

**Item 8.****Development Application: 19 - 29 Martin Place, Sydney - D/2020/1343****File No.: D/2020/1343****Summary**

<b>Date of Submission:</b>	21 December 2020 Amended plans received 18 January 2021
<b>Applicant:</b>	John Riordan
<b>Architect/Designer:</b>	OLSK
<b>Developer:</b>	Good Group Hospitality
<b>Owner:</b>	Dexus Funds Management Limited
<b>Planning Consultant:</b>	John Riordan
<b>Heritage Consultant:</b>	Urbis
<b>Cost of Works:</b>	\$2,937,682
<b>Zoning:</b>	The site is zoned B8 - Metropolitan Centre under the Sydney Local Environmental Plan 2012. The proposed use is defined as a food and drinks premises, being a licensed pub. The use is permissible with development consent in the zone.
<b>Proposal Summary:</b>	Consent is being sought for alterations to use tenancies 8.05, 9.01 and 10.01 as a pub. The proposed patron capacity for the premises is 878.  The proposed indoor trading hours are 11.00am - 2.00am (following day), Mondays to Sundays inclusive. The proposed outdoor trading hours are 11.00am - 1.00am (following day), Mondays to Sundays inclusive.  The application was notified for 21 days from 23 December 2020 to 3 February 2021 in accordance with the City of Sydney Community Participation Plan 2019. A total of 583 properties were notified. No submissions were received.

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 use, and the development is unlikely to have adverse impacts on the surround locality subject to conditions.

The application is referred to the Local Planning Panel for determination, as the application seeks to operate a new premises with a hotel liquor licence.

**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 Regional Environmental Plan (Sydney Harbour Catchment) 2005
- (iv) Liquor Act 2007
- (v) 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/2020/1343 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 use is permissible with consent in the B8 Metropolitan Centre zone.
- (B) The development is considered to be in keeping with the area, given its predominantly commercial and retail character.
- (C) The proposal does not detract from the heritage significance of the site or that of adjacent local heritage items.
- (D) The submitted Plan of Management has been assessed as acceptable. It adequately addresses the operational, safety and security requirements of the premises.
- (E) The proposal is of a high architectural standard and incorporates details that are appropriate to the building type and commercial locality. The proposal exhibits Design Excellence.
- (F) The development is consistent with the objectives of the Sydney Development Control Plan 2012.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 598704, known as 19 - 29 Martin Place, Sydney. It is irregular in shape with area of approximately 7138sqm. It has a street frontage of 30m to Martin Place. The site extends southwards from Martin Place, and is bound by Castlereagh Street to the east, King Street to the south and Lees Court to the west.
2. The site is known as the MLC Centre. The MLC Centre contains several buildings, including a 67-storey commercial tower, a plaza, podium, retail precinct and sunken food court. The site is usually accessible from Martin Place, Rowe Street, Lees Court, King Street and Castlereagh Street. The numerous access points allow for high pedestrian footfall across the site. However, the site is currently under construction with several new additions. As such, public access is currently limited.
3. The surrounding area is characterised by a mixture of land uses, primarily being commercial and mixed use, given the sites location within the heart of the Sydney Central Business District. The site is well serviced by public transport. A passageway to Martin Place train station is located immediately north of the site on Martin Place. A number of bus routes service Castlereagh Street. Meanwhile, the Sydney Metro Martin Place station is currently under construction directly east of the site. The Sydney Metro City and Southwest line is due to open in 2024.
4. The site was approved to be listed as a local heritage item by Council on 14 December 2020. The Sydney Local Environmental Plan 2012 (Amendment No 59) came into force on 29 January 2021. The amended LEP lists the MLC Centre complex as local heritage item I2287. The listing recognises the heritage significance of the MLC Centre as an example of the Modern Movement in Central Sydney. The original buildings were designed by architect Harry Seidler and were constructed between 1972 and 1978. At the time of completion in 1977, the MLC commercial tower was the tallest building in Australia.
5. Whilst the broader site holds substantial historic significance, it is noted that this application affects tenancies 8.05, 9.01 and 10.01 which are located within the new eastern retail podium currently under construction. The tenancies are located on level 8, 9 and 10 of the development, although it is noted that levels 1 - 5 are basement levels.
6. Several local heritage items surround the site. The site is adjoined by Martin Place to the north, which is listed as a local heritage item (I1889). The former Commonwealth Bank of Australia building (I1919) and Rowe Street (I1948) are located immediately west of the site and are both listed as local heritage items.
7. The site is located within the Central Sydney locality. The northern portion of the site is located within the Martin Place special character area. The portion of the site affected by this development application is not identified as being subject to flooding.
8. A site visit was carried out on 5 January 2021. Photos of the site and surrounds are provided below:

