

Item 6.**Development Application: 6 Bridge Street, Sydney - D/2020/614****File No.:** D/2020/614**Summary****Date of Submission:** 10 July 2020

Amended plans received 28 September 2020

Applicant: Nick Frier**Architect:** Steel+Stitch**Developer:** Sydney City Catering & Events Pty Ltd**Owner:** Lot 2 - Phling on Bridge Pty Ltd

6 Bridge Street - Strata Plan No 67311

Cost of Works: \$100,320

Zoning: The site is zoned B8 - Metropolitan Centre under the Sydney Local Environmental Plan 2012. The proposed use is defined as a restricted premises being a small bar providing adult entertainment. These uses are permissible with development consent in the zone.

Proposal Summary: Consent is sought for change of use and associated alterations to the ground floor tenancy (tenancy 2) of 6 Bridge Street. The proposed use is a restricted premises being a small bar providing adult entertainment. The adult entertainment will involve nude and semi-nude performers. No sex services involving sexual acts or sexual services are proposed.

The proposed trading hours are 12.00pm midday - 2.00am (following day), Mondays to Sundays inclusive.

The application seeks consent for internal alterations to allow for the fit-out of the premises. Proposed alterations include the construction of seating areas, stages, private entertainment rooms, sanitary facilities and staff facilities.

The application was notified and advertised from 16 July 2020 to 7 August 2020 in accordance with the City of Sydney Community Participation Plan 2019. A total of 140 properties were notified. Eleven submissions were received. The issues raised in the submissions are addressed in the body of this report, and conditions of consent are recommended to resolve outstanding matters where appropriate.

The proposal has been amended during the course of the assessment in order to address issues raised by the submissions and Council staff, including modifications to staff facilities and the proposed entry/exit locations for the premises. Proposed works affecting common property have also been removed from the application.

The amended proposal was not required to be renotified under the Community Participation Plan 2019 as there were no significant additional environmental impacts.

Subject to conditions, the proposal is generally consistent with the objectives and applicable planning provisions in the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. The site is considered an appropriate location for the proposed use, and the use is unlikely to have adverse impacts on the surrounding locality.

The application is referred to the Local Planning Panel for determination as it relates to a restricted premises.

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

Development Controls:

- (i) State Environmental Planning Policy (Infrastructure) 2007
- (ii) State Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (iii) Sydney Local Environmental Plan 2012
- (iv) Sydney Development Control Plan 2012

Attachments:

- A. Recommended Conditions of Consent
- B. Selected Drawings
- C. Plan of Management

Recommendation

It is resolved that consent be granted to Development Application No. D/2020/614 subject to the conditions set out in Attachment A to the subject report.

The application is recommended for approval for the following reasons:

- (A) The uses are permissible with consent in the B8 Metropolitan Centre zone.
- (B) The uses are considered to be in keeping with the area given its broad mix of commercial uses.
- (C) The amended Plan of Management adequately addresses the operational, safety and security requirements of the premises.
- (D) The amended architectural plans provide sufficient staff facilities required by the Sydney Development Control Plan 2012.

Background

The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 227365, known as 6 Bridge Street, Sydney. It is irregular in shape with area of approximately 335sqm. It has a primary street frontage of 11.2m to Bridge Street and a secondary street frontage of 9.6 to Dalley Street. The site is located close to the intersection of George Street and Bridge Street.
2. The site contains a six-storey commercial building with a basement level below. The first 4 storeys comprise the original stone building that was built in 1885. The upper two floors are a contemporary addition which were added to the building in the 1980's.
3. The upper two floors were originally developed for residential uses but have since been converted into commercial office spaces. The subject building is now comprised predominantly of office uses. The building has two distinct double front entrance doors on the Bridge Street frontage, which are separated by a central window. Lot 2, the subject lot of this development application, is accessed by the eastern entrance door on Bridge Street, via a small set of stairs from the building's eastern lobby. The site can also be accessed at the rear from Dalley Street via the existing fire stairs.
4. The site is listed as a local heritage item (I1680) under Schedule 5 of the Sydney Local Environmental Plan 2012 and is known as the 'Former Northumberland Insurance building'. The building holds heritage significance as it represents the historical importance of Sydney as a regional centre for agencies such as newspaper and insurance companies.
5. The site is adjoined by 4 Bridge Street to the west, and 10 Bridge Street to the east. 4 Bridge Street is also listed as a local heritage item (I1678) and is known as the 'Cliveden'. The Cliveden is a twelve-storey mixed use building, with commercial uses on the basement, ground, first and second floors and residential apartments above. Meanwhile, 10 Bridge Street is a fifteen-storey building comprising commercial uses.
6. The surrounding area is characterised by a mixture of land uses, primarily being commercial and business orientated. The surrounding locality has a distinctly commercial character, given the sites location within the northern portion of the Sydney CBD. Bridge Street is characterised by grand and stately commercial buildings, with active ground and basement floor uses. Meanwhile, Dalley Street is characteristically more aligned to a service lane, providing rear access to commercial buildings which front Bridge Street.
7. Bridge Street experiences a high degree of vehicular traffic, as it provides a key east-west connection to the Cahill Expressway. The site is located approximately 300m south of Circular Quay and 300m north of Wynyard Station. The Bridge Street light rail stop is located 80m south-west of the site.
8. The site is located within the Central Sydney locality.
9. A site visit was carried out on 2 September 2020. Photos of the site and surrounds are provided below:



