

**Item 3.****Development Application: 2-12 Carrington Street, Sydney - D/2020/959****File No.:** D/2020/959**Summary**

<b>Date of Submission:</b>	14 October 2020
<b>Applicant:</b>	Mike Russell, Brookfield Properties
<b>Architect/Designer:</b>	MAKE / Architectus
<b>Developer:</b>	Brookfield Properties
<b>Owner:</b>	Sovereign Wynyard Centre Pty Ltd
<b>Planning Consultant</b>	Ethos Urban
<b>Heritage Consultant</b>	GML Heritage
<b>Cost of Works:</b>	\$9,401,000
<b>Zoning:</b>	B8 Metropolitan Centre - The proposed development is defined as a food and drink premises (a pub operating as a restaurant/bar) which is permissible with consent in the zone.
<b>Proposal Summary:</b>	Use and fit-out of Ground Floor, Levels 09 and 10 of the existing 'Shell House' building as a food and drink premises (pub) with indoor and outdoor seating, and installation of awnings to the outdoor terrace at Level 09. Proposed hours of operation are 24 hours Mondays to Sundays for both the indoor and outdoor seating areas. Patron capacities of 275 (Ground Floor), 315 (level 9) and 295 (level 10) are sought (total 885). The premises will operate as a single tenancy with one operator.

During the assessment of the proposal, alterations to the design of the awnings to reduce the visual impact on the heritage item have been made. In addition, the Acoustic Report has been revised to include an assessment of a residential building at 2 York Street, Sydney, following the receipt of several submissions relating to the omission of this property, which is 58m from the subject site. As the revised Acoustic Assessment was considered acceptable, it was not considered necessary to require renotification.

The application was notified for 21 days from 26 October 2020 to 17 November 2020 with the incorrect proposed hours of operation. The application was renotified, with the correct proposed hours of operation for 21 days, between 28 October 2020 and 19 November 2020. 20 submissions were received, one (1) in support, and two (2) from the same objector. As such, 18 unique submissions are considered to have been made. Issues raised in the submissions have been addressed within this report, and it is considered the revised documentation and conditions of consent, where relevant, have adequately addressed the issues raised in all submissions.

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 significant adverse impacts on the surrounding locality, as demonstrated in the accompanying Plan of Management and Acoustic Assessment.

As the application seeks to operate a new premises with a hotel liquor licence, it is required to be reported to the Local Planning Panel for determination.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979;
- (ii) Sydney Local Environmental Plan 2012;
- (iii) Sydney Development Control Plan 2012;
- (iv) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- (v) Central Sydney Development Contributions Plan 2013

**Attachments:**

- A. Recommended Conditions of Consent
- B. Revised Acoustic Report
- C. Plan of Management
- D. Selected Drawings

**Recommendation**

It is resolved that consent be granted to Development Application No. D/2020/959 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 proposal is consistent with the objectives of the B8 Metropolitan Centre zone contained within the Sydney Local Environmental Plan 2012.
- (B) The proposal is consistent with the objective of conserving the heritage significance of the subject locally listed heritage item and demonstrates design excellence in accordance with Clause 5.10 and Clause 6.21 of the Sydney Local Environmental Plan 2012
- (C) Subject to conditions, the development is consistent with the objectives of the Sydney Development Control Plan 2012, in particular the Late Night Management area objectives.
- (D) Issues raised in submissions have been considered and where appropriate have been addressed in the amended Acoustic Assessment and the conditions of consent.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 10 DP 595978, and is known as 2-12 Carrington Street, Sydney. It is rectangular in shape with an area of approximately 1038sqm. It has a primary street frontage to the west of Carrington St and a secondary street frontage to the south of Margaret Street.
2. The site contains a building 'Shell House' and is within the Wynyard Place development ('One Carrington St') approved as a concept approval and State Significant Development. The Shell House site forms part of Stage 1 of the development.
3. The surrounding area is characterised by a mixture of land uses, primarily being commercial uses. The site is opposite Wynyard Train Station and various public bus stands.
4. The site is a local heritage item (I1691). It has aesthetic significance for its scale of city streetscape prior to the 'skyscraper era' and use of glazed tiles for external wall treatments during the Inter-war period.
5. The site is located within the 'Wynyard Park/Lang Park' Special Character Area.
6. A site visit was carried out on 23 October 2020. Photos of the site and surrounds are provided below:



**Figure 1:** Aerial view of site ('Shell House') and surrounds





**Figure 2:** Site viewed from corner Carrington St and Margaret Street



**Figure 3:** Site viewed from Margaret Street facing south





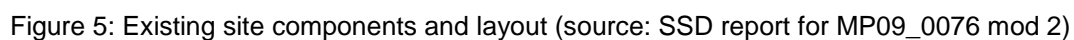
Figure 4: Site viewed from Carrington Street facing east

## History Relevant to the Development Application

### Development Applications

7. The site is subject to a concept approval and State Significant Development approval comprising two stages, outlined in summary in Figures 5, 6 and 7.
8. The site is also subject to recent City of Sydney development applications, including:
  - (a) D/2018/318 - On 21 June 2018, consent was granted for fitout of the part of the ground floor level to level 9 of the former Shell House and new 10 Carrington Street commercial development for a commercial office use. This application was modified on 24 June 2020 to amend the Carrington St entrance, café rearrangement, and internal wall relocation.





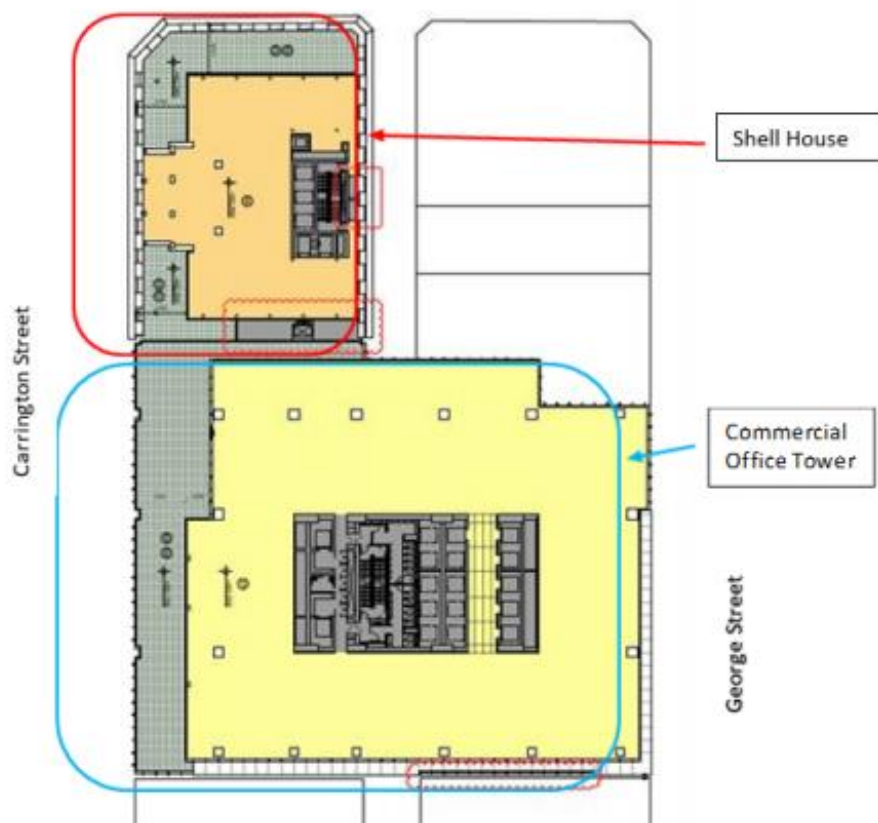


Figure 6: Stage 1 development of 'One Carrington St' - Shell House in context with tower at Wynyard Place (source: DPIE SSD 5824 Mod 8 Assessment Rpt)



Figure 7: Photomontage of approved development of Shell House (site) and tower under MP09\_0076 and SSD 5824

9. The following State (DPIE) applications are relevant to the current proposal:
- **MP09\_0076 'CityOne Development'** - On 3 April 2012, the Planning Assessment Commission (PAC) granted consent for a Concept Plan for various redevelopment of the site and surrounds including development of the former Shell House, including refurbishments for the purposes of commercial and retail use. The approval also included:
    - Use of site for a mixed use development including commercial offices, business premises, shops, general retail food and drink premises, health/medical centre, public amenities, transport facilities and tenant car parking;
    - A planning agreement between the proponent and Transport for NSW for the provision of a transit hall and through site link and associated public infrastructure works to an equivalent value of \$20 million and a payment of \$18.5 million towards works within the Wynyard Station Precinct.

- **SSD 5824 'One Carrington Street'** – On 25 September 2015, State Significant Development (SSD) consent was granted for the Stage 1 One Carrington Street concept approval, consisting of demolition of the Menzies Hotel, and 301 George Street, construction and use of a 27 storey commercial building on the land between Carrington Street and George Street and public domain works. The approval included refurbishment of 285-287 George Street and Shell House for commercial and retail uses.