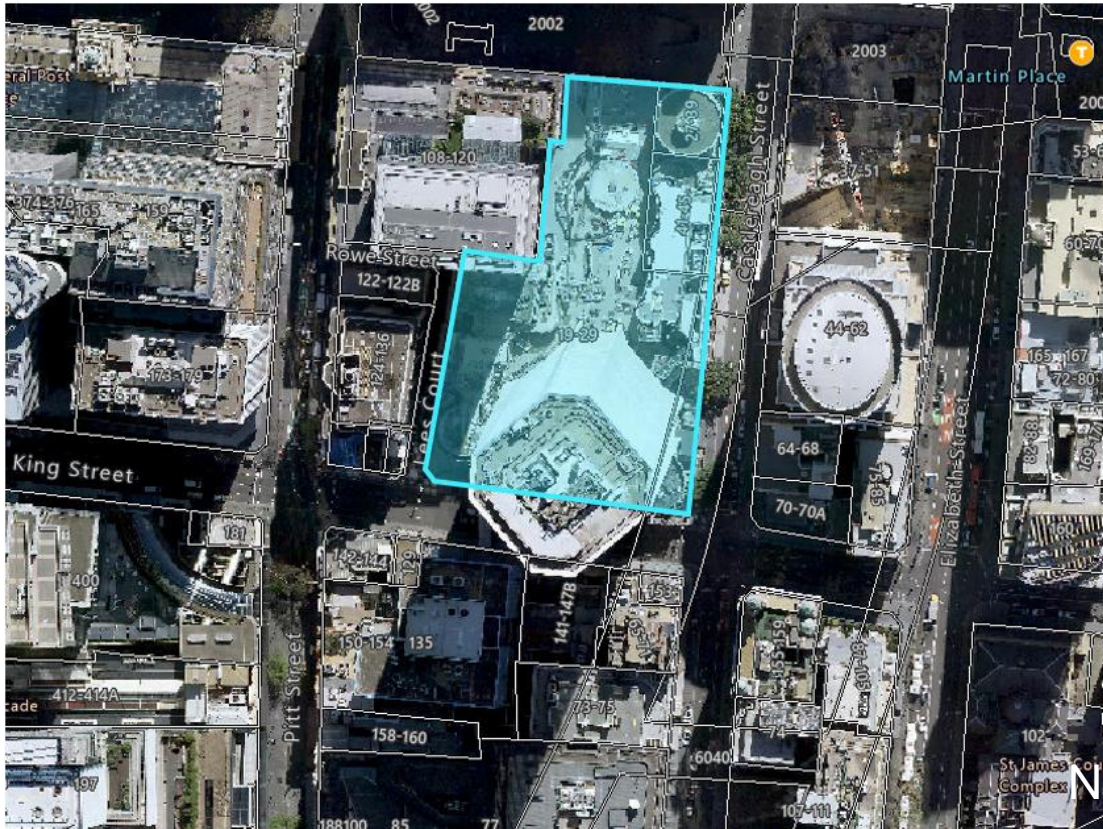


Figure 1: Aerial view of site and surrounds



Figure 2: MLC Centre as viewed from Martin Place



**Figure 3:** Site viewed from Martin Place, with tenancy locations highlighted



**Figure 4:** Site as viewed from Martin Place, with subject tenancies currently under construction

## History Relevant to the Development Application

### Development Applications

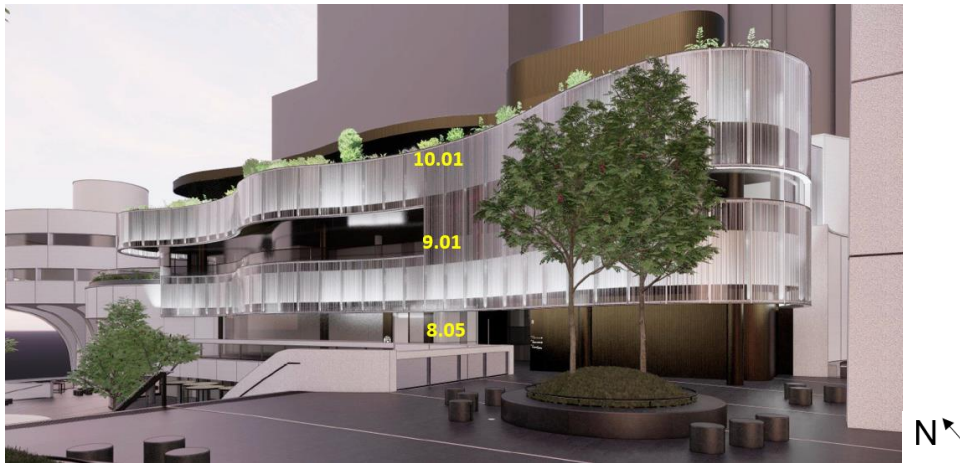
9. There are several components to the development history of the site, namely the development history of the previous liquor licence, the history of the new build and the numerous applications for pubs that have been lodged in recent months.