Figure 1: Aerial view of site and surrounds

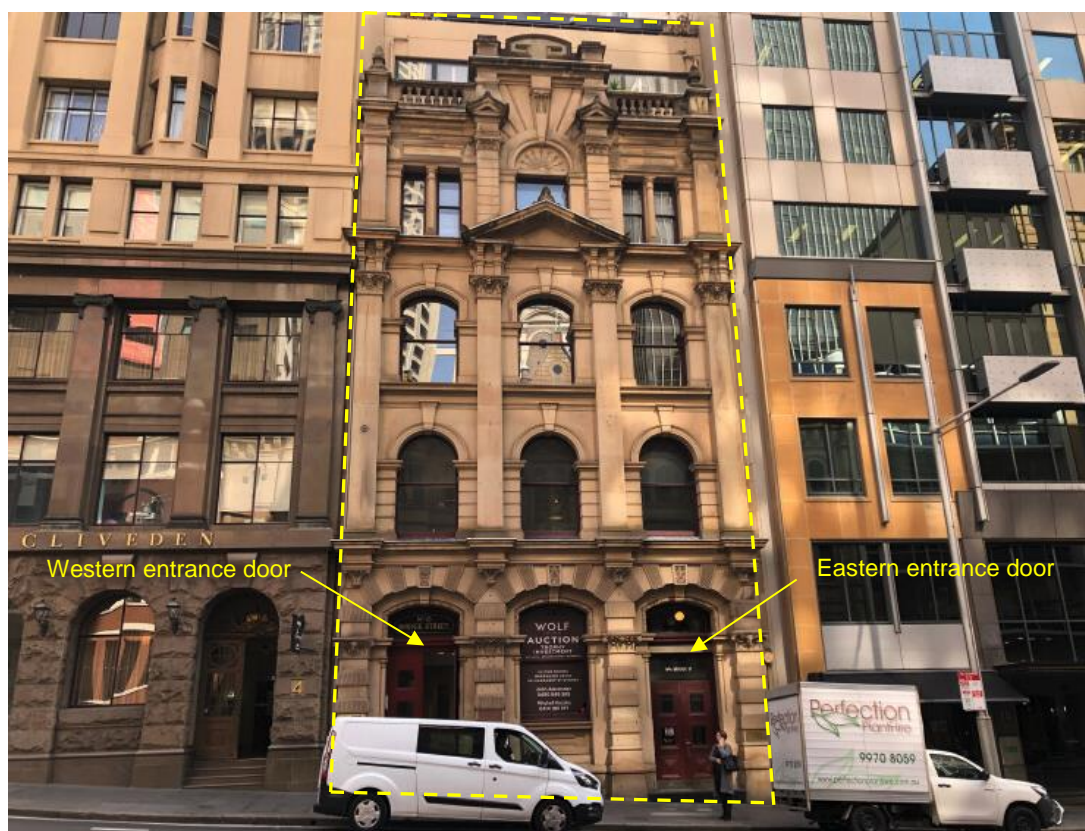


Figure 2: Site viewed from Bridge Street



Figure 3: Rear of site viewed from Dalley Street

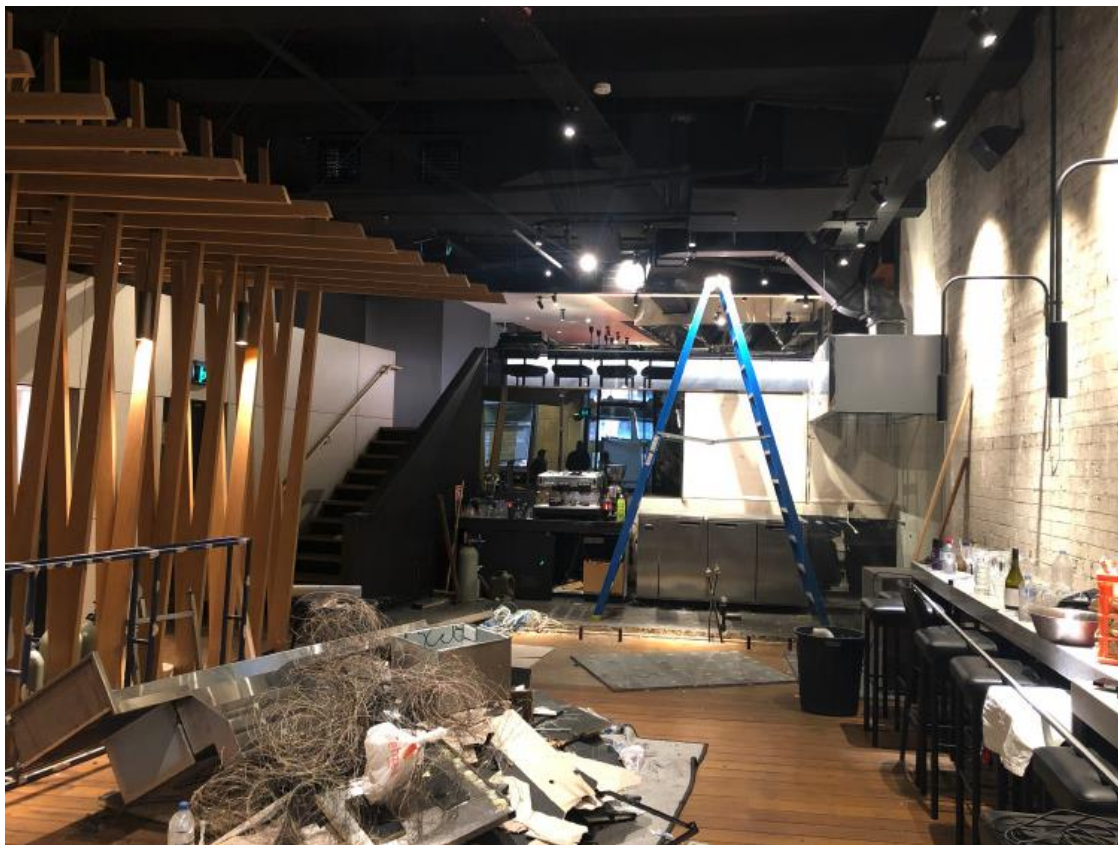


Figure 4: Internal view of subject tenancy

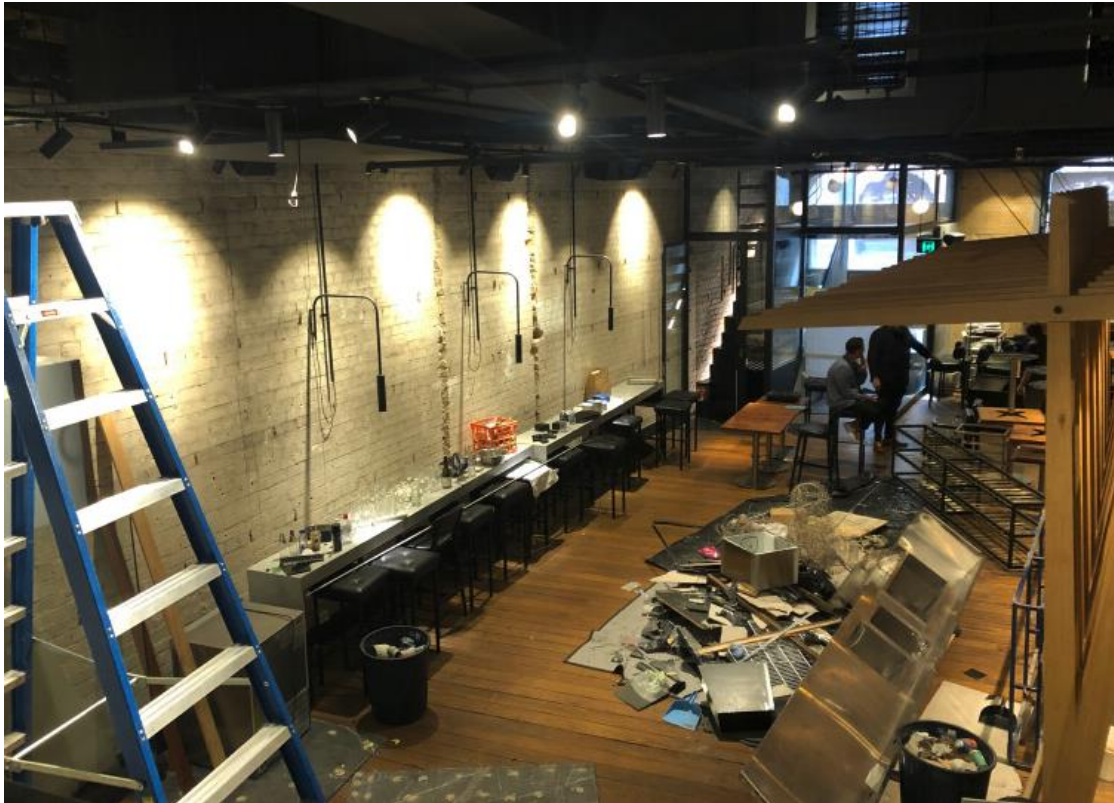


Figure 5: Internal view of subject tenancy, looking towards Bridge Street entrance



Figure 6: Internal view of kitchen to be demolished

History Relevant to the Development Application

Development Applications

10. The following applications are relevant to the current proposal:

Basement and Ground Floor

- **D/2014/2016** – Development consent was granted on 15 May 2015 for the fit out of the basement (lot 1) and ground floor (lot 2 – same tenancy as this application) as a restaurant with ancillary bar, including kitchen, food storage facilities, mechanical ventilation and refrigeration.
- **D/2014/2016/A** – Development consent was granted on 8 August 2016 for modifications to the layout of the bar, sanitary facilities and kitchen.
- **D/2014/2016/B** – Development consent was granted on 26 February 2020 for modifications to the kitchen rangehood, hot bar and reception area.
- **D/2019/174** – Development consent was granted on 9 May 2019 for fit out works and use of the basement level (lot 1) as a small bar.

Levels 5 and 6 (formerly residential uses)

- **D/2019/770** – Development consent was granted on 24 July 2019 for fit out of commercial office on level 5.
- **D/2019/1096** – Development consent was granted on 1 November 2019 for conversion of level 6 from a dwelling to an office.

Amendments

11. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information and amendments was sent to the applicant on 22 September 2020. The amendments requested were as follows:

(a) Location of Entrance/Exit

The architectural plans originally proposed for staff and patrons to share one common entrance/exit located on Dalley Street at the rear of the site. Dalley Street is similar to a service lane and has a number of concealed spaces and alcoves. The proposal for staff and patrons to share a singular entrance/exit point on Dalley Street was considered an unacceptable safety risk and contradictory to Crime Prevention Through Environmental Design (CPTED) principles.

As such, it was requested that the architectural plans and Plan of Management be amended so that patrons enter/exit via the main building entrance on Bridge Street. In doing so, the rear exit/entrance point will not be accessible to patrons unless in the case of an emergency. This amended design will allow staff to enter/exit from the main entrance on Bridge Street should they wish to do so, whilst also providing staff with a discrete entry/exit option via Dalley Street which they can use without having to interact with patrons. It was recommended that a security guard be available to ensure the safety of exiting staff.

