

Item 4.

Development Application: 22 and 22A The Promenade, Sydney and 21 Lime Street, Sydney - D/2021/1171

File No.: D/2021/1171

Summary

Date of Submission:	11/10/2021 with additional information submitted on 28/01/22, 10/02/22, 25/02/22 and 10/03/22.
Applicant:	David Rippingill, Design Collaborative for Signature Hospitality Group
Developer:	Signature Hospitality Group
Owner:	Waterways Authority
Planning Consultant:	Design Collaborative
Cost of Works:	\$0
Zoning:	The internal component of the site is zoned B8 - Metropolitan Centre under Sydney Local Environmental Plan 2012. The proposed use is defined as a food and drinks premises, being a pub with ancillary microbrewery. The use is permissible with consent in this zone. The outdoor seating is located in the RE1-Public Recreation. Outdoor seating is permissible with consent in this zone.
Proposal Summary:	<p>Consent is sought for a change of use from a restaurant with ancillary microbrewery, and outdoor seating to a pub with ancillary microbrewery, and outdoor seating. No work is proposed.</p> <p>The proposed trading hours are: 24 hours per day, Monday - Sunday inclusive for the internal pub; 7.00am - 12.00 midnight, Monday - Sunday inclusive for the microbrewery; and base outdoor trading hours between 8.00am - 12.00 midnight Monday - Sunday inclusive with extended outdoor trading hours on a trial basis until 2.00am the following day, Monday - Sunday inclusive.</p>

The application seeks to consolidate the relevant existing approvals under a single development consent for use as a pub. The proposal is to continue the existing internal trading hours (currently under DA 203-06-02/DA 101-06-99), the outdoor seating area trading hours (currently under D/2010/964/B) and use of the microbrewery (currently under D/2013/841).

The change of use from a restaurant to a pub is to facilitate a more bar like operation and to permit sports betting. No electronic gaming machines are to be provided and packaged liquor will not be sold for consumption off the premises.

The application seeks a patron capacity of 900 patrons for the venue consisting of 732 internal and 168 in the outdoor seating area. This capacity is considered consistent with the existing/approved capacity of the premises.

The application was notified and advertised for a period of 21 days between 18 October 2021 and 9 November 2021. A total of 1095 properties were notified and 31 objections were received.

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 subject to conditions, the proposed use is unlikely to have adverse impacts on the surrounding locality.

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 deferred commencement approval.

Development Controls:

- (i) Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000
- (ii) State Environmental Planning Policy (Biodiversity and Conservation) 2021 (previously Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005)
- (iii) State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021
- (iv) Liquor Act 2007
- (v) Sydney Local Environmental Plan 2012
- (vi) Sydney Development Control Plan 2012
- (vii) City of Sydney Community Participation Plan 2020

Attachments:

- A. Recommended Conditions of Consent
- B. Current Floor Plan of Premises
- C. Plan of Management
- D. Acoustic Assessment
- E. Existing Consents to be Surrendered

Recommendation

It is resolved that deferred commencement consent pursuant to section 4.16(3) of the Environmental Planning and Assessment Act 1979 be granted to Development Application No. D/2021/1171 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 within the B8 - Metropolitan Centre and RE1 - Public Recreation zones.
- (B) The use is considered to be in keeping with the area, given its predominantly entertainment character.
- (C) The submitted Plan of Management has been assessed as acceptable. It satisfactorily addresses the operational, safety and security requirements of the premises.
- (D) The development is consistent with the objectives of the Sydney Development Control Plan 2012.
- (E) In order to facilitate the consolidation of the operational aspects of the premises into a single development consent, appropriate deferred commencement consent conditions are recommended for the surrender of the existing relevant development consents.