Mod No.	Summary of modifications	Status
MOD 1	Design refinements	Granted 11 August 2016
MOD 2	Stratum subdivision	Granted 30 November 2016
MOD 3	Increase the extent of demolition works to Shell House	Granted 23 February 2017
MOD 4	Design refinements	Granted 31 March 2017
MOD 5	Administrative changes	Granted 28 October 2016
MOD 6	Inclusion of additional void zones within four levels of Shell House	Granted 22 May 2018
MOD 7	Amend the timing to establish the footpath alignment levels within the public domain plan	Withdrawn
MOD 8	Design refinements	Granted 27 June 2019
MOD 9	Design refinements and construction hours extension	Granted 19 December 2019
MOD 10	Design refinements and floor levels changes to support accessibility and servicing requirements	Granted 24 September 2019
MOD 11	Reconfiguration of the tower lobby including replacement of the previously approved stairs and ramp with a new revolving door; new awning; new sliding door at the entrance of Wynyard Lane bridge.	Granted 25 September 2019



**Amendments**

10. On 19 November 2020 a meeting was held with the applicant and City staff to discuss several items including the design of the roof terrace awnings and the items raised in the submissions received.
11. A revised Acoustic Assessment was received on 23 November 2020. See Discussion below.
12. On 21 December 2020, revised awning plans were submitted as discussed with Council's Heritage Specialist. This issue is discussed elsewhere in the report.

**Proposed Development**

13. The application seeks consent for the following:
  - use of the ground floor, Level 09 and 10 as a food and drink premises (pub) and associated fitout works including new retractable awnings to Level 09 terrace, internal kitchen, bar, coolrooms, and a new roof cowl over the level 10 kitchen exhaust;
  - outdoor seating to Levels 09 (112pp) and 10 (60 pp);
  - proposed hours of operation are 24 hours per day for both indoor and outdoor seating; and
  - proposed total capacity of 885 split up as follows: 275 (ground floor), 315 (level 09), 295 (level 10).

The applicant intends to use the existing hotel licence for the Menzies Hotel (14 Carrington St Sydney) which was modified in January 2020 to suit the subject application boundaries (See Discussion below).

14. Levels 09 and 10 of the pub are proposed to be accommodated within a 2 storey glazed addition approved under development consent SSD 5824 (see History below). No external works are proposed apart from the awnings in this application.
15. Plans and elevations of the proposed development are provided below.

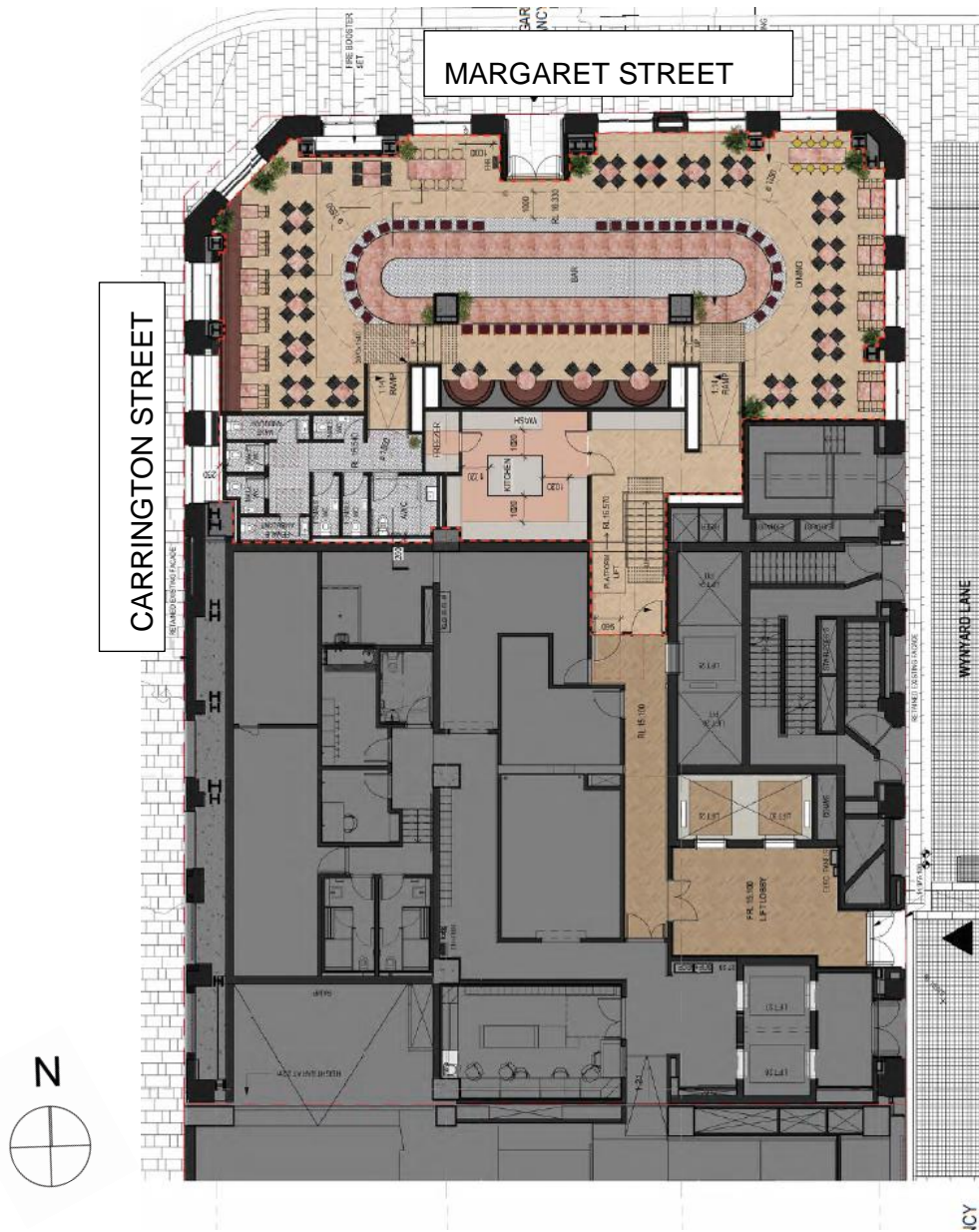
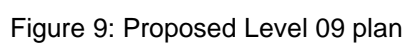