#### *Hotel Licence*

10. D/2009/1174 granted development consent on 16 September 2009 for change of use of an existing restaurant on level 8 to a bar and restaurant with a hotel liquor licence.
11. The applicant intends to transfer the existing dormant hotel liquor licence associated with the restaurant and bar approved by D/2009/1174 to the new tenancies 8.05, 9.01 and 10.01.
12. D/2009/1174 has been modified several times. These modifications are not directly relevant to this application.
13. The tenancy that held this liquor licence (Eden Bar) is no longer in operation, and thus the hotel liquor licence remains dormant. The applicant intends to complete an external application to Liquor and Gaming NSW to amend the boundaries and licensee details for this Hotelier's licence. This will allow the licence to be transferred to the new premises.

#### *Building Additions*

14. The tenancies that are subject to this development application are located in the new eastern retail podium addition approved by D/2015/66. D/2015/66 granted consent on 10 September 2015 for substantial alterations and additions to the podium and basement levels of the MLC Centre, including modifications to vehicular access to the site, landscaping and public domain works. Since the initial approval in 2015, D/2015/66 has been modified 16 times. The approved additions are currently under construction.
15. Modification D/2015/66/K is of relevance to this application. D/2015/66/K granted consent on 19 October 2020 for design amendments to levels 9 and 10 of the approved eastern retail podium including the creation of a new rooftop tenancy. This rooftop tenancy is now identified as tenancy 10.01 and is subject to this development application. A photomontage of the scheme approved by D/2015/66/K is included below.



**Figure 5:** Photomontage of amended design, with new rooftop tenancy

16. No signage was approved as part of D/2015/66 or subsequent modifications. Conditions 3 and 4 of the consent required the submission of a signage strategy under a separate development application.
17. A signage strategy for the site was subsequently approved on 28 February 2020 under D/2019/1219.
18. No additional signage is proposed as part of this development application.

#### *Licensed Premises Applications*

19. Numerous applications for food and drinks premises have been lodged in recent months for the site.
20. Development applications D/2020/501, D/2020/927, D/2020/929, D/2020/935, D/2020/936, D/2020/1232 and D/2020/1234 are relevant to this application.
21. Five applications for new pubs at the site (D/2020/501, D/2020/927, D/2020/929, D/2020/935, D/2020/936) were lodged in June 2020 and September 2020. During the assessment of these applications, the developer clarified that the intention was to amalgamate these premises into two licensed pubs, rather than five independent premises as the applications suggested. As such, it was recommended that the applicant withdraw the five applications and re-submit two new applications that reflected this development intent.
22. All five development applications were subsequently withdrawn on 26 October 2020. On 18 November, D/2020/1232 and D/2020/1234 were lodged.



23. This development history is summarised below:

<b>Previous Applications</b>				
Development Application	Use	Tenancies	Lodgement Date	Outcome
D/2020/501	Pub	10.01	02/06/2020	Withdrawn 26/10/2020
D/2020/927	Pub	8.04	16/09/2020	Withdrawn 26/10/2020
D/2020/929	Pub	9.01	17/09/2020	Withdrawn 26/10/2020
D/2020/935	Pub	8.05	16/09/2020	Withdrawn 26/10/2020
D/2020/936	Pub	8.03	16/09/2020	Withdrawn 26/10/2020
<b>Current Applications</b>				
D/2020/1232	Pub	8.05, 9.01 and 10.01	18/11/2020	Under Assessment
D/2020/1234	Pub	8.03 and 8.04	18/11/2020	Under Assessment
D/2020/1343 (this D/A)	Pub	8.05, 9.01 and 10.01	21/12/2020	Under Assessment

24. Both D/2020/1232 and D/2020/1234 seek consent for change of use to pubs but do not seek consent for the fit-out of the tenancies. The applications state that consent for the fit-outs will be sought under new applications once prospective tenants for the premises have been identified. The intention of these applications is to provide a degree of commercial confidence to prospective tenants.
25. It is noted that D/2020/1232 affects tenancies 8.05, 9.01 and 10.01 - which are the same tenancies subject to this development application. Following lodgement of D/2020/1232, tenants were found for the premises, being Botswana Butchery Bar and Restaurant. As such, D/2020/1343 (this application) was lodged with Council, seeking consent for the associated fit-out and use.

26. Consequently, there are currently two active applications for the same premises, being D/2020/1232 which seeks consent for the change of use, and D/2020/1343 (this application) which seeks consent for the associated internal fit out and use. While Council staff have recommended that the two applications be amalgamated into a single application, the applicant has chosen not to do so and to keep these two applications as lodged. These applications are being assessed concurrently, with separate reports prepared for the Panel's consideration.

