and Food Service Venue run by the New Hotel Proprietor, and for no other use without further development consent.*

(b) *Notwithstanding (a) above, a separate application must be obtained for the fit out and use of the retail tenancy, including use of the Genesian Theatre as an Adaptable Performance Space and Food Service Venue.*

Reasons for Recommendation

The application is recommended for approval for the following reasons (with additional text shown in **bold italics**):

- (A) the proposal satisfies the objectives of the Environmental Planning and Assessment Act 1979;
- (B) the proposal generally satisfies the objectives and provisions of Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012;
- (C) the proposed 'micro-hotel' provides a greater diversity of hotel accommodation in Central Sydney with acceptable internal amenity;
- (D) the heritage listed Genesian Theatre will be refurbished and retained as a performance space and be re-invigorated;
- (E) the proposed building would not result in adverse environmental impacts;
- (F) the provision of a through-site link that would be accessible 24 hours a day connecting Kent and Clarence Street;

- (G) the proposal is consistent with the objectives of the B8 Metropolitan Centre and is in the public interest; and
- (H) the proposal achieves a high standard of architectural design that exhibits design excellence *in the circumstance of the development* in accordance with Clause 6.21 of Sydney Local Environmental Plan 2012.

Background

1. At the meeting on 24 October 2019, the Central Sydney Planning Committee deferred the determination of the application upon receipt of further information pertaining to the use of the Genesian Theatre building as a permanent entertainment facility. Specifically, the CSPC sought an understanding of the existing status and demand of the building as a small theatre, its overall contribution and significance in consideration of any relevant City of Sydney cultural policies related to theatres and performance as well as intentions of the current operators in remaining at the building.
2. Following from the meeting, the application was discussed with the Council's Cultural Strategy Advisor for Live Music and Performance who advised the following:
 - (a) The Genesian Theatre Company has performed at the former church since 1954. The Company has been in contact with the City's Cultural Strategy team since the selling of the site by the Catholic Church in October 2017 and the purchasers have provided assistance to the Company to date.
 - (b) The Director of the Company advises they are working with the Catholic Archdiocese towards relocation to a new location owned by the Church. In the meantime, an agreement has been made for the Company to remain at Kent Street until late 2020.
 - (c) The City commissioned an Impact Study and unmet need analysis of the small-medium performance sector in Sydney. The study is due to be completed by the end of the year and will help guide decision-making around the demand and supply of small theatres in Sydney. The City's Cultural Infrastructure Study will also be completed by the end of the year and may include a recommendation for a no-net-loss approach to cultural infrastructure.
 - (d) Overall, a 250 seat purpose built venue for theatrical productions with the ability to be operated with reasonable returns for a resident company or hired for production seasons would be required to service the small-to-medium independent performance sector. The Impact Study has identified Kings Cross and East Sydney as priority areas for theatre infrastructure.
 - (e) Regardless of whether the Company were to continue using the former church as a theatre, the proposed plans subject to the application is not an ongoing theatre and would pose a challenge for regular and sustainable use for theatrical productions or a resident theatre company as:
 - (i) The provision of a rear staircase reduces the auditorium size and consequently reduces the theatre capacity and removes dressing rooms and storage facilities. The proposal indicates a venue with approximate seating for 80 patrons, which demonstrates a one third reduction to the current seating capacity of 125. Therefore, the potential revenue from the space is impacted.

- (ii) The curtained partition in the restaurant dining room to serve as a dressing room when the space is operated for a theatre season, is not a suitable solution for a production run of more than a couple of consecutive days.
 - (iii) The adaptable and multi-use plans do not give nor do they seek full consideration to the specific needs of operating a small theatre. It is unlikely to provide a sustainable space for a cultural organisation to operate.
- (f) Whilst retaining the existing use of the theatre is ideal and the proposal would result in the removal of a 65 year cultural asset that is the Genesian Theatre, alternative and different cultural uses can be considered and prioritised.
- (g) The nature of the space, the location adjacent to a hotel, the proposed connection to the hotel restaurant and foyer and the development of the small bar scene around Kent and Clarence Street suggests this church would make a suitable music venue that can be adaptable to cabaret, comedy or other performances with a food and drink offering. A cultural venue such as this would be better suited to the location and offer a more sustainable business model for a cultural operator.
3. Additionally, a meeting was carried out with City Officers and the applicant on 30 October 2019 to further discuss the future use of the building as a theatre and potential opportunities for a food service venue providing live performance and entertainment.
4. In response and following from the meeting, a 'St John the Evangelist Potential Future Use Study' was prepared and is contained in **Attachment A**. In summary, the Study details the following:
- (a) The allotments subject to this application are consolidated under the proposed development. The site is offered to potential hotel operators as a whole site.
 - (b) The use of the church building and future retail space on the lower ground floor is not intended to be isolated from the hotel use as it is not considered or seen to be logistically feasible. This is to ensure that active uses are located on the lane way frontage to compliment the hotel operation with accessible, vibrant and complimentary uses.
 - (c) The existing theatre hosts 5 to 8 shows a year and is effectively dormant and closed to the public for extended periods. The building has limited occupation, provides no equitable access and does not significantly contribute to the activation of Kent Street.
 - (d) The proposed development allows the former church to be refurbished and restored as well as allow for equitable access into the building from the new laneway. The use of the church in association with the future hotel is integral to its operation. It will be a contemporary food service venue offering opportunities for live entertainment such as the hotel piano lounge, jazz bar or potentially verbal performances including poetry readings.
 - (e) The use of the refurbished church will be integral to the 24/7 operation of the hotel and has the potential to be an attractive multi-purpose flat floor entertainment venue for exhibitions, lectures or community events. These flexible offerings are not dissimilar to other heritage venues such as Marble Bar at the Hilton Hotel.