Figure 8: Proposed ground floor plan



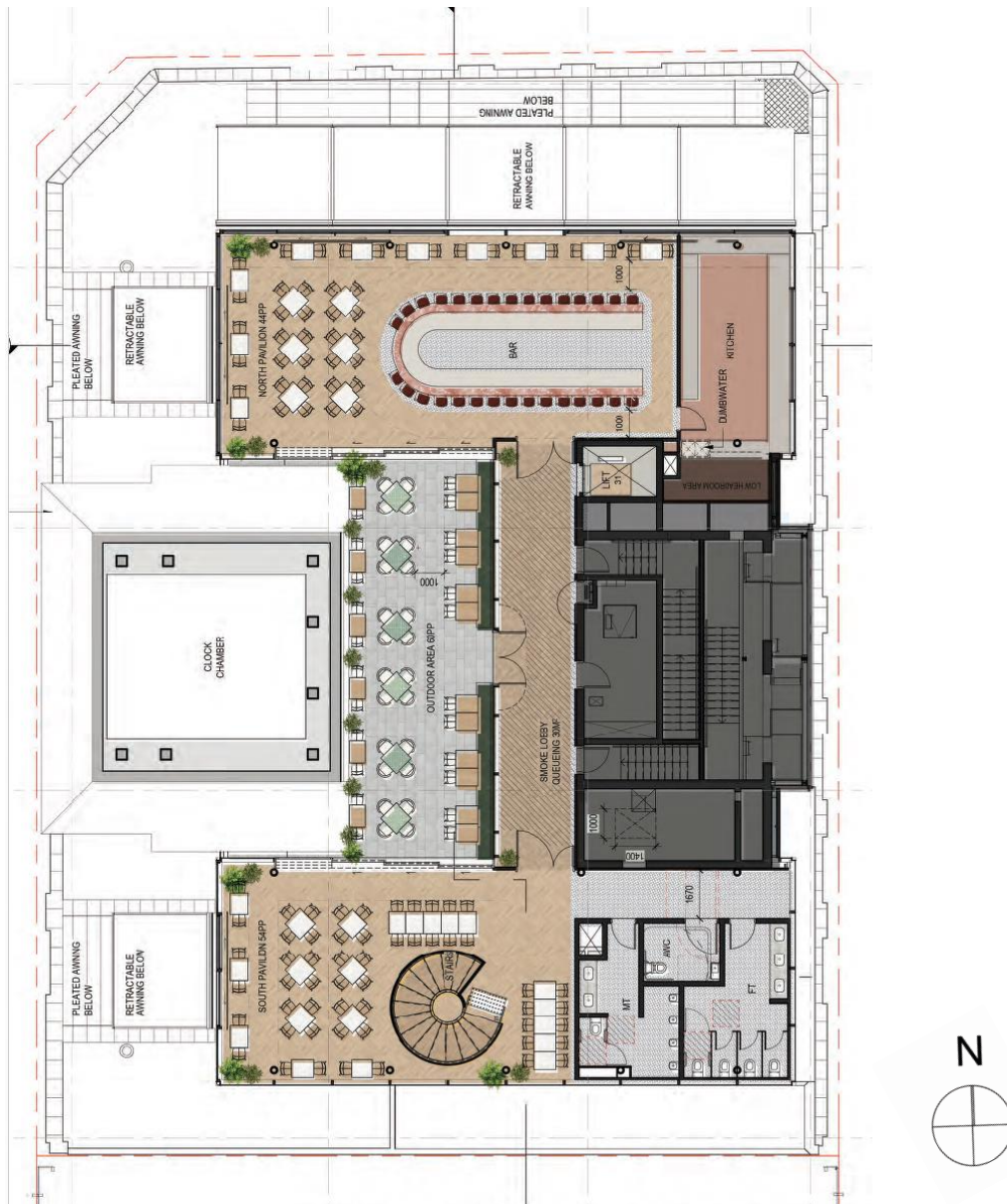


Figure 10: Proposed Level 10 plan



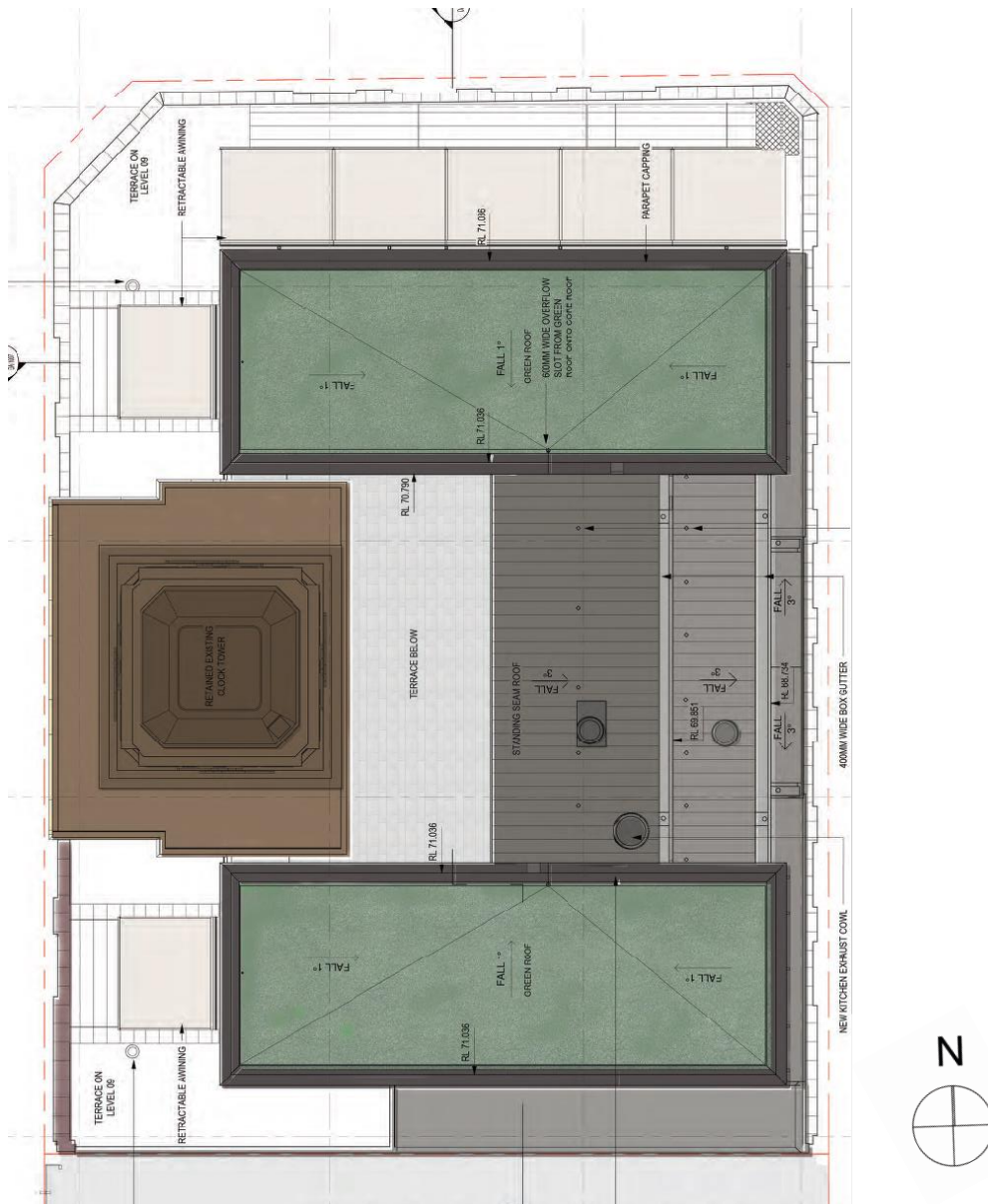


Figure 11: Proposed Roof Plan showing awnings to Level 9



Figure 12: Proposed section plan of top 2 floors



Figure 13: Proposed East Elevation on right (To Wynyard Lane) and West Elevation (to Margaret St) showing entries to premises





Figure 14: Proposed photomontage (revised awning design)

## Assessment

16. 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

### Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

17. 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.
18. 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

19. 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	<p>The site is located in the B8 Metropolitan Centre zone.</p> <p>The proposal seeks development consent as a food and drink premises (specifically defined as a 'pub' due to the nature of the existing liquor license (hotel license)) but will operate as a restaurant/bar.</p> <p>During the preliminary assessment, the use was clarified with the applicant, who confirmed the proposed use is a restaurant/bar but specifically will be defined as a pub as the use will utilise an existing hotel license. It is considered to generally align with the definitions of 'pub' in the SLEP 2012 as follows:</p> <p><b><i>'Pub' means licensed premises under the Liquor Act 2007, the principal purpose of which is the retail sale of liquor for consumption on the premises, whether or not the premises include hotel or motel accommodation and whether or not food is sold or entertainment is provided on the premises.</i></b></p> <p>It is noted that the following uses were approved in the SSD application (SSD 5824) where it specifically noted the following uses to Shell House were approved:</p> <ul style="list-style-type: none"> <li>- Retail at Carrington St;</li> <li>- 'Retail (restaurant/bar) within the rooftop pavilion (1037sqm) and</li> <li>- Commercial at levels two to ten.</li> </ul> <p>The proposed development is defined as a pub but will operate as a restaurant/bar (food and drink premises) and is permissible with consent in the zone (both uses are permitted). The proposal generally meets the objectives of the zone.</p> <p>The use is generally consistent with the SSD approval and the provisions of the SLEP 2012.</p>



**Part 4 Principal development standards**

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 55m is permitted. The proposed awnings do not exceed the maximum height as they are proposed at a height of approximately 51m.
4.4 Floor space ratio	Yes	No additional floor space is sought. The proposed development complies with the maximum floor space ratio development standard.

**Part 5 Miscellaneous provisions**

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	<p>The site is a local heritage item known as 'Former Shell House and Interiors' in the SLEP 2012. Works to the building were approved under the approved base building SSD, including the total removal of the concrete floor slabs due to significant deterioration whilst the building was used as a hotel. The SSD approval then granted consent for the reconstruction of the floors within the heritage building at a slightly different height to better respond to the floor levels within the new tower development. As such, the remaining significant heritage fabric is limited to the perimeter walls and clock tower.</p> <p>The proposed internal fitout works are considered to be sympathetic to the heritage fabric of Shell House and will not have an adverse impact on any remaining heritage fabric on the internal areas of the perimeter walls.</p> <p>The proposed awnings at Level 10 were reviewed with the City's Heritage Specialist and Urban Design Specialist. Concerns were raised with the original proposal due to the impact of the awning on the clock tower and appearance of the heritage building. Revised plans were received on 21 December 2020 which amended the design of the awnings.</p> <p>The revisions were reviewed by the City's Heritage Specialist. The proposal generally complies with the relevant aims, objectives and controls of the LEP and DCP, subject to conditions.</p>

## Development Control Plans

### Sydney Development Control Plan 2012

20. 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

21. The site is located within the Wynyard Park and Lang Park Special Character Area. The proposed development is in keeping with the unique character and the design principles of the Wynyard Park/Lang Park special character area locality in that it is consistent with the strong commercial uses in the area, whilst respecting the historic significance of heritage buildings in their context.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.9 Heritage	Yes	The site is a heritage item. See Clause 5.10 of SLEP 2012 discussion above. Subject to conditions, the proposal adequately addresses the heritage provisions of the SDCP 2012.
3.11 Transport and Parking	Yes	<p>The provision of additional bike parking or car parking is not required by the SLEP 2012 or SDCP 2012. The site is easily accessible by public transport as it is opposite Wynyard Train Station, close to bus routes, and the light rail.</p> <p>In addition, the approved SSD application provides End of Trip facilities in the basement level of the base build with approximately 445 bicycle spaces and other locker and shower facilities for the use of the commercial tenants in the building, and car parking for 89 cars and seven service vehicle parking bays.</p>
3.12 Accessible Design	Yes	The building can provide for equitable access, as it contains lifts and adequate sanitary facilities. It is considered to be able to comply with the relevant BCA provisions.
3.13 Social and Environmental Responsibilities	Yes	The proposal is consistent with CPTED principles and has been accompanied by a Plan of Management outlining security and management processes to adequately minimise criminal behaviour at the premises, which is proposed to operate for 24 hours. Sight lines to the lifts are provided and the proposal is not considered to have adverse impacts on the community. The NSW Police commented on the proposal noting no objection subject to conditions, which have been included where relevant.