### Amendments

27. Following a preliminary assessment, Council Officers identified several outstanding issues with the proposed waste management of the site. Specifically, the submitted architectural drawings did not indicate where waste would be stored prior to be transported down to the MLC base buildings waste storage area, and the application referred to an outdated waste management plan. As such, a request for amended plans that depicted waste storage areas for each level was sent to the applicant on 10 January 2021.
28. The applicant responded to the request on 18 January 2021, and submitted amended architectural plans which depicted waste receptacles for each floor of the tenancy. Further, the applicant submitted a Waste Management Plan for the MLC Centre which was updated in December 2020. The Waste Management Plan includes provisions for the subject tenancies.
29. This information was reviewed by the City's Waste Management Unit and assessed as acceptable subject to conditions of consent.

### Proposed Development

30. The application seeks consent for the following:
- Fit-out of tenancies 8.05, 9.01 and 10.01 on levels 8, 9 and 10 of eastern retail podium as a singular food and drinks premises, being a licensed pub (noting that levels 1 - 5 are basement levels). The three tenancies will be amalgamated to operate as a one premises. Each floor of the premises can be independently accessed via the stairs or lift provided by the base building, whilst levels 8 and 9 will also be able to be accessed via an inter-tenancy staircase. The premises will operate under one management team with a maître d on each floor.
  - Works include:
    - 8.05** - Construction of bar, banquette seating, dining space, inter-tenancy staircase, indoor and outdoor seating areas and storage areas
    - 9.01** - Construction of kitchen, dining space, inter-tenancy staircase, indoor and outdoor seating areas
    - 10.01** - Construction of bar, kitchen and seating areas.

- Total capacity of 938, comprising of 878 patrons and 60 staff. Patrons will be split across floors as follows:

**8.05** - 173 total patrons (104 indoors, 69 outdoors)

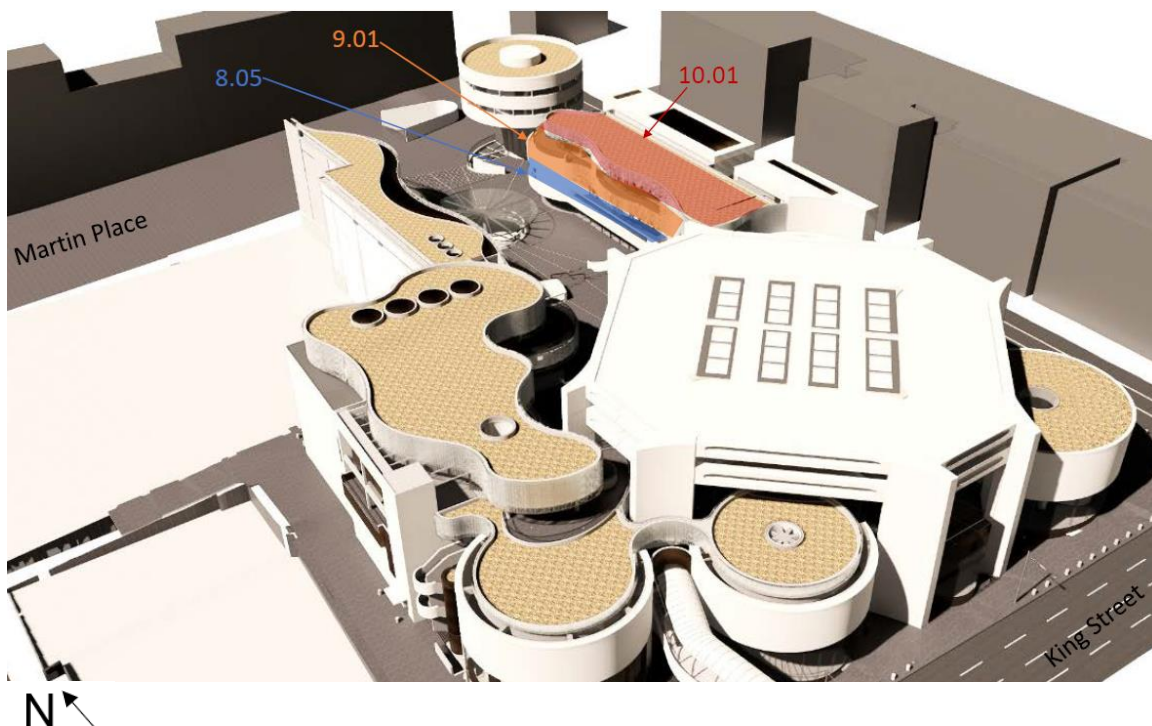
**9.01** - 344 total patrons (194 indoors, 150 outdoors)