Background

The Site and Surrounding Development

1. The site (the tenancy that is the subject of the current application) has a legal description of part Lot 12 in DP 1097922 (22 The Promenade, Sydney - part of the internal area of the current application), part Lot 13 in DP 1097922 (22A The Promenade, Sydney - part of the internal area of the current application), and part Lot 115 in DP 1147008 (21 Lime Street, Sydney - the outdoor seating area).
2. The overall, larger site is irregular in shape and is known as King Street Wharf. It has a primary street frontage to The Promenade to the west and a secondary street frontage to Lime Street to the east. King Street Wharf is situated on the eastern side of Darling Harbour.
3. The locale was a maritime industrial area on the eastern shore of Darling Harbour that has been redeveloped into a residential, commercial and entertainment precinct as part of the extensive redevelopment of the area.
4. Barangaroo is located to the north of the site.
5. King Street Wharf contains 5-storey buildings which generally contain bars and restaurants at ground and first floor level with commercial tenancies above.
6. The subject tenancy which has public access only from The Promenade is located close to the intersection of The Promenade, Erskine Street and Lime Street at ground level of King Street Wharf. Offices are located on the upper levels of the building. The outdoor seating associated with and located to the west of the tenancy forms part of the public foreshore promenade. The outdoor seating is shielded from the residential buildings to the east across Lime Street by the building itself.
7. The internal area of the subject tenancy is 1,485sqm and the external area is 387sqm.
8. The tenancy is split level with the western section having a floor finish level with entry from The Promenade; and a half flight of stairs, a platform lift and a ramp leading to the lower level at the rear of the tenancy.
9. There is an easement for public access between the outdoor seating area and the building 'to provide daily and unrestricted public access on a 24 hours, 7 days a week basis'. Condition 4(b) of D/2010/964/B permits the operator use of that easement on Thursday to Saturdays inclusive, and on days of major events, only after 6.00pm.
10. The premises currently operates as a restaurant/sports bar known as The Sporting Globe x 4 Pines since February 2020, with indoor and outdoor seating areas under an On-Premises Liquor Licence with a Primary Service Authorisation for the Sporting Globe (LIQO624008450), and the 4 Pines micro-brewery under a wholesaler/producer licence (LIQW824012900 - All Hands Brewing Co). Live entertainment is provided regularly, mostly DJs in the south-eastern corner of the restaurant, and background music is channelled throughout the inside of the premises. The premises provides video coverage of a wide range of sports played locally and internationally. Patrons seated in booths can select what they wish to watch on screens in the booths, as well as watching larger screens serving other parts of the premises.
11. The premises has previously been known as the "All Hands Brewhouse and Restaurant", the "James Squire Brewhouse and Restaurant", "King Street Wharf Public House and Brewery" and a themed restaurant called "Xerts".

12. Patrons enter and leave the premises from the walkway to the west of the tenancy and outdoor seating area which is located on freehold land owned by Transport for NSW. It is not a public road.
13. The existing restaurant in the subject tenancy is part of a national chain of The Sporting Globe outlets.
14. The micro-brewery within the premises has two locations, both positioned along the northern edge of the tenancy.
15. The site is not a heritage item and is not located within a heritage conservation area.
16. A site visit was carried out on 10 December 2021.
17. Photos of the site and surrounds are provided below.