Provision	Compliance	Comment
3.14 Waste	Yes	A condition has been recommended to ensure the proposed development complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.
3.15 Late Night Trading Management	Partial compliance	<p>The premises is located in a Late Night Management Area and the use is defined as a category A premises as the capacity of the licensed venue is over 200. The proposed trading hours are 24 hours Mondays to Sundays, indoor and outdoor.</p> <p><b>Indoor Trading Hours</b></p> <p>The base hours permitted for Category A premises are between 6am to 12am midnight for indoor seating. Hours can be extended (as a maximum) to 24 hours per day, for indoor seating only, on a trial basis.</p> <p>Clause 3.15.4(8) of the SDCP 2012 outlines that premises seeking extended trading hours may be permitted up to two additional operating hours per trial period if a previous trial period is considered by the Council to have been satisfactory. Clause 3.15.4(6) further notes that extended trading hours beyond base hours may be permitted at the initial application stage, but only where the Council has determined that the premises have been or will be well managed, including compliance with an approved Plan of Management.</p> <p>As an adequate Plan of Management and Acoustic Assessment have been submitted, there are no direct residents immediately adjacent, and it is considered there will be minimal adverse impacts as a result of the development, a trial period for indoor seating between 6am and 2.00am (the following day) is recommended. Following a 12 month trial period for these hours, an additional 2 hour extended operating period can be issued (i.e. until 4.00am) and if the premises can demonstrate good management, after 5 years, 24 hour trading can be granted.</p>

Provision	Compliance	Comment
		<p><b>Outdoor Trading Hours</b></p> <p>Provision 3.15 of the SDCP 2012 permits extended outdoor trading hours in the Late Night Management Area between 9am and 1am (the following day), in 2 hour increments, for a trial period of 12 months. Base hours permitted are 10am to 10pm. As such, 24 hour trading for the outdoor areas is not supported. A condition restricting the permitted hours of operation to align with the SDCP 2012 is recommended, with a trial period recommended between 9am to 12.00am midnight for a 12 month period.</p> <p>The recommended hours of operation for outdoor trading are 9.00am to 12.00am (midnight) and will be subject to a 12 month trial as per Clause 3.15.4(8) of the SDCP 2012. It is considered permitting outdoor hours at 9.00am is acceptable given it is not likely to have adverse noise impacts.</p>

## Section 4 – Development Types

### 4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.3 Amenity		
4.2.3.1 Solar access	Yes	The new awnings do not result in any significant overshadowing impacts to the public realm or any nearby residential properties.
4.2.3.5 Landscaping	Partial compliance	<p>The proposal does not entirely align with the approved SSD drawings in terms of landscaping, as the awning was not approved in the overarching base consent.</p> <p>To ensure no net loss of landscaping as per the approved terrace plans, a condition is recommended to require landscaping to the terrace levels in accordance with the SSD approved plans.</p> <p>See <i>Discussion</i></p>



4.2.3.11 Acoustic privacy	Yes	<p>An Acoustic Report was provided with the application. The proposal was referred to the City's Health Team who raised no concerns subject to conditions.</p> <p>Following receipt of a number of submissions noting the Acoustic Report failed to address the impacts of the use on the residential building at 2 York St ('Portico' building), the Acoustic Report was revised to include an assessment against the noise impacts to this building. The City's Health Team are satisfied that, subject to compliance with the acoustic report, the development will not result in adverse acoustic impacts to apartments at 2 York Street, which is located 58m away.</p> <p>See <b>Discussion</b></p>
4.2.6 Waste and recycling Management	Yes	<p>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>

#### 4. Section 5 – Specific Areas

Provision	Compliance	Comment
Central Sydney	Yes	<p>Provision 5.1.2.1 of the SDCP 2012 requires new additions above a heritage item to be setback at least 10m from the street frontage. The SSD permitted a setback of 6m from the street frontage for the two storey addition to Shell House.</p> <p>During the assessment the applicant was requested to amend the awnings, which were proposed with a nil setback and with permanent posts that were within the 6m setback. The amended awning design addresses this provision - refer <b>Discussion</b> below.</p>

## Discussion

### Use and Noise Impacts

22. The proposed use is generally consistent with the SSD consent, where the use of Shell House as a restaurant/bar within the rooftop pavilion was approved. Retail uses were approved at the ground floor levels, and food and drink premises are a form of retail use as defined in the Sydney LEP 2012. The fitout and operation of the proposed restaurant/bar were to be the subject of separate future development applications.

23. The subject application was accompanied by an Acoustic Report. As discussed elsewhere in this report, the Acoustic Report did not originally highlight a residential building 58m from the site at 2 York Street. A revised Acoustic Report was submitted providing a noise assessment incorporating this property. The Acoustic Assessment confirms there would be no adverse noise impacts to this property, subject to conditions. The City's Health team have reviewed the Acoustic Report, application and accompanying documents, and support the proposal, subject to conditions.
24. Outdoor seating at Levels 9 and 10 was also approved with the SSD consent. Within the Secretary's Assessment Report dated September 2015 (Section 5.5.5) it was considered that there would not be undue noise nuisance as:
- (a) the terrace fronting Carrington/Margaret Street is located behind the existing sandstone parapet of Shell House, which will act as a buffer to noise;
  - (b) the terrace located behind the Shell House clock plinth is enclosed on all four sides, which will direct any noise upwards rather than outwards;
  - (c) the development will be operated in accordance with the Acoustic Assessment submitted with the application;
  - (d) there are no sensitive receivers (residential and the like) nearby the site; and
  - (e) potential noise impacts will be considered in detail as part of the future development application for the fit-out and operation of the roof top restaurant/bar.
25. Given the above has been adequately addressed within the application and/or through conditions of consent in relation to management and the like, the proposal, subject to a 12 month trial period for an extended two hour trading period (i.e. base hours plus two extended hours) is supported. This is consistent with the SDCP 2012 provisions for Late Night Trading Areas. Refer below.

### **Proposed Hours of Operation and Liquor Licencing**

26. The proposed development includes licenced food/drink premise uses on Ground Floor, Level 09 and Level 10. The premises will operate as a single tenancy with one operator, the 'Point Group' who operate Bondi Icebergs and Bar in Bondi Beach as well as five other Sydney venues. However, the premises will provide three 'outlets' to patrons over the three levels.
27. Further assessment on the relevant aspects of the proposal are discussed below.

### ***Hours of operation***

28. As per Provision 3.15 of SDCP 2012 the proposal is a Category A - High Impact Premises and is within a Late Night Trading Area.
29. The application seeks consent to operate 24 hour both indoor and outdoor, with the outdoor seating contained to levels 09 and 10 only.

30. As a Category A premises, the base permitted indoor hours are 6am to midnight and extended indoor hours are 24 hours. The proposed hours comply with these provisions, subject to successful trial periods as outlined in Clause 3.15.4 of the SDCP 2012
31. Permitted base outdoor hours are 10am to 10pm and extended outdoor hours are 9am to 1am. The application seeks consent for 24 hour trading throughout the three levels including outdoor seating on Levels 09 and 10, comprising capacities of 102 patrons (level 09) and 60 patrons (level 10).
32. Though 24 hour trading is not consistent with what is permitted within the SDCP 2012 as a new premises, once adequate trial periods have been undertaken demonstrating good management, indoor 24 hour trading may be permitted with consent subject to an assessment of future Section 4.55 modification applications. Outdoor trading hours are recommended to be restricted to the base hours plus an earlier opening time (9am) and 2 hour trial for the evening hours to permit operating until 12am midnight, consistent with the context of the premises as a CBD business and given the Acoustic Report, reviewed by the City's Environmental Health team, raises no issues with the use operating at 24 hour trading.
33. Until such time the following condition is recommended for the hours of operation:
- (a) A trial period for indoor and outdoor seating is recommended for 12 months for the following hours;
    - (i) Indoor: 6.00am to 2.00am (the following day)
    - (ii) Outdoor: 9.00am to 12.00am (midnight)
34. The above hours are recommended as the surrounding context is suitable for such hours, and the hours align with the broader strategic objectives for the City of Sydney's late-night trading economy. In addition, a selection of nearby bars with approved trading hours beyond midnight include:
- (a) Pool Club – 320 George St - and Ivy Precinct – 330 George St**
    - (i) D/2005/1977/Q - Approval to operate until 4.00am (including the outdoor pool area) for trial period until 2025
  - (b) Angel Hotel - 125 Pitt St**
    - (i) D/2005/1670/D - 8.00am to 2.00am (following day) Mondays to Saturdays for trial period until 2025.
  - (c) York Lane – 56 Clarence St**
    - (i) D/2011/1932 – 10.00am to 1.00am the following day (internal) and 8.30am to 1.00am the following day (outdoors)
35. The proposal is therefore not inconsistent with the character of the surrounding area. Further, the application has submitted a Plan of Management and Acoustic Report which have been reviewed and supported by the City's Environmental Health and Licensed Premises teams with no major issues identified. Any renewal of extended hours will be assessed against the SDCP 2012 Clause 3.15.4(14) and (15).