(b) Provision of Staff Facilities

The submitted architectural plans included a proposed 'staff room with lockers', but failed to depict the specific staff facilities required by Section 4.4.6.4 of the Sydney DCP 2012. As such, it was requested for the plans to be amended to include the following staff facilities:

- (i) sanitary facilities including toilet, hand basin and shower;
- (ii) a rest area with seating;
- (iii) a dining area with food preparation and storage areas;
- (iv) a sink with hot and cold running water, water boiling facilities and fridge; and
- (v) lockers to store personal belongings.

(c) Privacy for Bridge Street Windows

A number of public submissions raised concerns regarding the potential for performances to be viewed through the existing window on the Bridge Street frontage of the site. In response, it was requested that the architectural plans be amended to include an internal fixed blind, so that internal operations of the premises are not able to be viewed from the public domain.

(d) Patron and Staff Numbers

The submitted Plan of Management (POM) lacked clarity on the number of staff working at the premises. As such, it was requested that the POM be amended to clarify this point.

(e) Waste Area

The submitted architectural plans lacked clarity on where the dedicated waste storage area would be. As such, it was requested that this be clarified.

12. The applicant responded to the request on 28 September 2020, and submitted a letter of response, amended architectural plans and a new Plan of Management.

Proposed Development

13. The application seeks consent for the following:

Use

- Change of use to use premises as a restricted premises being a small bar that provides live entertainment involving nude and semi-nude performers;
- No sex services involving sexual acts or sexual services in exchange for payment is proposed;

- Trading hours of 12.00pm – 2.00am (following day), Mondays to Sundays inclusive; and
- Maximum patron capacity of 120.

Internal Demolition

- Privacy screen;
- Dishwashing room;
- Kitchen; and
- Rear cool room.

Construction

- Banquette style seating areas;
- Stages and associated stairs;
- Three private entertainment rooms;
- Sanitary facilities for patrons;
- Sanitary facilities for staff;
- Staff room, inclusive of sanitary facilities, seating area, kitchenette, lockers and office; and
- Vinyl signage sticker on internal glass door within tenancy.