**10.01** - 361 total patrons (361 - all outdoors).

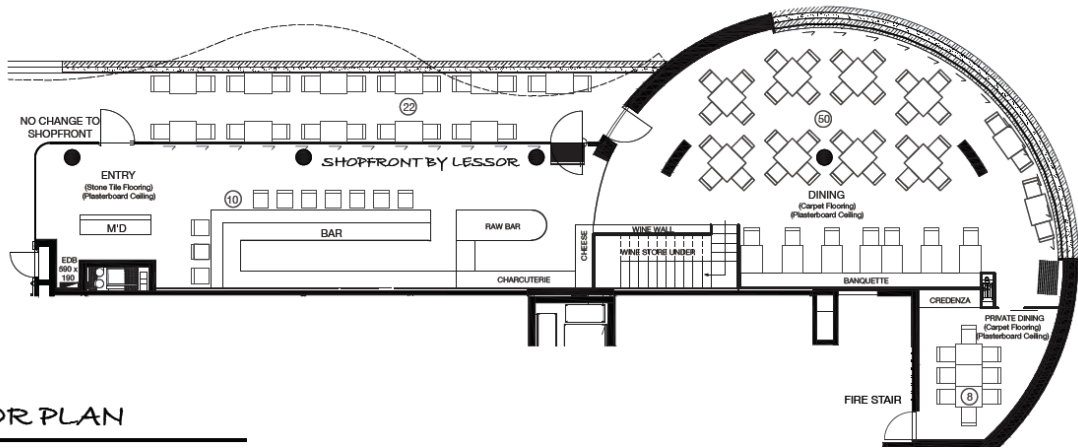
D/2020/1232, which is being concurrently assessed for the change of use of this premises, is consistent in proposing a total capacity of 938 (inclusive of staff and patrons).

- Indoor trading hours of 11.00am - 2.00am (following day), Mondays to Sundays inclusive
- Outdoor trading hours of 11.00am - 1.00am (following day), Mondays to Sundays inclusive