### ***Liquor Licence Type***

36. The applicant has submitted a liquor licence in the name of 'Menzies Hotel' at 14 Carrington Street which was demolished as part of the SSD consent (see Figure 15 below). The liquor licence is a liquor-hotel (full hotel) licence and has 24 hour trading permitted to certain areas. The licensee is the name of the applicant/owner of the subject DA and site, Brookfield Commercial.
37. The use of the hotel licence for a restaurant/bar is acceptable and it has been clarified with the applicant and Liquor and Gaming NSW that the proposed areas for licencing can operate under the liquor licence subject to amendments with Liquor and Gaming NSW. It is proposed to extend the liquor license to include all three levels subject to approval from Liquor Gaming NSW.

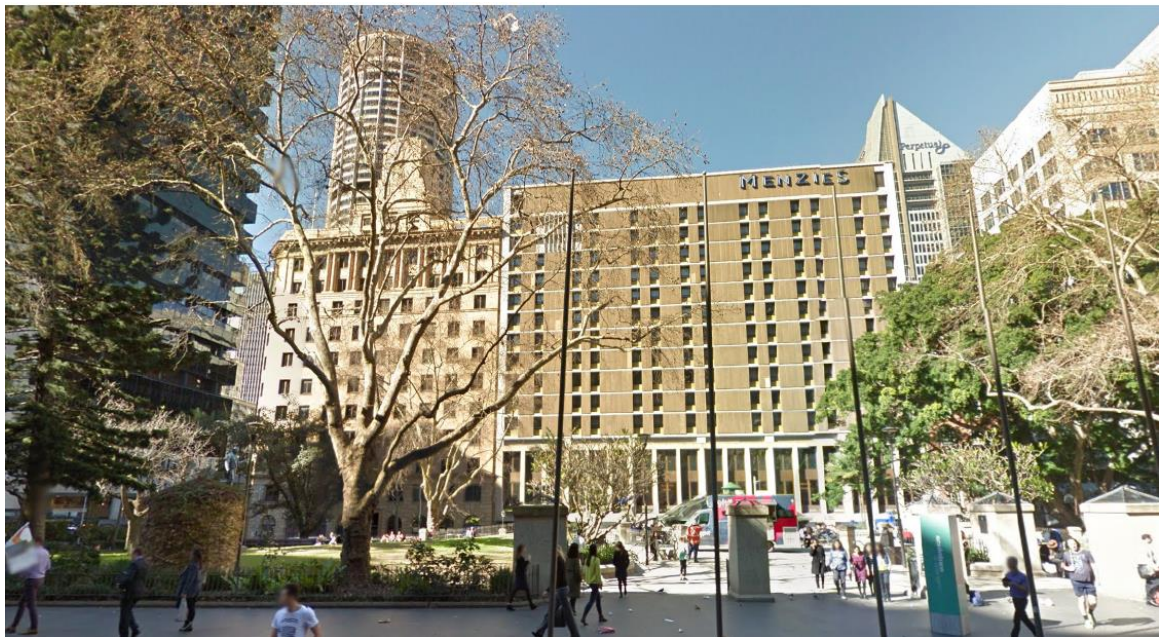


Figure 15: Menzies Hotel at 14 Carrington St prior to demolition (Source: Google)

38. The City's Licensed Premises team do not object to the proposal and noted correspondence from Liquor Gaming NSW confirming that 'licenses have been granted over multiple tenancies before, as long as the relevant development consent is in place'.
39. The proposal therefore complies with the provisions of the Liquor Act and the provisions of the Sydney CBD Entertainment legislation.

### **Awnings**

40. The site is a locally listed heritage item as discussed above, with the SSD consent approving a two-storey glazed addition, setback 6m from the parapets.
41. Concerns were raised by the City's Urban Design and Heritage team in relation to the proposed awnings to the rooftop terrace (see figure 16 below). They were originally considered to have adverse impacts on the heritage item in respect of their length, which proposed a nil setback to the boundary. The applicant met with the City's Heritage and Urban Design team to discuss an amended proposal for the rooftop level.



Figure 16 - Original photomontage of awnings proposed (Superseded)

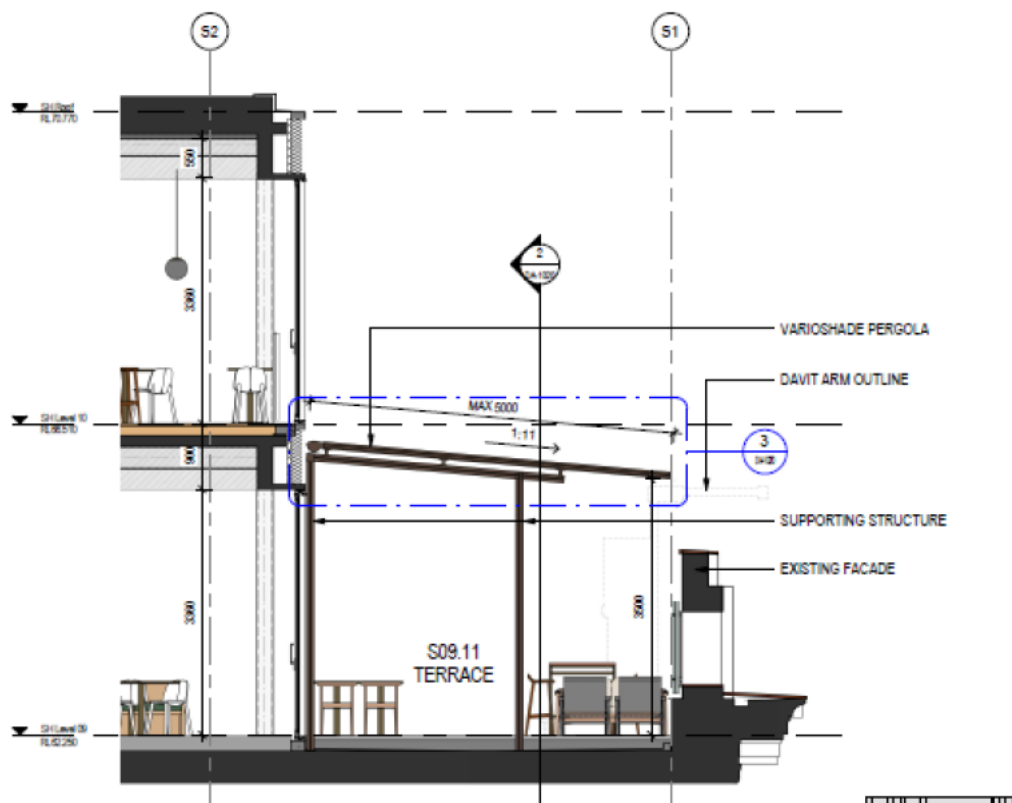


Figure 17 - Original section of awning design (Superseded)