14. Plans and elevations of the proposed development are provided below.

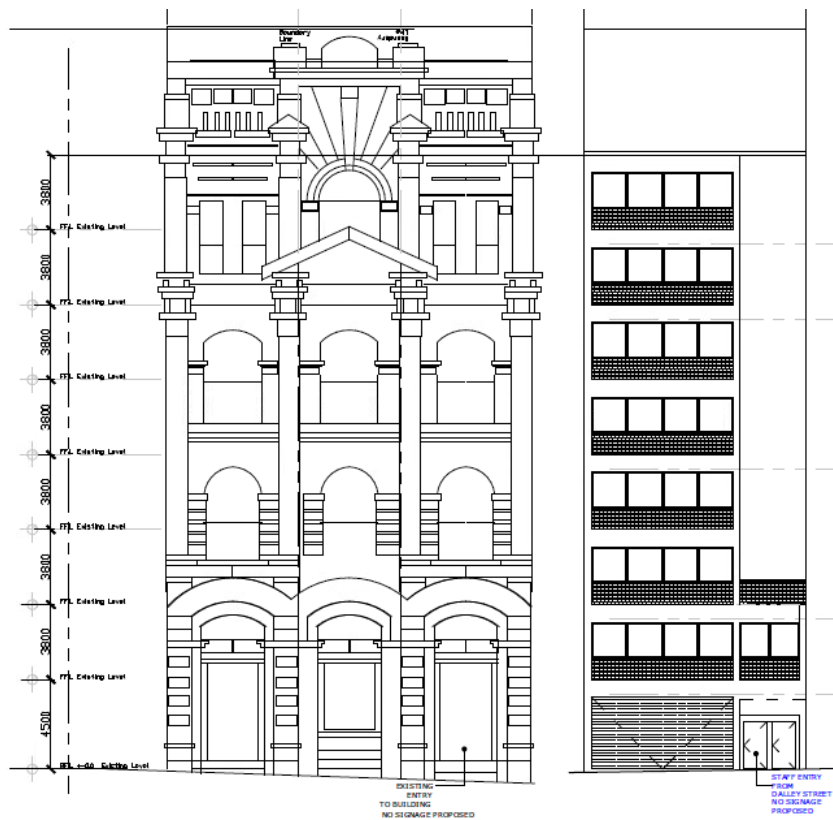


Figure 7: Proposed Bridge St (left) and Dalley Street (right) elevations

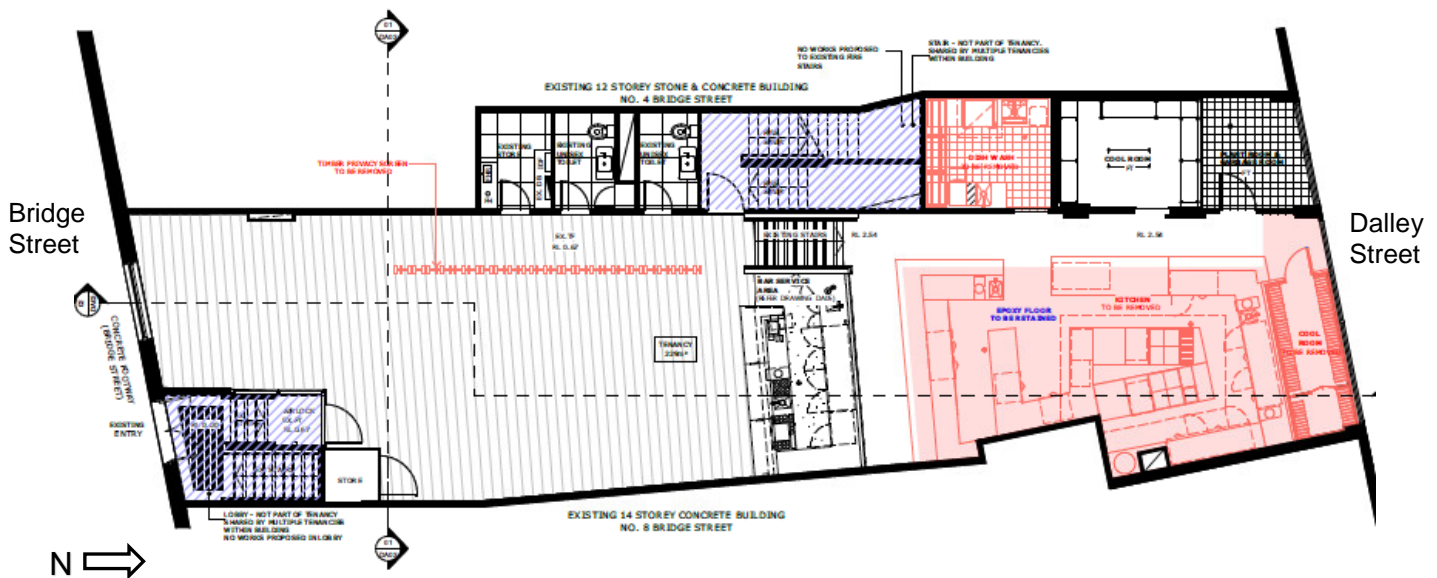
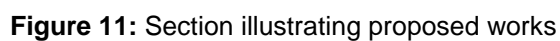


Figure 8: Proposed demolition



Assessment

15. 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 (Infrastructure) 2007

16. The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Division 15, Subdivision 2: Development in or adjacent to rail corridors and interim rail corridors

Clause 85 – Development adjacent to rail corridors

17. The application is in close proximity to the Sydney CBD and Eastern Suburbs light rail corridor and is within the 25m buffer of the Metro Tunnel. Consequently, the application was referred to Transport for NSW (TfNSW) for comment. Transport for NSW responded on 4 August 2020, recommending conditions of consent which have been included in Schedule 3 of the Notice of Determination.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

18. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SREP. The SREP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
19. The site is within the Sydney Harbour Catchment and eventually drains into Sydney Harbour. However, the site is not located in the Foreshores Waterways Area or adjacent to a waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The development is consistent with the controls contained within the deemed SEPP.

Local Environmental Plans

Sydney Local Environmental Plan 2012

20. An assessment of the proposed development against the relevant provisions of the Sydney Local Environmental Plan 2012 is provided in the following sections.

Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B8 Metropolitan Centre zone. The proposed development is defined as a restricted premises being a small bar providing adult entertainment. Small bars and restricted premises are permissible with consent within the B8 Metropolitan Centre zone. The proposal generally meets the objectives of the zone.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 55m is permitted. The works are contained fully within the existing ground floor tenancy of the building. The proposal does not alter the existing height of the building.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 8:1 is permitted. The proposal does not alter the existing floor space ratio of the building.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site is identified as a local heritage item (I1680) in Schedule 5 of the Sydney LEP 2012. The site is listed as the former 'Northumberland Insurance building including interiors' and holds heritage significance due to its reflection of High Victorian architectural styles expressive of corporate prestige. The proposed alterations are wholly contained within the existing ground floor tenancy, which recently underwent partial redevelopment for a restaurant fit-out.