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

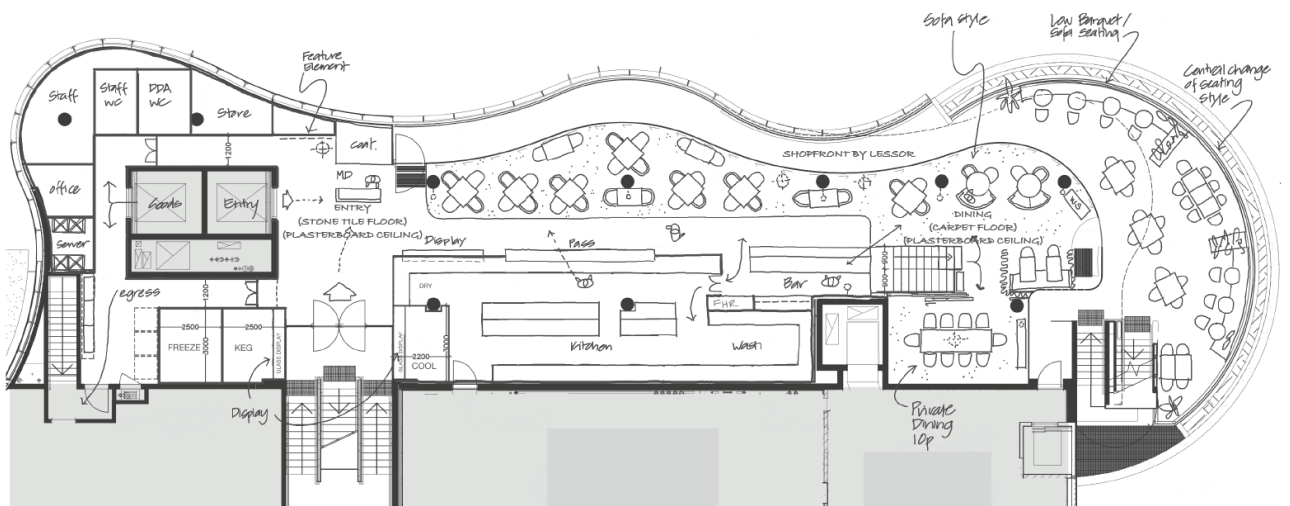


**Figure 6:** Photomontage of development, showing location of tenancies 8.05, 9.01 and 10.01

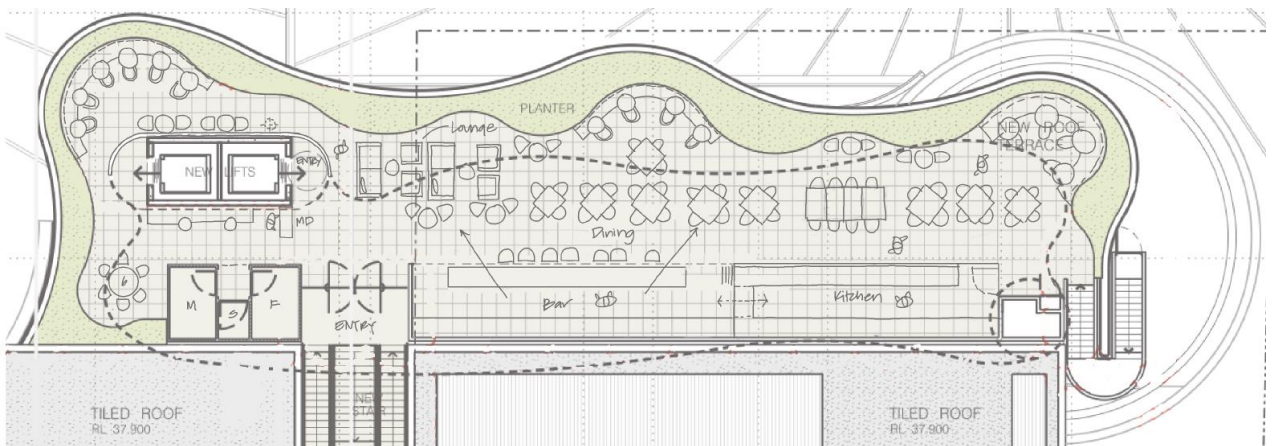


**FLOOR PLAN**

**Figure 7: Proposed floor plan for 8.05**



**Figure 8: Proposed floor plan for 9.01**



**Figure 9: Proposed floor plan for 10.01**

## Assessment

32. 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

33. 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.
34. 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.

### Liquor Act 2007

35. The site is within the Sydney CBD Entertainment liquor licence freeze precinct. On 1 June 2020, the NSW Government lifted long-standing liquor licence freeze restrictions under Division 1A of Part 4 of the Liquor Act 2007 to support a 24-hour economy for Sydney.
36. The changes mean existing hotels, clubs, licensed public entertainment venues and packaged liquor outlets in the Sydney CBD Entertainment precinct may apply for extended trading hours and can apply for changes to licence boundaries.
37. The applicant intends to transfer the existing dormant hotel licence approved by D/2009/1174 to the new premises located in tenancies 8.05, 9.01 and 10.01. This transfer of licence and amendment of boundaries will occur via an external application to Liquor and Gaming NSW. As the application is amending an existing hotel liquor licence, rather than applying for a new hotel liquor licence, the proposal complies with the provisions of the Liquor Act.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

38. 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 use is defined as a food and drinks premises, being a licensed pub, and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.

**Part 4 Principal development standards**

Provision	Compliance	Comment
4.3 Height of buildings	Yes	The maximum height for the site is determined by the sun access plane. The alterations are to be contained within the eastern addition currently under construction. No increase in building height is proposed.
4.4 Floor space ratio	Yes	The development has a maximum FSR of 10.96:1, as approved by D/2015/66/G.  No increase to gross floor area is proposed.

**Part 5 Miscellaneous provisions**

Provision	Compliance	Comment
5.10 Heritage conservation	Yes	The site was approved to be listed as a local heritage item by Council on 14 December 2020. The Sydney Local Environmental Plan 2012 (Amendment No 59) came into force on 29 January 2021. The amended LEP lists the MLC Centre complex as local heritage item I2287. The listing recognises the heritage significance of the MLC Centre as an example of the Modern Movement in Central Sydney. A Heritage Impact Statement has been submitted with the application. The proposed use and associated alterations occur wholly within the eastern retail podium addition that is currently under construction. The proposal does not detract from the heritage significance of the site.

**Part 6 Local provisions – height and floor space**

Provision	Compliance	Comment
Division 4 Design excellence		
6.21 Design excellence	Yes	<p>The proposed development is of a high standard and uses materials and detailing which are compatible with the existing development along the street and will contribute positively to the character of the area.</p> <p>The development has an acceptable environmental impact with regard to the amenity of the surrounding area. The development therefore achieves design excellence.</p>

**Development Control Plans****Sydney Development Control Plan 2012**

39. 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**

40. The northern portion of the site is located within the Martin Place special character area. The proposed development is in keeping with the unique character and the design principles of the Martin Place special character area, in that it maintains the significance of Martin Place as one of Sydney's valued business locations.

**Section 3 – General Provisions**

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed development does not involve the removal of any trees and will not have an adverse impact on the local urban ecology.
3.9 Heritage	Yes	The site was approved to be listed as a local heritage item by Council on 14 December 2020. The Sydney Local Environmental Plan 2012 (Amendment No 59) came into force on 29 January 2021. The amended LEP lists the MLC Centre complex as local heritage item I2287. The listing recognises the heritage significance of the MLC Centre as an example of the Modern Movement in Central Sydney.

Provision	Compliance	Comment
		The change of use and associated alterations occur wholly within the eastern retail podium currently under construction. A Heritage Impact Statement has been submitted with the application. The Heritage Impact Statement confirms that the proposed works will not adversely impact fabric identified as being historically significant. The proposal does not detract from the heritage significance of the site.
3.11 Transport and Parking	Yes	No parking is proposed in the application. The site is well serviced by public transport, with train, light rail and bus services all within walking distance from the premises. Additionally, the Sydney Metro Martin Place station is located approximately 30m east of the site. The station is due to be operational in 2024, which will provide further public transport options to patrons and staff. In this respect, the use will be able to manage transport demand in a sustainable manner.
3.12 Accessible Design	Yes	A condition of consent is recommended, requiring the development to provide appropriate access and facilities for persons with disabilities in accordance with the DCP and BCA.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance and is generally designed in accordance with CPTED principles. The proposal has been accompanied by a Plan of Management, which adequately addresses security and management processes to minimise criminal activity. The proposal involves the use of the outdoor rooftop terrace in association with the pub. The use of this elevated terrace will increase opportunities for passive surveillance of the surrounding plaza and public spaces, which is considered a positive social outcome.