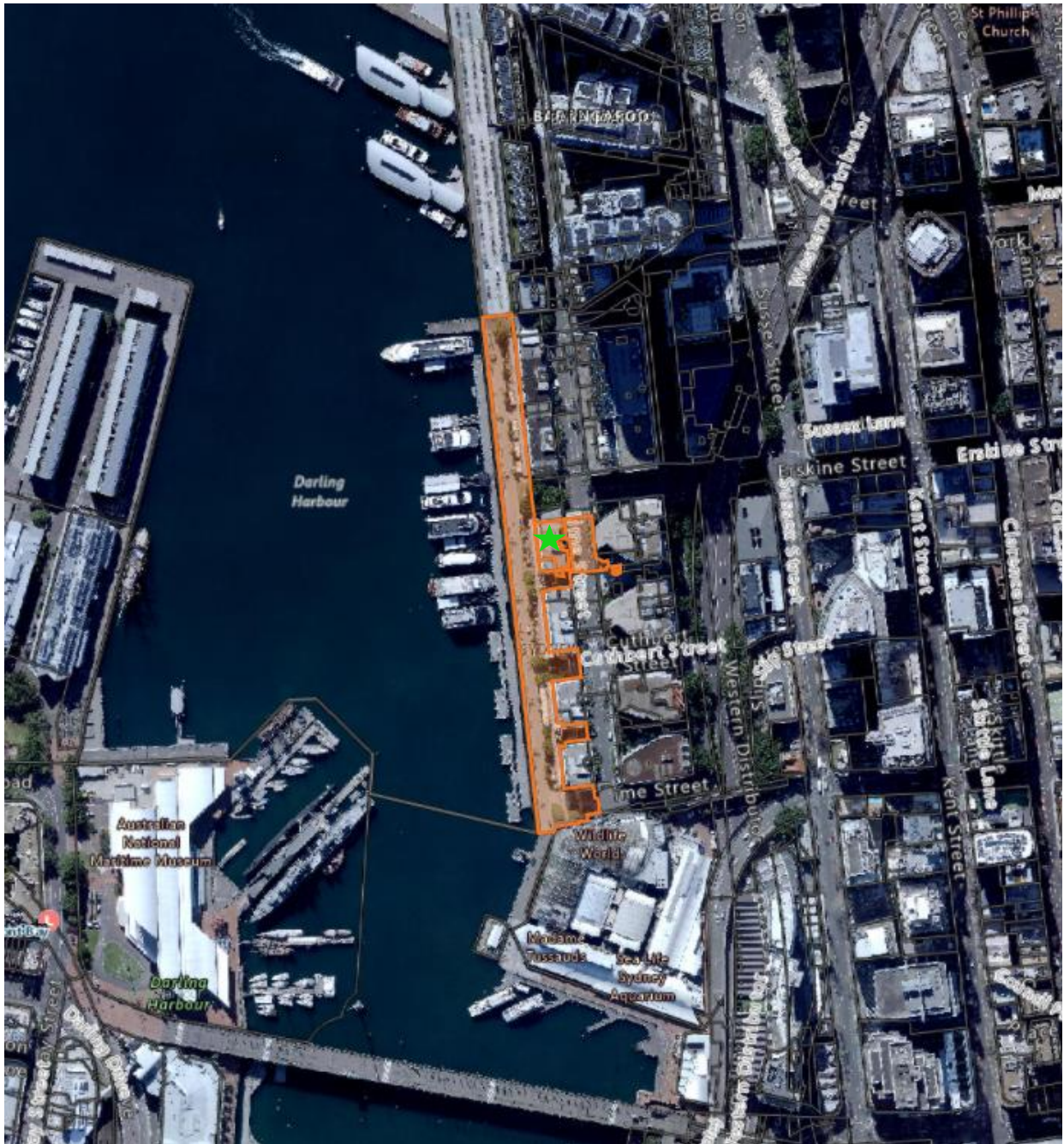


Figure 1: Aerial view of site and surrounds (approximate location of subject tenancy marked with green star)



Figure 2: Looking north-east towards subject tenancy at ground level with office uses on upper levels



Figure 3: Looking south-east towards subject tenancy (part frontage of subject tenancy facing The Promenade shown with red line)



Figure 4: Looking north from outdoor seating area of subject tenancy



Figure 5: Looking south at outdoor seating area of subject tenancy



Figure 6: Looking south at bi-fold doors of tenancy at boundary between inside and outdoor seating area



Figure 7: Front bar of tenancy



Figure 8: Front bar and interior of tenancy



Figure 9: Micro-brewery component located at north-western corner of tenancy



Figure 10: Micro-brewery component located at north-western corner of tenancy



Figure 11: Micro-brewery component located closer to north-eastern corner of tenancy