Provision	Compliance	Comment
		The application was discussed with the City's Heritage Specialist, who initially raised heritage concerns. These concerns were addressed by way of design amendments. Subject to conditions of consent, the proposal will have no adverse impacts on the heritage significance of the site and is acceptable. See 'Issues' section of this report.

Part 7 Local provisions – general

Provision	Compliance	Comment
Division 4 Miscellaneous		
7.14 Acid Sulfate Soils	Yes	The site is located on land with class 5 Acid Sulfate Soils and is located within 31m of class 2 Acid Sulfate Soils. The application does not propose works requiring the preparation of an Acid Sulfate Soils Management Plan.
7.15 Flood planning	Yes	The north-eastern corner of the site fronting Dalley Street is identified as being affected by flooding. The application does not propose to alter the existing entrance levels to Dalley Street. The proposal seeks to use the existing rear entry/exit door located in the north-western portion of the site. This portion is not affected by flooding. Since the physical works are wholly internal, the proposed development does not exacerbate the flood risk of the site and is acceptable.

Development Control Plans

Sydney Development Control Plan 2012

21. An assessment of the proposed development against the relevant provisions within the Sydney Development Control Plan 2012 is provided in the following sections.

Section 2 – Locality Statements

22. The site is located within the Bridge Street/Macquarie Place/Bulletin Place Special Character Area. The proposed development is in keeping with the unique character and the design principles of the Special Character Area locality, in that the proposed works are internal and will not detract from the heritage significance of the streetscape. The proposal has no adverse impacts on the surrounding important public spaces, intersections or significant vistas of the Special Character Area.

Section 3 – General Provisions

Provision	Compliance	Comment
3.7 Water and Flood Management	Yes	The north-eastern portion of the site is identified as being on flood prone land. See discussion under section 7.15 above.
3.9 Heritage	Yes	The site is identified as a local heritage item (I1680) in Schedule 5 of the Sydney LEP 2012. The application was discussed with the City's Heritage Specialist, who initially raised heritage concerns. These concerns were addressed by way of design amendments and conditions of consent. See 'Issues' section of this report.
3.10 Significant Architectural Building Types	Yes	The proposed alterations are contained wholly within the existing ground floor tenancy. The proposal retains the existing shopfront and facade and will have no adverse impacts on the heritage significance of the site. Conditions of consent have been included to ensure that internal heritage fabric is retained and protected. See 'Issues' section of this report.
3.12 Accessible Design	Partial compliance	An Access Report was provided with the application. Whilst the proposal incorporates design measures to improve accessibility, the premises is inhibited from being able to fully comply with accessibility provisions due to the existing common entrance stairs.

Provision	Compliance	Comment
		<p>The submitted Access Report notes that the Disability (Access to Premises – Buildings) Standards 2010 provides a limited concession when a building is occupied by a number of lessees. When an application is made by one of the lessees for the approval of building work in an area of the building that they are leasing, there is no requirement on the lessee to provide a continuous accessible path of travel from the pedestrian entry point to the principal pedestrian entrance of the space which the person leases. As such, the applicant is not required to refurbish the existing entrance to the site.</p> <p>Notwithstanding this concession, a condition of consent is included requiring the internal alterations to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and the BCA.</p>
3.13 Social and Environmental Responsibilities	Yes	<p>Amendments were sought to reduce opportunities for crime, as discussed in the 'Amendments' section of this report. The proposed development in its amended form provides adequate passive surveillance and is generally designed in accordance with the CPTED principles.</p>
3.14 Waste	Yes	<p>The amended plans maintain the existing garbage room. A condition is recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</p>

Provision	Compliance	Comment
3.15 Late Night Trading Management	Yes	<p>The premises is located in a Late Night Management Area and the use is defined as a category B premises.</p> <p>The proposed trading hours are 12.00pm midday – 2.00am (following day), Mondays to Sundays inclusive. The proposed patron capacity is 120. The proposed trading hours are within the base hours permitted in the DCP 2012 and are considered acceptable. The application was referred to the City's Licensed Premises Unit, who raised no objections subject to standard conditions of consent.</p>
3.16 Signage and Advertising	N/A	The proposed development does not include any external signage.

Section 4 – Development Types

4.4 Other Development Types and Uses

4.4.6 Sex industry premises and adult entertainment

Provision	Compliance	Comment
4.4.6.1 Location of premises	Partial compliance	<p>The proposed use is identified as a restricted premises being a small bar providing adult entertainment.</p> <p>Whilst the subject building contains no residential uses, the adjoining building at 4 Bridge Street contains residential apartments. See 'Issues' section of this report.</p>
4.4.6.2 Design of premises	Yes	<p>Design amendments have occurred during the assessment process to ensure that the premises has suitable entrances and exits for staff and patrons – see 'Amendments' section of this report for further details.</p> <p>The external appearance of the premises will not be a prominent feature on the street. The site is already clearly numbered as 6 Bridge Street. This existing numbering is considered acceptable for identification purposes.</p>

Provision	Compliance	Comment
		By way of design amendments, an internal fixed blind has been added to the architectural floor plans to ensure that the performances are not visible from the streetscape.
4.4.6.4 Health, safety and security	Yes	<p>By way of design amendments, the proposal now satisfies the provisions of 4.4.6.4. The proposal in its amended form includes appropriate staff facilities, including 2 dedicated staff toilets, a hand basin, shower, rest area, seating, dining area with food preparation and storage space, a sink with hot and cold running water, water boiling facilities, a fridge and lockers to store personal belongings. These facilities are located within a restricted area of the premises with CCTV, which ensures that no patrons can enter the space. The staff room, as well as the private performance rooms will be fitted with duress alarm facilities that will be accessible at all times by the performers.</p> <p>Additionally, plans have been amended to provide staff with the option of discretely exiting the premises via Dalley Street should they wish to do so. Patrons will be required to enter the premises via Bridge Street, minimising opportunities for patrons to interact with staff who are entering/exiting the premises.</p> <p>The proposed stages are compliant with the provisions of 4.4.6.4 (15), in that they are larger than 2.5m², are at a height of 0.5m from the floor, have a clearance of 3m from the ceiling, will be BCA compliant and have a non-slip surface.</p>
4.4.6.5 Signs	Yes	No external signage is proposed. The amended architectural plans include 1x vinyl sign, to be affixed on the internal face of the premises internal entrance door. A condition of consent has been included requiring for the words "RESTRICTED PREMISES" to be included on the sign.