Provision	Compliance	Comment
		It is noted that the majority of businesses which front Martin Place operate during standard daytime commercial trading hours. Introducing a late night trading business in the area will increase pedestrian activity during the evening and maximise casual surveillance of the surrounding area.
3.14 Waste	Yes	The applicant has submitted an updated Waste Management Plan for the MLC Centre, which includes the tenancies subject to this development application. Additionally, the applicant has submitted amended architectural plans which depict the location of waste receptacles within the premises. The information was reviewed by the City's Waste Management Unit and considered acceptable subject to conditions of consent. 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.
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.</p> <p>The proposed indoor trading hours are 11.00am - 2.00am (following day), Mondays to Sundays inclusive. The proposed outdoor trading hours are 11.00am - 1.00am (following day), Mondays to Sundays inclusive. The patron capacity is 878. The proposed indoor trading hours are within the extended hours permissible in the DCP 2012. However, the outdoor trading hours are 1 hour beyond the hours permissible at initial application stage. See 'Discussion' section of this report.</p>

Provision	Compliance	Comment
3.16 Signage and Advertising	N/A	A retail signage strategy for the site has already been approved by D/2019/1219 - see 'History' section of this report. No additional signage is proposed as part of this application.

## Section 4 – Development Types

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

Provision	Compliance	Comment
4.2.3.5 Landscaping	N/A	The proposed fit-out does not involve landscaping. The landscaping elements of the site were assessed under the base build consent, with these elements being most recently modified by D/2015/66/K. No additional landscaping is proposed as part of this application.
4.2.3.11 Acoustic Privacy	Yes	<p>An Acoustic Masterplan has been prepared for the site, which includes an assessment undertaken for the change of use of tenancies 8.05, 9.01 and 10.01 to the proposed licensed premises. This Masterplan considers the cumulative impacts from all the new food and drink venues within the redeveloped MLC Centre and has been assessed under D/2020/1232. The proposed patron capacity of 878 is within the capacity assessed in the Masterplan.</p> <p>The Masterplan determines that the proposal will achieve criteria stipulated in the City's standard 'Noise - Entertainment' condition. The external areas of the premises where background music is to be played has been considered in the assessment methodology of the Acoustic Masterplan.</p> <p>Conditions of consent are included requiring the premises to comply with the measures included in the Acoustic Masterplan, as well as the standard 'Noise - Entertainment' condition.</p>

Provision	Compliance	Comment
4.2.6 Waste and recycling Management	Yes	The applicant has submitted an updated Waste Management Plan as well as amended architectural plans which depict the location of waste receptacles in the premises. The WMP indicates that the building has appropriate facilities to manage waste and maximise the recovery of resources, in accordance with the objectives of 4.2.6. The WMP and amended plans were reviewed by the City's Waste Management Unit, who determined the proposal to be acceptable subject to conditions.

### Section 5 – Specific Areas

Provision	Compliance	Comment
Central Sydney	Yes	The site is within the Martin Place Special Character Area. The proposed alterations are confined to the eastern addition that is already under construction. The proposal does not result in any change to existing setbacks or street frontage heights, and does not detract from the architectural and social significance of Martin Place.

### Discussion

#### Hours of Operation

41. In accordance with Section 3.15 of the Sydney DCP 2012, the use as a pub is classified as a Category A - High Impact Premises. The site is located within a Late Night Management Area. Table 3.7 in Section 3.15.4 of the Sydney DCP 2012 stipulates the following trading hours for Category A Premises within Late Night Management Areas:

- Indoor base hours: 6.00am - 12.00am midnight
- Indoor extended hours: 24 hours (on a trial basis)
- Outdoor base hours: 10.00am - 10.00pm
- Outdoor extended hours: 9.00am - 1.00am (on a trial basis).