Figure 18 - Revised pleated awning system to L09



Figure 19 - Revised awning system to L09

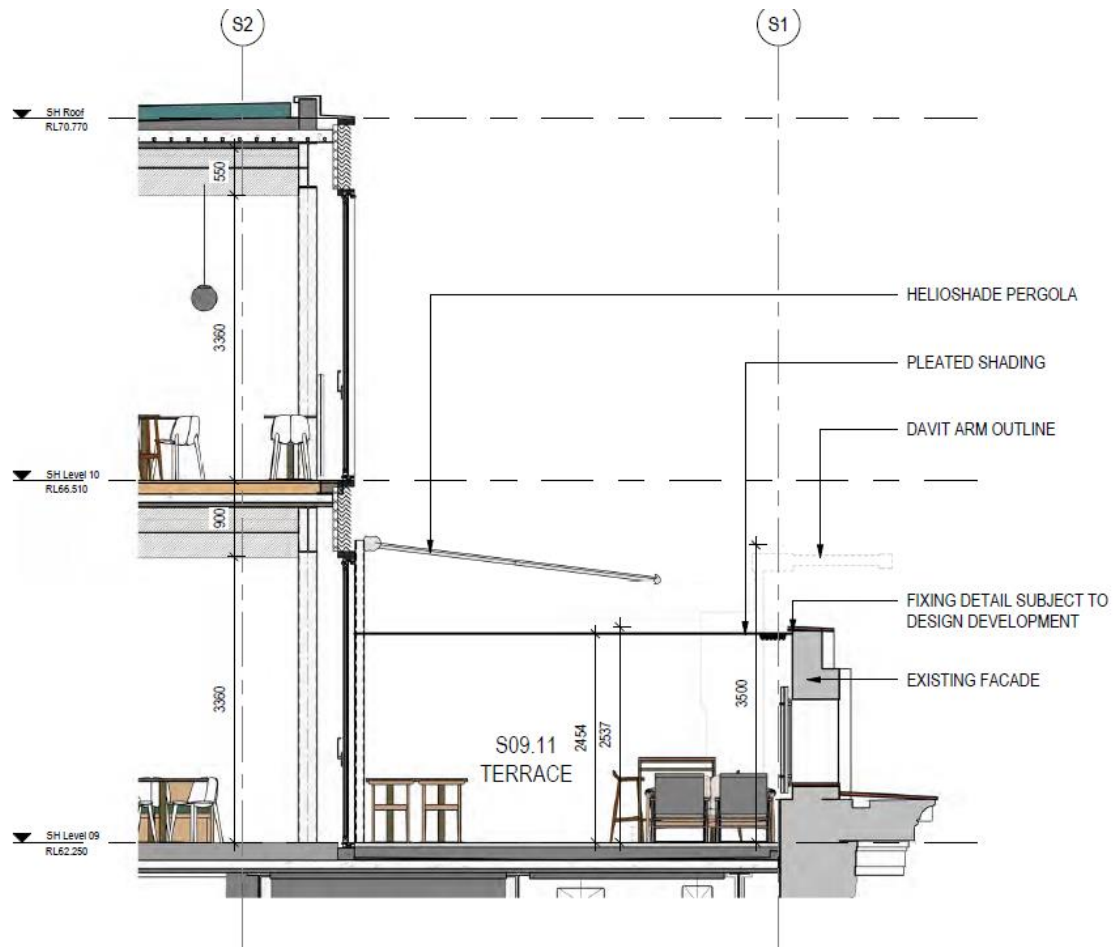


Figure 20 - Revised section plan of awning design

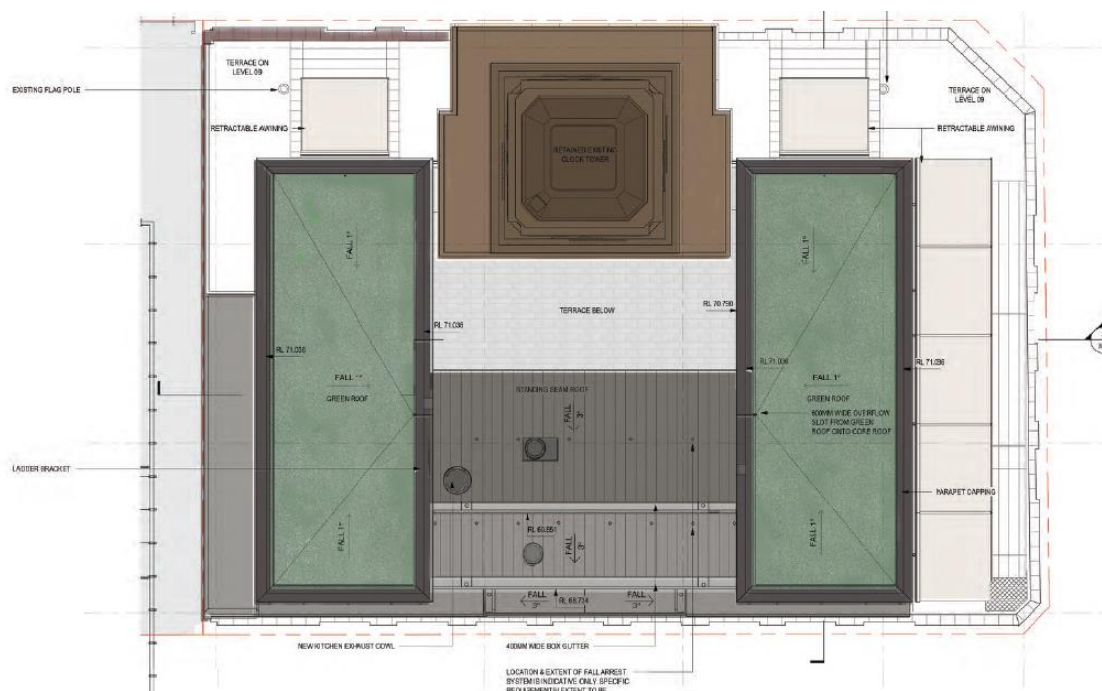


Figure 21 - Proposed roof plan showing awnings in full extension

42. The awnings have been amended with pleated shades and a retractable awning, proposed at a lower height, to improve the visual impact of the awnings as well as alleviate the need for the originally proposed permanent awning posts. The pleated shades cover approximately 50% of the outdoor area and are set in from the parapet by 2m (see Figure 21 above).
43. The awnings appear lightweight and subservient in the context of the new glazed addition and Shell House heritage item, and further, provide a more appropriate complement to the outdoor seating, rather than creating additional 'all weather' seating areas.
44. The proposal was referred to the City's Heritage team who noted they support the proposal subject to conditions, included in the conditions of consent.

### ***Landscaping / Outdoor seating***

45. The terrace plans approved under the SSD 5824 consent show trees and planting in the outdoor seating areas (see Figure 21). No awning structures were approved in this consent.
46. To ensure no net loss of landscaping to the terraces, the proposal is supported subject to a condition to this effect.

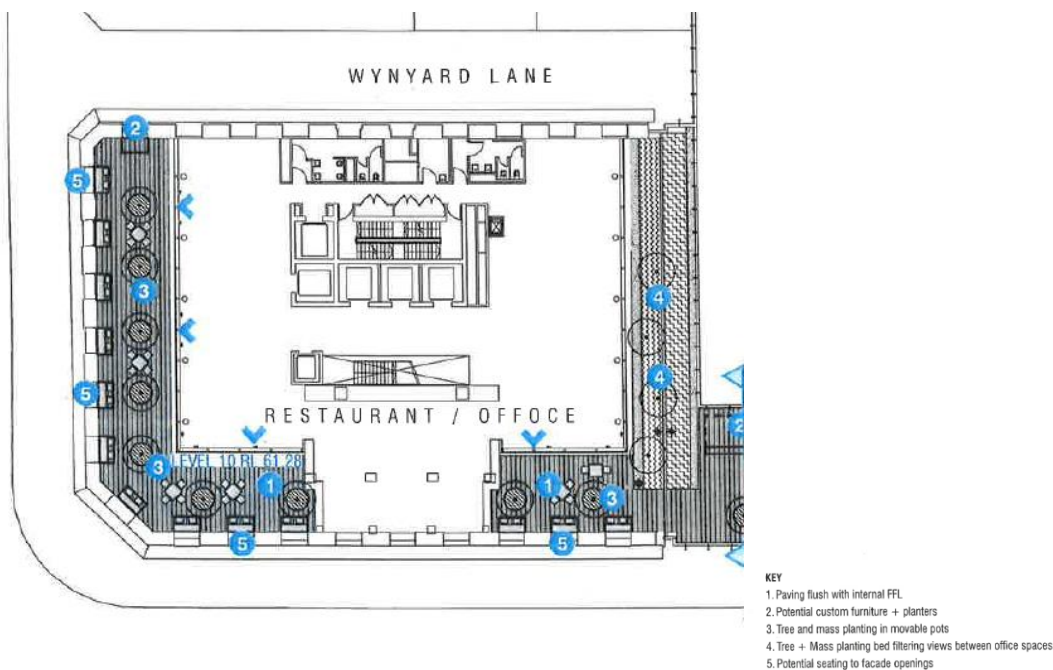


Figure 22 - Approved landscape plan for terrace level 09 (Source: SSD 5824 Mod 4)

47. The approved plan for Level 10 shows outdoor seating to the indicated area proposed in this application (see Figure 23).