Provision	Compliance	Comment
4.4.6.6 Management of operations	Yes	A detailed Plan of Management (POM) was submitted with the application. During the assessment process, the POM was amended to reflect staff numbers and to stipulate clearly which areas of the premises are restricted for staff only. The POM was assessed as acceptable by the City's Environmental Health Unit and Licensed Premises Unit.

City of Sydney Sex Industry and Adult Entertainment Premises Guidelines 2013

Provision	Compliance	Comment
1.4 Operation and Management	Yes	The application has submitted a detailed Plan of Management that outlines measures that will be taken to reduce the potential impacts of the premises on the surrounding locality. The Plan of Management adequately defines responsibilities and procedures.
1.5 Health Service Access and Inspections	Yes	The POM states that management will cooperate with the Police and Council for inspections.
1.6 Sanitary Facilities	Yes	The proposal in its amended form includes appropriate staff facilities, including 2 dedicated staff toilets, a hand basin, shower, rest area, seating, dining area with food preparation and storage space, a sink with hot and cold running water and water boiling facilities. These facilities meet the requirements of Section 1.6.
1.7 Cleaning and General Cleanliness	Yes	The POM states that a professional cleaner will be contracted to clean the entire premises daily.
1.8 Provision of Cleaning and Drying Facilities, Equipment and Products	Yes	Whilst the architectural plans do not depict specific cleaning facilities, the proposal to engage a professional cleaner on a daily basis is considered acceptable. It is noted that this premises does not include any sex services, and thus has fewer cleaning requirements (such as linen washing etc) than premises which offer sex services.

Provision	Compliance	Comment
1.9 General Waste	Yes	The proposal includes a dedicated Waste Room. Conditions of consent are recommended to ensure that the development complies with the City of Sydney Guidelines for Waste Management in New Development.
1.12 Noise	Yes	The application includes an Acoustic Report with recommended measures which ensure that the premises does not cause unacceptable noise impacts. This has been reviewed by the City's Environmental Health Unit and assessed as acceptable.
1.13 Ventilation and Lighting	Yes	A condition of consent is recommended requiring that the development meet the requirements of the Building Code of Australia.
1.14 Bars and Food Preparation Areas	Yes	The application has been assessed by the City's Environmental Health Unit and is considered acceptable. Appropriate food related conditions are recommended to ensure compliance with the relevant Australian Standards.
1.23 Additional Health Standards for Strip Club Premises	Yes	The proposed stages will be built with non-slip materials to ensure the safety of performers. The premises will be professionally cleaned on a daily basis.

Issues

Owners Consent

23. The application has been subject to ongoing owners consent issues, which are detailed below.
24. The application was lodged in the NSW Planning Portal on 10th July 2020. The Portal includes a function where the applicant must declare that they have shown the document, including all attached drawings, to the owner(s) of the land, and have obtained their consent to submit the application. This was ticked 'yes' in the portal.

25. It should be noted that amendments to the Environmental Planning and Assessment Regulation 2000 commenced on 1 July 2020, removing the statutory requirement for applicants to provide written evidence of owner's consent to the lodging of development applications. This requirement was replaced with a declaration for the applicant to acknowledge in the Portal as mentioned above. The effect of this amendment to the Regulations means that Councils can no longer reject development applications if evidence of owners' consent has not been provided. Additionally, there is no longer a need for applicants to provide evidence (such as ASIC extracts and strata committee minutes) that owners consent has been given. Effectively, the onus is on the applicant to ensure that owners' consent has been given.
26. Nevertheless, this application was submitted in the Portal correctly and the applicant ticked 'yes' to the owners' consent declaration. The City's former development applications forms, Part A and Part B, were included in the uploaded application documents. In Part A, signed consent was provided from the registered owner of the subject tenancy, whilst the 'Works affecting common property – Section 108 Strata Schemes Management Act' was left blank. On 14th July 2020, the applicant provided an updated copy of Part A, which had the official strata stamp from the strata body and was signed by a Strata Manager. Owner's consent was henceforth considered to be given for the lodgement of the application. The application was placed on notification on 16th July 2020 until 7th August 2020.
27. On 5th August 2020, the City received correspondence from the strata body governing 6 Bridge Street. Strata Republic stated that an administrative error had occurred, whereby a junior staff member had executed the Development Application on behalf of the Owners Corporation without their written consent. Accordingly, Strata Republic requested that owner's consent be retracted.
28. On 7th August 2020, City planning officers emailed the applicant requesting the application to be withdrawn, given that determination cannot be made without owner's consent.
29. On 14th August 2020, the applicant responded, stating that the proposed works were wholly within the boundaries of the owner's lot and not affecting strata common property, thereby negating the need to gain consent from the Strata Owners Corporation.
30. On 21 September 2020, the City received correspondence from lawyers representing the Owners Corporation. The correspondence stated that in legal terms, the original proposal affected common property, due to the inclusion of external signage, upgrades to the common stairs and proposed removal of the epoxy floor.
31. On 28 September 2020, the City received amended plans from the applicant that had removed the abovementioned works affecting common property. Additionally, correspondence was received on 29th September 2020 from lawyers representing the applicant, stating that all works affecting common property had been removed in the amended architectural plans.
32. Since the application does not affect common property, it is considered acceptable to progress with the assessment and determination of the application.