- (f) The proposed plans indicate that the redevelopment of the former church is interrelated with the hotel use where all the back of house facilities for the church building, plant rooms, bathrooms, kitchens and end of trip facilities are located within the lower ground and basement levels of the hotel.
- (g) In light of the above, a condition of consent is recommended for consideration securing the future use of the Genesian Theatre as follows:

“The area of the existing Church as shown on drawing number DA 2002, Revision 13 – General Arrangement Plan – Lower Ground – Kent Street is to be used for the purpose nominated on the plan, being an Adaptable Performance Space and Food Service Venue run by the New Hotel Proprietor, and for no other use without further development consent.”

- 5. Whilst the Genesian Theatre would cease operation as an exclusive theatrical performance venue, the Genesian Theatre Company, as the operators, will be relocating to a different venue in the Local Government Area in consultation with the Catholic Archdiocese as well as the City’s Cultural Strategy Team. Therefore, the operators would continue to provide theatrical performances to the general public.
- 6. The City’s imminent Impact Study on analysing the small-medium performance sector in Sydney suggests that a need for a 250 seat purpose built theatre is required to service a small-medium independent performance. The existing theatre does not provide ideal patron capacity nor is it purpose built or provide adequate functional spaces or areas required for theatre operation including dressing rooms and storage facilities for a small-medium venue, notwithstanding this, it has operated successfully as a theatre since 1954.
- 7. Notwithstanding that the Genesian Theatre would not provide theatrical productions specifically, the use of the building would enable other performance, creative and cultural opportunities to be carried out within the building, which is supported by the City’s Cultural Strategy Advisor. Overall, the provision of performance and entertainment at the building would be retained.
- 8. The applicant has satisfactorily demonstrated that the future use of the former church as proposed, being a food service venue that provides flexible entertainment offerings in association with the hotel, is an integral component of the proposed development. Having regard to the dormant status of the existing theatre, the proposed development would revitalise and activate the site. This is an improved outcome to the existing condition of the site and would significantly activate the site on the Kent Street and Clarence Street frontages and contribute to the overall vibrancy of the locality.
- 9. The commitment of the applicant to provide a performance venue in association with the hotel is demonstrated through a condition of consent that has been proposed. The condition is supported and is recommended to be imposed as a condition of consent.

10. In this regard it is proposed to amend Condition No. 9 – *Separate DA Required*, as follows:

(9) USE – SEPARATE DA REQUIRED

- (a) No consent is granted or implied for the fit out or specific use of each of the individual retail tenancies of the development.*
- (b) No consent is granted or implied for the specific use of the Genesian Theatre as an adaptive performance space and food service venue.*
- (c) A development consent or Complying Development Certificate (as appropriate) is required to be obtained for the fit out and use of each retail tenancy, including use of the Genesian Theatre building, prior to that fit out or use commencing.*

to be replaced with the following condition:

(9) USE – GENESIAN THEATRE

- (a) The area of the existing Church as shown on drawing number DA 2002, Revision 13 – General Arrangement Plan – Lower Ground – Kent Street is to be used for the purpose nominated on the plan, being an Adaptable Performance Space and Food Service Venue run by the New Hotel Proprietor, and for no other use without further development consent.*
- (b) Notwithstanding (a) above, a separate application must be obtained for the fit out and use of the retail tenancy, including use of the Genesian Theatre as an Adaptable Performance Space and Food Service Venue.*

11. *Condition No. 40 – Lot Consolidation* requires all land titles within the site to be consolidated. Accordingly, any potential future use of the Genesian Theatre building only cannot be sought in isolation without having regard to the principal use of the consolidated site as a hotel.
12. Overall, the provisions of the Environmental Planning and Assessment Act 1979 does not enable a use to be exclusively enforced on any site. The B8 Metropolitan Centre zoning permits the proposed development to be carried out with consent. The proposal aligns with the objectives of the zone, permits a diversity of compatible land uses that serve the workforce, visitors and wider community as well as promotes uses with an active street frontage on main streets.

Attachment

Attachment A. St John the Evangelist Potential Future Use Study

Prepared by: Reinah Urqueza, Specialist Planner

Approved



GRAHAM JAHN AM

Director City Planning, Development and
Transport