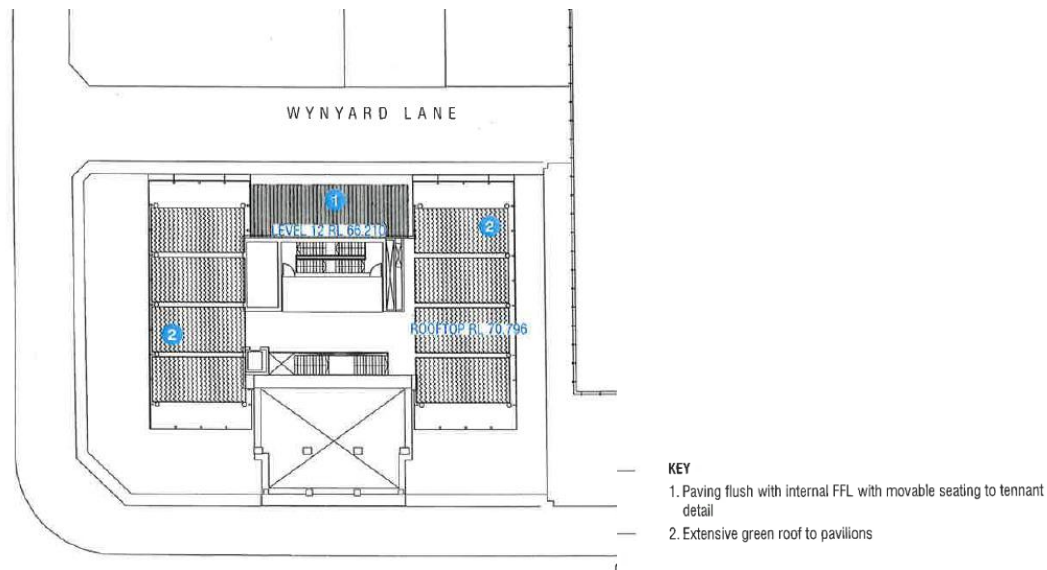


Figure 23 - Approved landscape plan for terrace level 10 (Source: SSD 5824 Mod 4)

## Consultation

### Internal Referrals

48. The application was discussed with the following internal units:

(a) Council's Building Services Unit:

(i) ***No issues raised noting the BCA report relates to the base building SSD consent which would address relevant fire-safety compliance.***

(b) Environmental Health Unit;

(i) ***The first referral noted no objection subject to recommended conditions including standard food premises conditions and a condition for the proposal to comply with the acoustic report.***

(ii) ***After submissions raised the issue of omitting the residential building at 2 York St Sydney ('Portico' units), discussions with the relevant health officer were undertaken. Whilst generally not considered a major issue, the officer recommended the applicant revise the Acoustic Report to include this residential building, located 58m away. A second referral was sent following the receipt of the revised Acoustic Report. Again, no objection was raised, subject to the inclusion of the recommended conditions and the 'Noise - Entertainment' condition.***

(c) Licenced Premises;

(i) ***No objection subject to recommended conditions of consent***

(d) Heritage and Urban Design

(i) ***As discussed above, the awning design as revised addresses heritage concerns raised. No further concerns subject to conditions;***

(e) Waste Management unit

- (i) ***The Waste Management team raised concerns with the proposal as there was limited information on the larger scale waste strategies, as the tenancy is part of a larger scale development with an approved Waste Mgmt Plan as part of the base consent. Separate conditions of consent on the base DA cover the waste management strategies, locations and loading docks. Subject to standard conditions it is considered that the building will operate waste collection through the broader SSD consents and loading dock for the site as a whole.***

## External Referrals

### NSW Police

49. The application was referred to NSW Police for comment.
50. A response was received raising no objections to the proposed development subject to conditions, though it was noted the comment related to the original notification which had the incorrect hours of operation (see Summary on Page 1 above).
51. A follow up email was sent on December 2, 2020, confirming the hours of operation of 24 hour trading, and further asking if any issues were raised. No response was received. It is presumed no further objection/conditions are recommended.
52. The original conditions recommended by NSW Police have been included in the Recommended Conditions of Consent.

## Advertising and Notification

53. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 26 October 2020 and 17 November 2020, and again between 28 October 2020 and 19 November 2020 following an error in the hours of operation in the notification as discussed above. A total of 570 properties were notified and 20 submissions were received. Two submissions were from the same person, and one was in support. Therefore, a total of 18 objections were received.
54. The submissions raised the following issues, listed in order of number of mentions:
- Issue: ***Noise impacts and 24 hour trading. The permitted hours should be as per 'City Living Area'. A trial period should be imposed***



Response: The Acoustic Report was referred to the City's Environmental Health team who raised no concerns subject to conditions. On 23 November 2020 a revised Acoustic Report was submitted (prepared by Acoustic Logic dated 23/11/2020 V 10) which outlines an assessment of the impacts to the residential property at 2 York St (noted as R7 on Page 7). The revised report notes that subject to the inclusion of various building and management controls including façade glazing, internal music noise and management controls, outdoor speaker limits, waste removals and delivery conducted from the basement, and vibration isolating of the speakers and other noise generating equipment, the proposal can comply with the relevant noise legislation and criteria. The revised report was reviewed by the City's Environmental Health team who recommended approval subject to conditions. It is considered overall that the imposition of the noise mitigation strategies in the Acoustic Report and the conditions of consent imposed on the application would work in conjunction to mitigate any noise impacts from the proposal. The site is in a commercial/CBD context, in character with the surroundings, and is consistent with the objectives of the Late Night Management Area provisions contained within the SDCP 2012. It is not within a City Living Area therefore the permitted hours of operation are not required to meet these controls. The recommended hours of operation of the base permitted hours, plus two extended hours, is recommended for approval within the conditions of consent. The trial period will enable Council to review the management of the premises and if necessary, revert the hours of operating back to the base permitted under the SDCP 2012.

- Issue: **Noise impacts to Portico Apartments (2 York Street) are not outlined in the Acoustic Report, the SEE or EIS.**

Response: In regard to the omission of the subject property (2 York St) from the Acoustic Report, the City's Environmental Health Officer noted the property was over 50m away from the site however for clarity the applicant was requested to include this property in the Acoustic Assessment as discussed above. The additional noise measurement carried out by Acoustic Logic at the boundary of the proposed site to the relevant residence at 2 York Street shows that the predicted noise level is satisfactory. This was reviewed by the City's Environmental Health Officer and considered acceptable subject to standard noise conditions which have been imposed on the recommended conditions of consent.

As this issue has since been rectified, the concern has been addressed. Amendments to the SEE and EIS are not required prior to consent being issued.

- Issue: **The entry and exits of all these venues should have security to ensure that patrons entering or exiting are monitored; a 24 hr contact number of any operator should be supplied to local residents; 3 operators for each venue could be an issue.**

Response: Appropriate conditions of consent are recommended to address security concerns including a requirement to comply with the Plan of Management submitted, which provides relevant information to address these issues. The applicant has advised there will be one operator for the premises. The Plan of Management was reviewed by the City's Licensed Premises team with no major concerns noted subject to standard conditions relating to CCTV, security, neighbourhood amenity, and recording of incidents. As also noted earlier, NSW Police have not raised any significant concerns with the proposal subject to conditions.

- Issue: ***Community consultation has not been undertaken by the applicant. The notification time of 3 weeks is too short.***

Response: There is no legislative requirement for community consultation to be undertaken by the. The 3 week notification period is determined by the Community Participation Plan 2019 and there is no requirement to notify for longer. The City of Sydney notified the proposal correctly to residents/owners of properties within a 50m radius.

- Issue: ***Our heritage listed building (2 York St) cannot install double glazing to the first 6 floors for sound attenuation to deal with noise impacts.***

Response: The Acoustic Assessment confirms that subject to conditions the proposal will not have an unacceptable noise impact, including to this residential building. There are no specific City of Sydney policies to restrict double glazing, and the City's Heritage Specialist advises that double glazing may be permitted with consent, unless the Conservation Management Plan for the building specifically prohibits it.

- Issue: ***Concern the application proposes a different use of the Ground Floor of Shell House from the use previously approved by the City of Sydney for gallery and community use as part of the office fitout for NAB (D/2018/318).***

Response: The subject application is for the fit out and use of the Margaret Street Ground Floor tenancy and L09 and 10 of Shell House which are outside of the approved tenancy plans in D/2018/318. Due to the slope of the site, the gallery use is the level above Upper Ground level (entry from Carrington St). The Ground Floor in this application is accessed from Margaret St and is a different level, approved for use as a restaurant in the SSD application. Refer Figure 24 and 25 below where the RL's for the subject site entry are 16.330 and the approved RL for the gallery is 19.680 (approximately 3.3m above). Also see Figure 8 above for the elevations where the entry door to Carrington St is demonstrated as being a level up from the entry door to Margaret St.