Use/Hours of operation

33. In accordance with Section 3.15 of the Sydney DCP 2012, the restricted premises is classified as a Category B – Low Impact Premises. The site is located within a Late Night Management Area. Section 3.15.4 of the Sydney DCP 2012 identifies the indoor base hours of 6.00am – 2.00am for Category B Premises in Late Night Management Area. The proposed trading hours of 12.00pm (midday) – 2.00am (following day) are within these base hours and are considered acceptable.
34. Section 4.4.6.1 of the Sydney DCP 2012 states that adult entertainment premises must not be located:
 - (a) within buildings containing a residential use;
 - (b) immediately adjacent or directly opposite land developed for residential purposes; nor
 - (c) adjacent or directly opposite a sensitive land use as defined in the DCP.
35. The patrons and staff entering the premises will do so via the common entrance which is shared by upper levels of the building. Public submissions raised concerns that the existing building at 6 Bridge Street could have residential apartments within it.
36. As noted in the 'History Relevant to Development Application' section of this report, development consents have since approved the conversion of the residential floors (levels 5 and 6) into commercial office spaces (see D/2019/770 and D/2019/1096).
37. A number of public submissions queried whether the consent for level 6 of 6 Bridge Street had been taken up, given that it was only approved on 1st November 2019. Accordingly, the City requested that the applicant demonstrate that level 6 was no longer occupied for residential uses. The applicant responded on 18th September 2020, providing evidence that the property was sold in January 2020 and is now for lease as an office space (Trim Ref: 2020/412551).
38. Public submissions also raised concern regarding the proximity of the proposed restricted premises to residential uses in the Cliveden at 4 Bridge Street.
39. Whilst it is acknowledged that there are residential units in the Cliveden, which adjoins the site to the west, in this instance the proposed use is considered acceptable.
40. The premises will occupy the ground floor, with patrons entering and exiting via the eastern door on Bridge Street. This door is located approximately 6m east from the entrance of the Cliveden, and security personnel will be present during operation of the proposed use to manage entry/exit and ensure the safety of staff and patrons.
41. Furthermore, City records indicate that there are no residential uses on the basement, ground, first or second floor of the Cliveden. Given that the premises is located on the ground floor of 6 Bridge Street, it is unlikely that the operation of the premises will have any adverse impacts on the residents living in the Cliveden building. Impacts on surrounding amenity are considered unlikely to be significantly different to the impacts that would occur if the tenancy was operating as a restaurant and bar as per previous approvals.

42. Finally, it is noted that both the site and the neighbouring Cliveden building are located in the heart of the Sydney CBD. Both sites are located within the B8 Metropolitan Centre zone. Whilst there are residential uses within the Sydney CBD, the purpose of the CBD is to be a thriving commercial centre, providing space for a diverse mix of compatible commercial land uses. The proposed use as a restricted premises, being a small bar providing adult entertainment, is consistent with the objectives of the B8 Metropolitan Centre zone, and the overwhelmingly commercial character of Bridge Street.
43. Consequently, the site is considered an appropriate location for the proposed use, and a minor departure from the provisions of Section 4.4.6.1 is acceptable.

Heritage Impact

44. The site is listed as a local heritage item (I1680) under Schedule 5 of the Sydney Local Environmental Plan 2012 and is known as the 'Former Northumberland Insurance building'.
45. The application was discussed with the City's Heritage Specialist, who advised that the internal brick and sandstone walls are original. He advised that the walls should be protected, and that the raised floor area including proposed stages should be constructed in a manner that does not damage heritage fabric. It was recommended that the structures be constructed in a manner that they are reversible, as opposed to poured concrete. Appropriate conditions are recommended to ensure compliance with this recommendation.

Consultation

Internal Referrals

46. The application was discussed with Council's Building Services Unit, Environmental Health Unit, Licensed Premises Unit, Heritage Unit, Safe City Unit and Waste Management Unit who advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals

NSW Police

47. The application was referred to NSW Police for comment.
48. No response was received.

Transport for NSW

49. Pursuant to Section 85 of the SEPP (Infrastructure) 2007, the application was referred to Transport for NSW (TfNSW) for comment.
50. Transport for NSW responded on 4 August 2020, recommending conditions of consent which have been included in the Notice of Determination

Advertising and Notification

51. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified and advertised for a period of 21 days between 16 July 2020 and 8 August 2020. A total of 140 properties were notified. Eleven submissions were received.
52. It is noted that amended plans were received from the applicant on 28th September 2020. The Community Participation Plan 2019 stipulates that "If an application is amended prior to determination, it will be re-notified, only if the amendments are considered to result in significant additional environmental impacts". The amended plans received by the City addressed concerns that were raised both by the City and by way of public submissions. The amended design addressed acoustic, safety and privacy concerns regarding the use of Dalley Street and provided an updated Plan of Management. The amended application reduced potential adverse impacts, and therefore did not require re-notification.
53. The submissions raised the following issues:
- **Issue:** Proposed use will change the character of surrounding area and would damage life for businesses, residents, tourists and families. The use will not enhance the amenity or quality of life for local communities.

Response: The proposed use for the premises is as a restricted premises being a small bar providing adult entertainment. The site is located in the B8 Metropolitan Centre zone, which has an inherently commercial nature. This use is permissible with consent within the zone and is appropriate given the commercial character of the area.

- **Issue:** The use will make it harder to rent my property as people will be able to see what is happening from the window. It will make tenants feel uncomfortable to enter the premises with a security guard outside.

Response: The amended plans include a fixed internal blind, meaning that none of the operations occurring within the tenancy will be able to be viewed from the public domain. The use of security guards is common for licensed premises, regardless of whether adult entertainment is provided or not. Finally, it is noted that the existing premises is a partially constructed vacant restaurant. The introduction of a business into the vacant space is a positive social and economic outcome.

- **Issue:** The premises will adversely impact on the safety of the local area.

Response: The premises has submitted a detailed Plan of Management, which outlines how the premises will ensure safe operation. The presence of security guards will enhance casual surveillance of the premises and surrounding locality. The introduction of CCTV will also enhance the safety and security of the area.

- **Issue:** The proposed use will cheapen the area and detract from the value of my financial investment.

Response: The existing premises is a partially constructed vacant restaurant. The introduction of a business into the vacant space is a positive economic outcome for the locality.

- **Issue:** The venue will offend a great part of the community.

Response: The proposed uses are permissible in the B8 Metropolitan Centre zone. By way of regulation, these premises are able to operate in a manner in which the safety of staff, visitors and the broader community is ensured.

- **Issue:** The 2am foot traffic and noise from Dalley Lane will negatively affect the neighbouring residential apartments facing the laneway. The premises will have adverse impacts on the amenity of residents.

Response: The proposed trading hours are consistent with the base hours allowed under Sydney DCP 2012. Design amendments have addressed this issue, with patrons now entering and exiting the premises via Bridge Street. The Dalley Street entry/exit will only be used by staff who choose to discretely enter/exit the premises. Staff will have access to security personnel to ensure their safety, and CCTV will be installed to monitor the area. The proposal is unlikely to cause unacceptable noise impacts.

- **Issue:** The premises is a poor outcome in terms of equality and feminism.

Response: The legalisation and regulation of sex industry premises is considered a positive social and economic outcome. Regulation provides better outcomes for sex industry workers themselves, by improving health and safety practices within their workplaces. It is noted that this application does not propose sex services - rather the premises will operate as a small bar that provides adult entertainment. All areas where performers interact with patrons will be fitted with duress alarm facilities, ensuring the constant safety of the staff.