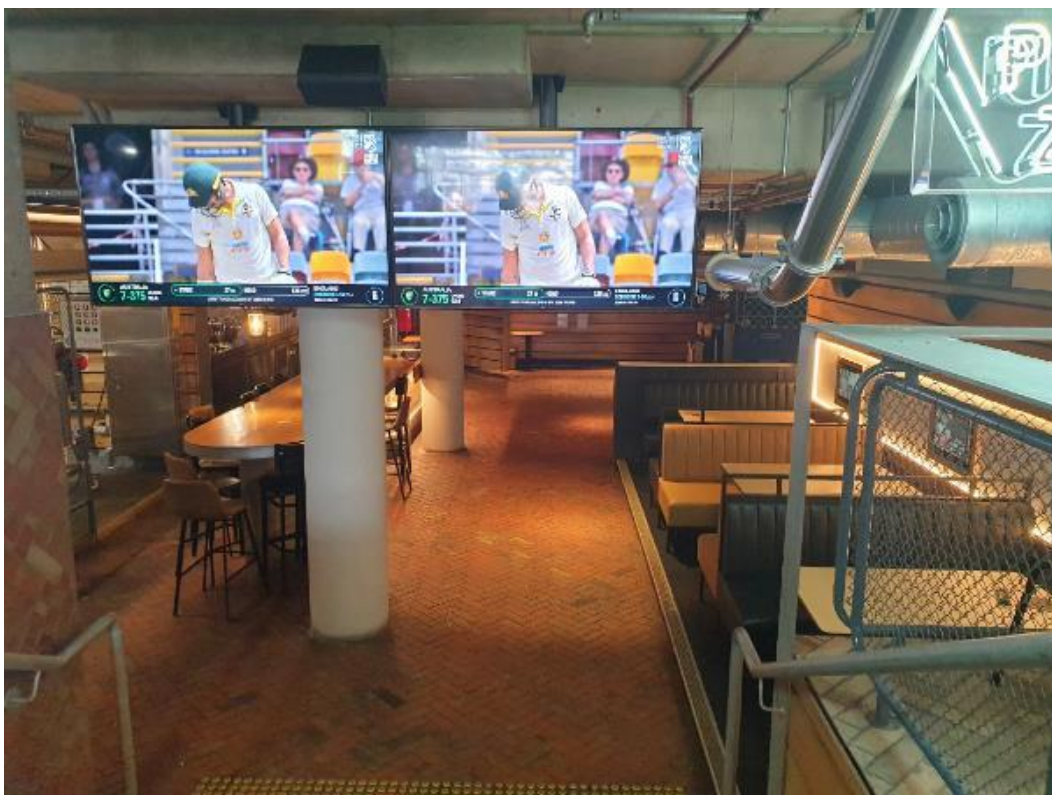


Figure 12: Lower level to rear of tenancy

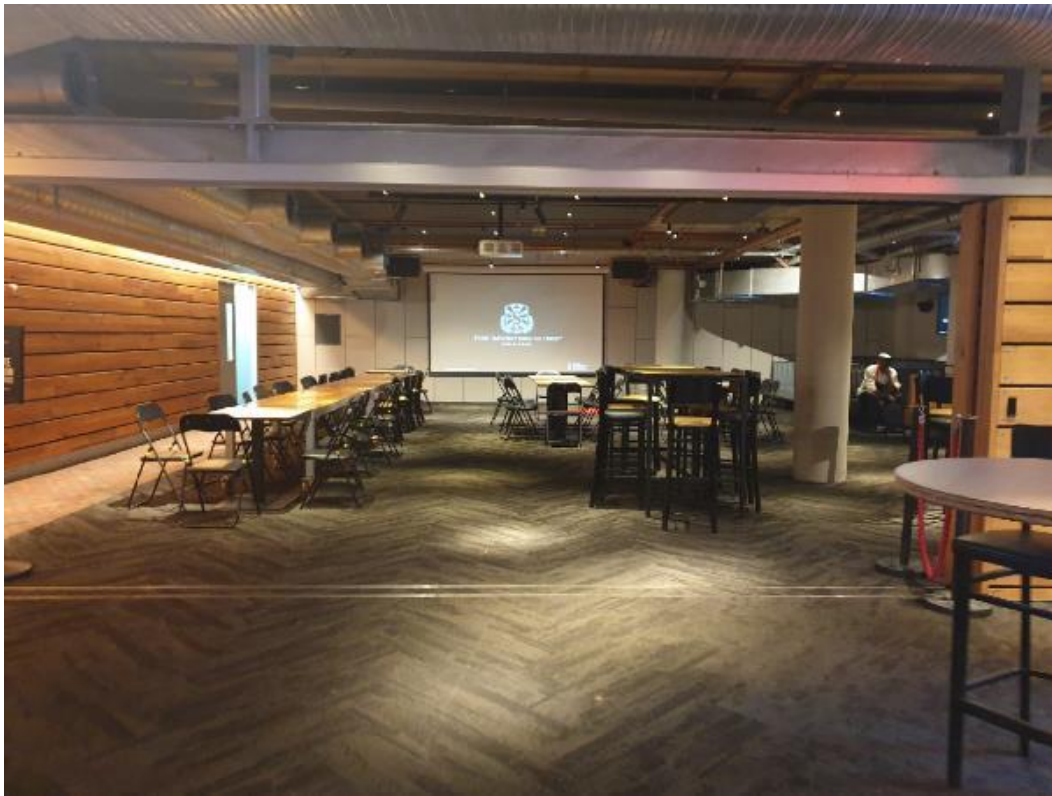


Figure 13: Lower level, rear function area



Figure 14: Lower level, rear function area



Figure 15: Common building service corridor



Figure 16: Southern section of front section of premises



Figure 17: Front bar of tenancy

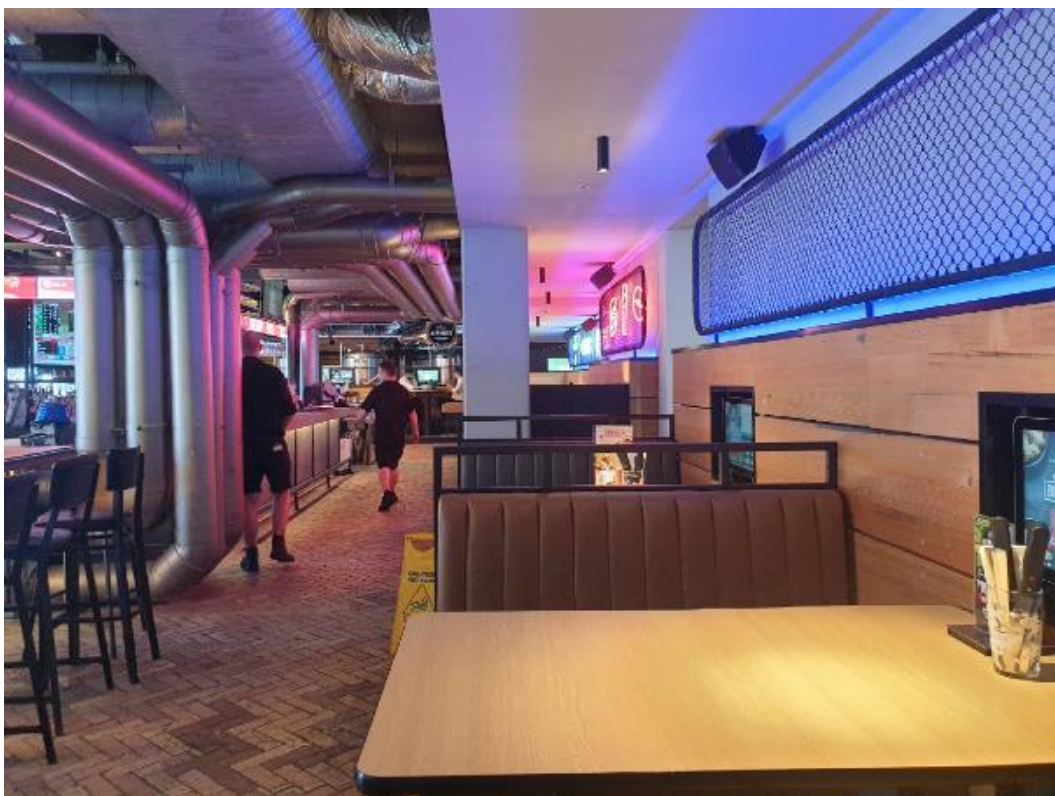


Figure 18: Interior of tenancy



Figure 19: Thirty objections received from these residential buildings to the east (rear) of the site on the other side of Lime Street (location of one further objection unknown)

History Relevant to the Development Application

Development Applications

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

- DA203-06-2002 approved internal alterations to the existing restaurant "Xerts" to provide a multi-purpose theatre/function space at the rear in connection with the existing restaurant facing The Promenade, and to allow a small ice-cream shop front.