The application proposes the following hours:

- Indoor hours: 11.00am - 2.00am, Mondays to Sundays inclusive

- Outdoor hours: 11.00am - 1.00am, Mondays to Sundays inclusive.
42. The proposed hours are within the extended trading hours stipulated in the Sydney DCP 2012. Section 3.15.4 (6) of the Sydney DCP 2012 states that extended trading hours beyond base hours may be permitted at the initial application stage if Council can determine that the premises will be well managed, including compliance with an approved Plan of Management.
  43. The applicant has submitted a Plan of Management with this application. The Plan of Management has been reviewed by the City's Licensed Premises Unit, who consider the proposal satisfactory.
  44. Section 3.15.4 (8) of the Sydney DCP 2012 states that premises seeking extended trading hours may be permitted up to two additional operating hours per trial period. It is noted that the premises is seeking outdoor trading hours of 11.00am - 1.00am, which is 3 hours beyond the permitted base hours. Since the application is for a new premises, the DCP 2012 permits an additional 2 hours from 10.00pm for a trial period of 12 months. Once the trial period is completed and responsible management has been demonstrated, the operator may apply for extended outdoor trading hours until 1.00am.
  45. As such, it is recommended that the base hours of 11.00am - 12.00am midnight (indoor) and 11.00am - 10.00pm (outdoor) be approved on a permanent basis. The hours of 12.00am - 2.00am (indoor) and 10.00pm - 12.00am midnight (outdoor) are recommended for approval on a 12 month trial basis.
  46. These trading hours are consistent with the hours approved for licensed restaurant and bars at the site under applications D/2020/928 and D/2020/933.

#### Outdoor Trading

47. The proposal involves the use of outdoor seating areas on levels 8, 9 and 10. The application proposes to play background music in these outdoor seating areas.
48. Council officers raised concern regarding the potential impacts of music in the outdoor terrace areas of the premises. However, upon assessment it is considered acceptable for the premises to operate with background music in the outdoor areas for the following reasons:
  - (a) The Acoustic Masterplan for the site has been assessed under D/2020/1232, and included provisions for background music to be played in outdoor areas for the subject tenancies.
  - (b) The Acoustic Masterplan incorporates an assessment of the noise impacts associated with the change of use of tenancies 8.05, 9.01 and 10.01 into a licensed premises. The Masterplan outlines design noise targets for each of the proposed tenancies to meet, which are nominated to enable the overall City of Sydney 'Noise - Entertainment' criteria to be met. The assessment included the assumption that background level music would be played in outdoor areas. This Acoustic Masterplan was reviewed as acceptable by the City's Environmental Health Officer.
  - (c) No stages or performance areas are proposed for the outdoor areas in both this application and D/2020/1232.

- (d) The premises is located in a highly commercialised area of the Sydney CBD, with limited noise-sensitive receivers in close proximity to the site. Notably, there are no residential premises within the immediate vicinity.
  - (e) No submissions objecting to the proposal were received from the public and Police.
49. Given these reasons, it is considered that the premises will be able to operate with background music playing in the outdoor areas without causing unacceptable impacts on the surrounding amenity. It is recommended that conditions of consent be included requiring the premises to operate in accordance with the Acoustic Masterplan as well as the City's standard 'Noise - Entertainment' condition. These recommended conditions specify that music in outdoor areas can be played at background levels only.

#### Rooftop Tenancy Design

50. As part of the Council's consideration of the modification to the base consent (D/2015/66/K) that created the rooftop (level 10) tenancy, the extent of glass enclosure to this space was significantly reduced to be only around the bar zone. The remaining enclosure will prevent birds/vermin accessing the food and drink preparation areas when the space is not in use. This ensures the space is a fully open terrace and that it will not give the appearance of another building atop of the (then) existing approval. It was confirmed in a meeting with the developer during the assessment of D/2015/66/K that the glass enclosure was not a design response to any adverse wind conditions affecting the space. It was also made clear to the developer that this is to be a fair weather space only and its useability will be subject to favourable climatic conditions.
51. The detailed fit out that is the subject of this report, does not propose any expansion of this glass enclosure and is consistent with the base consent.

### Consultation

#### Internal Referrals

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

#### External Referrals

##### NSW Police

53. The application was referred to NSW Police for comment.
54. No response was received.

## **Advertising and Notification**

55. In accordance with the City of Sydney Community Participation Plan 2019, the proposed development was notified for a period of 21 days between 23 December 2020 and 3 February 2021. A total of 583 properties were notified. No submissions were received.

## **Financial Contributions**

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

56. 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.
57. 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.

## **Relevant Legislation**

58. Environmental Planning and Assessment Act 1979.
59. Sydney Local Environmental Plan 2012.
60. State Regional Environmental Plan (Sydney Harbour Catchment) 2005.
61. Liquor Act 2007.

## **Conclusion**

62. The application proposes the use of tenancies 8.05, 9.01 and 10.01 to a pub and associated internal alterations.
63. The proposal is generally consistent with the objectives and provisions of the Sydney Local Environmental Plan 2012 and the Sydney Development Control Plan 2012. Instances where the proposal varies the DCP controls have been assessed as acceptable.
64. The proposed use is considered appropriate for the site and should not cause unacceptable adverse impacts on the surrounding amenity.

65. The applicant has adequately addressed operational and security measures in the submitted Plan of management.
66. The development is therefore in the public interest and is recommended for approval subject to conditions.

**ANDREW THOMAS**

Executive Manager Planning and Development

Marcella Hager, Planner