- **Issue:** There will be an increased risk of noise, fights and drug use.

Response: The premises has submitted a detailed Plan of Management, which outlines how the premises will ensure safe operation that has minimal impact on neighbouring amenity. There is no direct correlation between patrons, staff and drug use. Any such future occurrences should be reported to Police.

- **Issue:** The operator needs to be held accountable for compliance with acoustic recommendations. The acoustic report is old.

Response: The submitted acoustic report has been reviewed by internal units in Council and has been assessed as acceptable. Appropriate conditions of consent are recommended regarding acoustic impacts. A complaint can be made to the City's Compliance Unit should any non-compliances occur in the future.

- **Issue:** The plans include errors and the cost of the development seems low.

Response: Amended architectural plans have been submitted and are considered acceptable for assessment to occur. The development costs appear appropriate, given that the premises is already partially fitted out by a previous restaurant tenant.

- **Issue:** The proposed trading hours are too long.

Response: The proposed trading hours are within the base hours permissible for a Category B Premises in a Late Night Management Area in accordance with the Sydney DCP 2012.

- **Issue:** The proposal will have adverse impacts on the heritage significance of the site and area. The development is not in keeping with the historical significance and character of the area.

Response: The application has been reviewed by the City's Heritage Specialist, who raised no objects subject to recommended conditions of consent.

- **Issue:** The proposal is in contravention of the DCP as there is residential use on its upper level.

Response: Residential uses have been converted into commercial office spaces by way of previous development consents. See 'Issues' section of this report.

- **Issue:** The adult entertainment use is not ancillary to the small bar use. The dominant use of the premises is as a restricted premises.

Response: Agreed. This application has been assessed as a change of use to a restricted premises, being a small bar that provides adult entertainment. Both uses are permissible within the B8 Metropolitan Centre zone and are considered acceptable.

- **Issue:** Dalley Street is an inappropriate location for queuing and is unsafe.

Response: Agreed. Plans have been amended to ensure that patrons enter via the Bridge Street entry/exit. Safety provisions including security personnel and CCTV are included which will ensure the safety of any staff who opt to exit via Dalley Street.

- **Issue:** Owners consent has not been provided. The Strata Company have not provided consent.

Response: Works affecting common property have been removed from the application. See 'Issues' section of this report.

- **Issue:** The use will require blinds to be drawn at all times on the Dalley Street and Bridge Street facades, which is not an 'active' use.

Response: No blinds are required on the Dalley Street frontage, given that the primary entrance for patrons will be from Bridge Street and the existing rear doors fronting Dalley Street do not have any windows. The blind included in the plan is required for privacy reasons. It is noted that the site is not identified on the Active Frontages Map in the DCP 2012.

- **Issue:** The proposal contradicts the provisions for the Special Character Area.

Response: The proposal is considered to be in keeping with the provisions included for the Special Character Area. It is noted that all the alterations are internal, and thus the impact on the streetscape and public domain is very limited.

- **Issue:** The location is not discrete enough for the proposed use.

Response: The proposed use for the site will be sufficiently discrete. During this assessment, Crime Prevention Through Environmental Design (CPTED) principles have been addressed in order to ensure the safety of both staff and patrons frequenting the site. A key principle of CPTED is to ensure that casual surveillance is available around entrances and exits. This has been achieved by relocating the public entrance of the premises to the Bridge Street frontage. Any further amendments to increase the discretion of the premises would likely reduce the safety of staff and patrons, which is an unacceptable outcome.

- **Issue:** The Statement of Environmental Effects and Plan of Management is inadequate.

Response: The submitted Statement of Environmental Effects is considered adequate for assessment. The amended Plan of Management is considered to sufficiently address the required criteria. The Plan of Management has been reviewed by the City's Licensed Premises Unit and assessed as acceptable.

- **Issue:** The application fails to adequately ensure the health and safety of patrons and guests with respect to hygiene and privacy.

Response: Agreed. By way of assessment, architectural plans were amended to ensure that the premises provides the sanitary facilities required for both patrons and staff. Additional secure staff facilities are now included in the amended architectural plans.

- **Issue:** The application fails to provide disabled access.

Response: Whilst the proposal incorporates design measures to improve accessibility within the premises, the premises is inhibited from being able to fully comply with accessibility provisions due to the existing entrance stairs that are classified as common property. In accordance with the concession provided by the Disability (Access to Premises – Buildings) Standards 2010 this is considered acceptable.

- **Issue:** The application proposes staff and patrons to share the same entrance on Dalley Street which is unsafe.

Response: Agreed. Plans have been amended to ensure that patrons enter and exit via Bridge Street. Safety provisions including security personnel and CCTV are included which will ensure the safety of any staff who opt to exit via Dalley Street.

- **Issue:** The application does not adequately address waste issues.

Response: Agreed. Plans have been amended to ensure that the premises has a dedicated Waste Storage Area. Conditions of consent are recommended to ensure that the development complies with the City of Sydney Guidelines for Waste Management in New Development.

- **Issue:** The application does not address relevant provisions of the NCC.

Response: The application was reviewed by the City's Building Services Unit, who assessed the application as acceptable.

- **Issue:** The design lacks sufficient space for the performers to perform.

Response: The venue, stages and private rooms are considered of adequate size for performances to take place.

- **Issue:** The venue does not include enough space for staff to be able to change and rest.

Response: Agreed. Plans have been amended to include a staff room that includes a private sanitary facility and a staff resting area.

Levy under Section 61 of the City of Sydney Act 1988

54. The cost of the development is below \$200,000. The development is therefore not subject to a levy under the Central Sydney Development Contributions Plan 2013.

Relevant Legislation

55. Environmental Planning and Assessment Act 1979.
56. Sydney Local Environmental Plan 2012.
57. State Environmental Planning Policy (Infrastructure) 2007.

Conclusion

58. The application proposes the change of use to a restricted premises, being a small bar providing adult entertainment, and associated internal alterations.
59. The proposal is generally consistent with the objectives and provisions of the Sydney LEP 2012 and the Sydney DCP 2012. Instances where the proposal varies with DCP controls have been assessed as acceptable.
60. The premises is of a scale that is appropriate to the site, and will not cause adverse impacts on the amenity of the surrounding area. The applicant has adequately addressed operational and security measures in the submitted Plan of Management.
61. The development is therefore in the public interest and is recommended for approval subject to conditions.

GRAHAM JAHN AM

Director City Planning, Development and Transport

Marcella Hager, Planner