Condition 2 Permissible Hours of Operation of DA203-06-2002 specifies:

2. Permissible Hours of Operation

The hours of operation of the multi function venue located on the northern side of the subject premises are restricted to:

- a. 8.00am – 1:00 am 7 days a week; and
- b. Notwithstanding a) above, the premises may operate between

Sunday to Wednesday – 8.00am – 2.00am;
Thursday to Saturday – 24 Hours operation;

for a trial period of 24 months from the date of commencement of operation; and

- c. Notwithstanding a) and b) the premises may operate as a 24 hour operation venue for a maximum of 8 days in a calendar year, for a trial period of 24 months from the date of this consent;
- d. At the end of the trial period specified in b) and c) the hours of operation revert back to those specified in a);
- d. A further application may be lodged to continue the trading outlined in b) and c) above before the end of the trial period for the Department's consideration. Such consideration will be based on, the following criteria:

- *the performance of the operator in relation to compliance with development consent conditions, and any complaints received and any views expressed by the Police;*
- *Reasonable levels of monitoring of selected events throughout the trial period;*
- *Acoustic reporting of noise generated by typical events throughout the two year period including crowd noise at nearest sensitive receptors (residential dwellings) after the cessation of various events at various times*
- *Demonstration of compliance with the Operational Management Plan;*

NOTE: Details of the above monitoring and acoustic report are to represent a reasonable cross section of events throughout the two year period and is required to be submitted with any application for a review or an extension of trading hours. No further application for an extension of hours will be considered unless this information is provided.

The café servery area and restaurant area located on the southern side of the tenancy is permitted to retain 24 hour operation, seven days a week for use as a themed restaurant as per its original operation.

- MOD 115-12-2002 (modification of DA203-06-2002) for minor internal alterations was approved on 21 March 2003. The approved floor plan is below and shows the restaurant component of the approval in the location that is now occupied by The Sporting Globe. Strike ten pin bowling now occupies the rear premises.