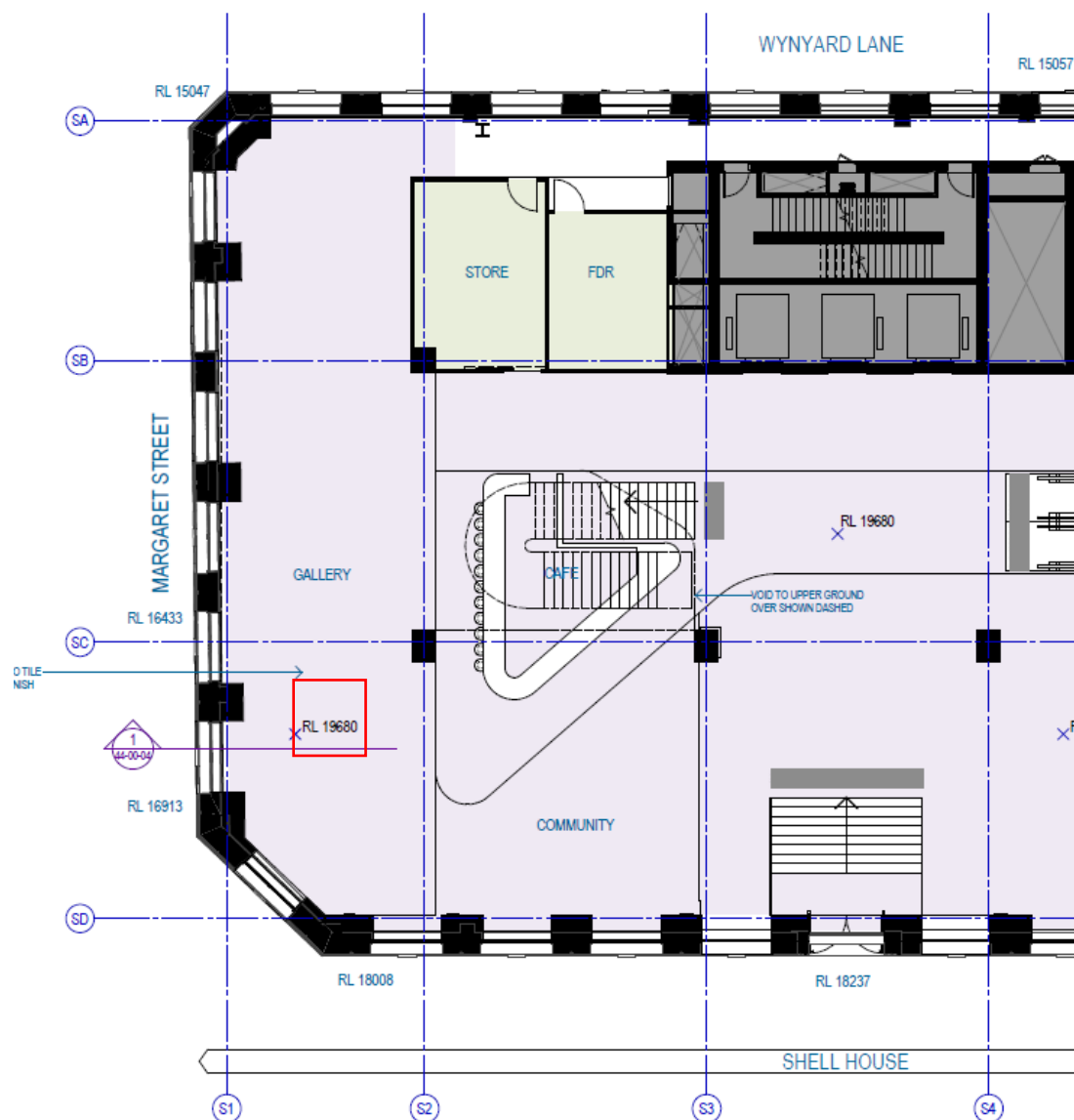


Figure 24: Extract from Floor Plan – Carrington St – approved in D/2018/318 - note RL in red box

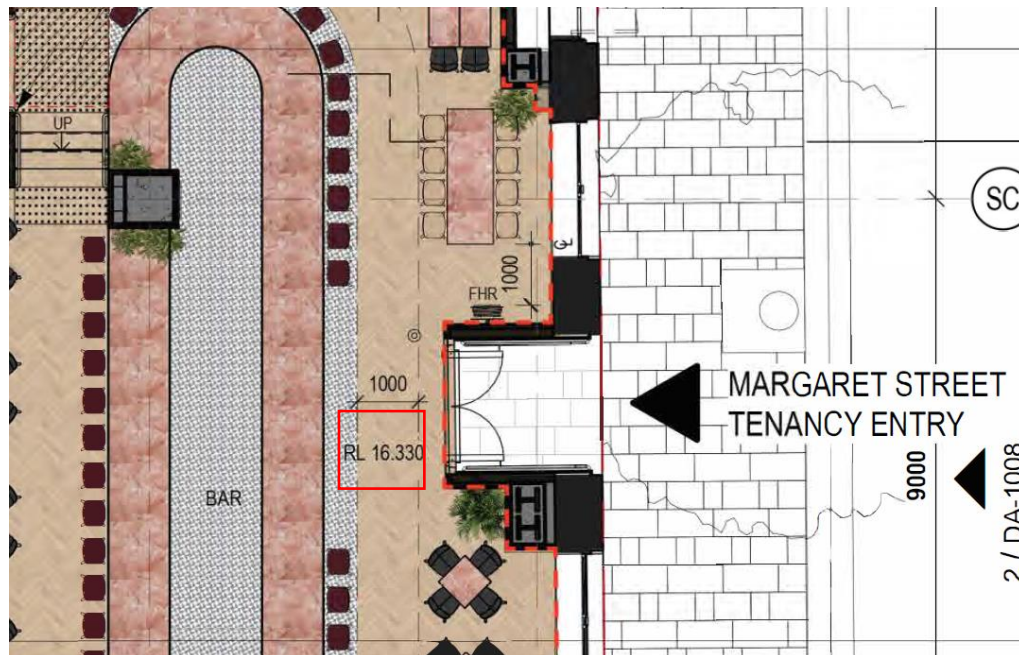


Figure 25: Proposed ground floor RL's

- Issue: ***The thickest glazing should be required for all external windows on the rooftop walls.***

Response: The recommended glazing for the façade as outlined in the Acoustic Report will be required to be installed as a condition of consent.

- Issue: ***Pokies machines and a 24 hour venue would be detrimental to the neighbourhood.***

Response: The application makes no reference to gaming machines and there are none shown on the application drawings.. Regardless, the City has no jurisdiction over gaming machines as they are approved by Liquor and Gaming NSW.. A response to the proposed operating hours is provided above.

- Issue: ***Proposal goes against the 'agent of change' principle***

Response: The proposal is for a pub, to operate as a food and drink (restaurant/bar) premises, which has been approved in principle by the Department of Planning, Industry and Environment in the SSD consents. The 'agent of change' principle requires new development to consider existing land uses. It asks new development to manage noise impacts through the design and construction of the building or the operations in the building. It is considered the application has done this through the submission of the revised Acoustic Assessment, Plan of Management and the conditions of consent which relate to noise and amenity impacts. In addition, the CBD location of the venue, in the B8 Metropolitan Centre zone, is considered to provide justification for the use and hours of operation. The site is not within a residential area. The proposal is in line with the City's CBD 24 hour economy objectives outlined in 'OPEN Sydney Strategy and Action Plan 2013-2030'.

- Issue: ***The Menzies Hotel is a different location and there are inconsistencies with the liquor licence.***

Response: The proposal intends to utilise the liquor licence for the Menzies Hotel, at 14 Carrington St, demolished as part of the broader SSD consent to which this site falls within. The relevant liquor licence was amended on 7 January 2020 to change the boundaries and minors area authorisation. A copy has been provided to the City of Sydney.

The applicant has advised:

- Menzies Hotel incorporated the properties from 2-28 Carrington St, however commonly was referred to as 14 Carrington St; and
- Brookfield are seeking to amend the liquor licence to have the Margaret St and rooftop venues specifically referenced in the licence.

This will be undertaken as an application to Liquor and Gaming NSW. Discussions with Liquor and Gaming NSW have been undertaken where it is noted that the extension of the liquor licence to the rooftop levels can be undertaken subject to a relevant planning consent. The City's Licensed Premises team support the application subject to conditions.

- Issue: ***The proposal will have lighting impacts in terms of amenity***

Response: Standard lighting emissions in association with the venue would not be unreasonable in this instance, nor would this be a reason for refusal.

## Financial Contributions

### Levy under Section 61 of the City of Sydney Act 1988

55. The cost of the development is in excess of \$200,000. The development is therefore subject to a levy under the Central Sydney Development Contributions Plan 2013.
56. A condition relating to this levy has been included in the recommended conditions of consent in the Notice of Determination. The condition requires the contribution to be paid prior to the issue of a construction certificate.

## Conclusion

57. The application proposes a fitout and use of three levels of the existing heritage item known as 'former Shell House' at 2-12 Carrington Street, as a pub, operating as a licensed restaurant/bar. Outdoor seating is proposed to the roof terrace levels.
58. The proposal subject to conditions is generally consistent with the objectives and provisions of the Sydney LEP 2012 and Sydney DCP 2012. Instances where the proposal varies with DCP controls have been assessed as acceptable subject to conditions, including restricting hours of operation as per the provisions of the SDCP 2012 for Late Night Management Areas.
59. The proposed outdoor terrace awnings design have been revised to sympathetically address the heritage item and visual impacts and are supported subject to conditions.



60. The premises is of a scale suitable to the B8 Metropolitan Centre zone and Late Night Management Area; and subject to conditions will not cause adverse impacts on the amenity of the surrounding area. The applicant has adequately addressed noise impacts to the residential apartments discussed in the submissions in the revised Acoustic Assessment.
61. The proposal is in the public interest and is recommended for approval subject to conditions.

**ANDREW THOMAS**

Executive Manager Development

Amy-Grace Douglas, Senior Planner