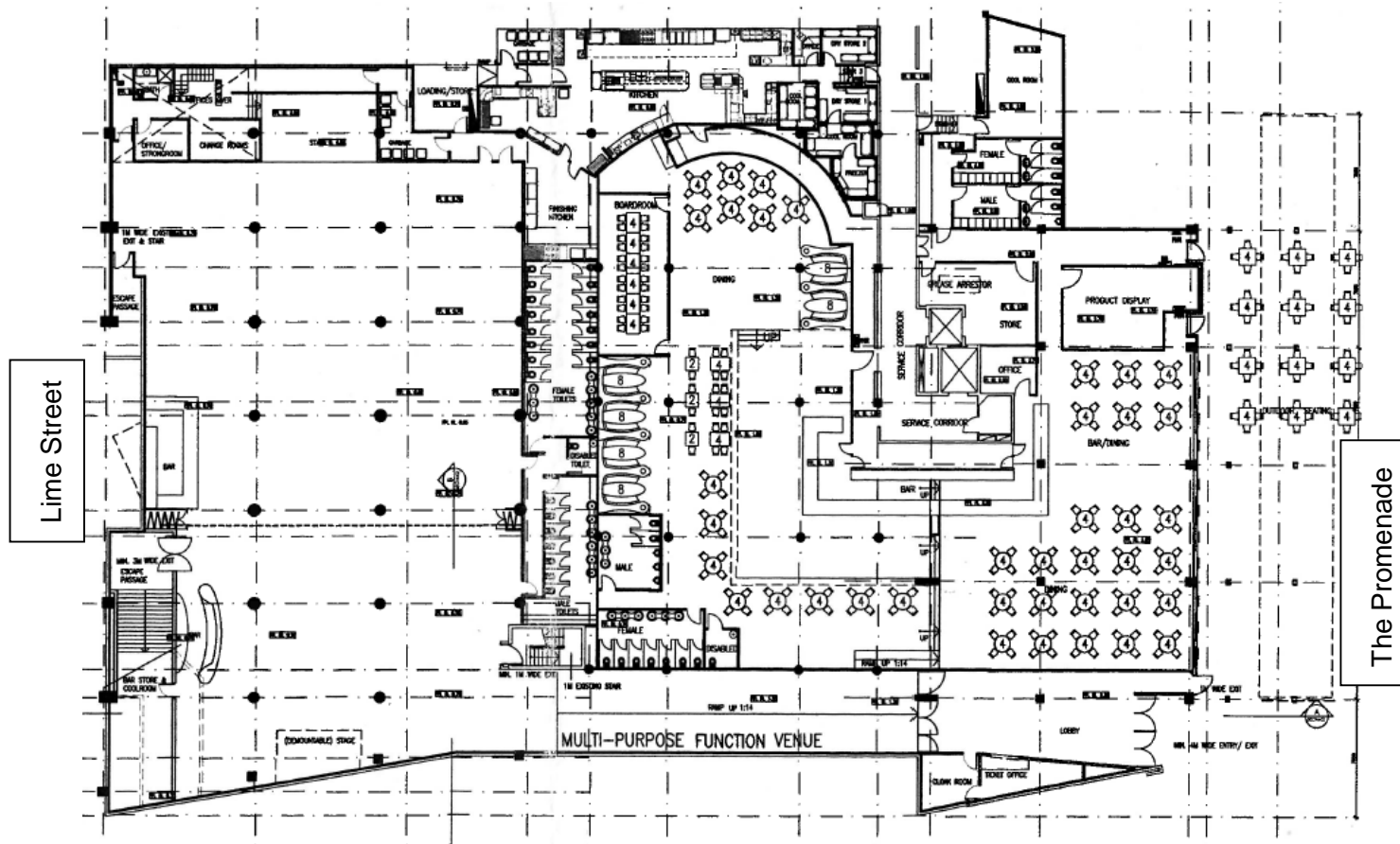


Figure 20: Approved floor plan for MOD 115-12-2002 N

- D/2013/841** – Development consent was granted on 5 August 2013 for King Street Brewhouse and Restaurant - Ancillary use of the premises as a micro-brewery. Internal brewery operations will take place between 7.00am and 12 midnight.
- D/2010/964/B** – Modification consent was granted on 10 December 2020 for continued use of the outdoor promenade seating consisting of 42 tables and 168 chairs until 2.00am Monday to Sunday inclusive for a 5 year trial period (condition 3). The consent also allowed use of the public domain until 10 December 2025 (condition 2), and the restriction of access after 6.00pm to the "Easement for the Public Access" on Thursdays to Saturdays, inclusive and on days of major events for a trial period expiring 23 November 2025 (condition 4). Condition 7 specifies that the primary use of the premises and associated outdoor seating area is for restaurant purposes. Condition 10 allows the outdoor table and seating layout to vary so long as it does not exceed a 168 person maximum.
- D/2010/964/A** – Modification consent was granted on 14 October 2015 for continued use of the outdoor promenade seating consisting of 42 tables and 168 chairs until 2.00am Monday to Sunday inclusive for a 5 year trial period (condition 3). The consent also allowed use of the public domain until 14 October 2020 (condition 2), and the restriction of access after 6.00pm to the "Easement for the Public Access" on Thursdays to Saturdays, inclusive and on days of

major events for a trial period expiring 14 October 2015 (condition 4). Condition 7 specifies that the primary use of the premises and associated outdoor seating area is for restaurant purposes. Condition 10 allows the outdoor table and seating layout to vary so long as it does not exceed a 168 person maximum.

- **D/2010/964** – Development consent was granted on 22 July 2010 to continue the use of the outdoor area for the James Squire Brewhouse consisting of 42 tables and 168 chairs between 8.00am and 12.00 midnight with trial outdoor hours until 2.00am the following day, seven days a week for a 5 year trial period from the date of consent. The consent also allowed use of the public domain until 22 July 2015 (condition 2), and the restriction of access after 6.00pm to the "Easement for the Public Access" on Thursdays to Saturdays, inclusive and on days of major events for a trial period expiring 22 July 2015 (condition 4). Condition 7 specifies that the primary use of the premises and associated outdoor seating area is for restaurant purposes. Condition 10 allows the outdoor table and seating layout to vary so long as it does not exceed a 168 person maximum.
- **P/2017/914/A (Final Occupation Certificate FC15142-2)** issued 13 December 2017 for 'Internal Alterations to the existing King Street BrewHouse'.
- **P/2020/1744 (Occupation Certificate no: GDL200298)** issued 24 November 2020 for 'Part - Proposed internal alterations to existing restaurant/brewhouse including bar/servery, dining seating, accessible WC and joinery'. Below is the associated approved proposed floor plan for Complying Development Certificate GDL200298.

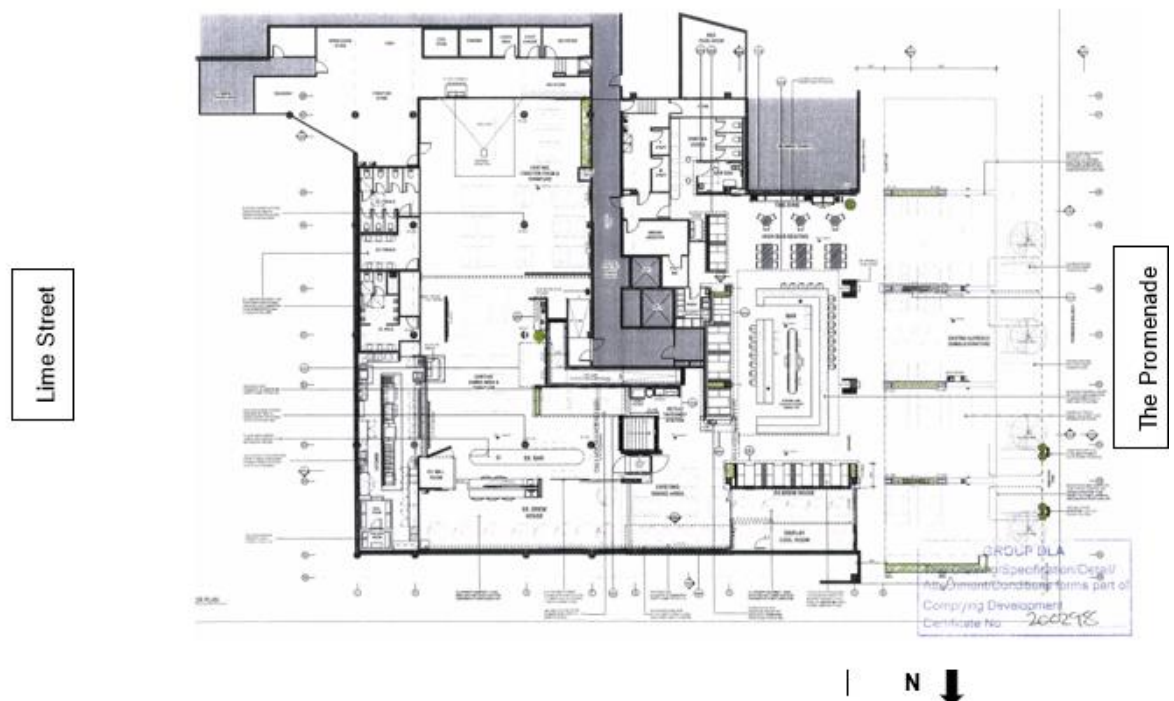


Figure 21: Approved floor plan of the tenancy under P/2020/1744

- D/2021/909 is currently under assessment for alterations to the King Street Wharf Promenade and public domain works. The application includes new awnings facing the Promenade including for the building containing The Sporting Globe. The applicant for D/2021/1171 for the Sporting Globe advises that D/2021/909 does not contain any work to the retail tenancies. Within the outdoor area, the existing steel structure will remain and the existing glass awning is proposed to be replaced with an extended glass awning. The applicant advises that the proposed extended awning that is part of D/2021/909 will have no impact on the acoustic recommendations for The Sporting Globe under D/2021/1171.

Compliance Action

19. The current operator (The Sporting Globe) acquired the restaurant in February 2020 and an associated company acquired the micro-brewery.
20. Under the current operator, the site has been subject to compliance action where the outcome was a warning not to provide amplified music in the outdoor seating area. This matter is now closed.

Amendments

21. Following a preliminary assessment of the proposed development by Council Officers, a request for additional information was sent to the applicant on 24 November 2021. The following information was requested:

Acoustic Assessment (Entertainment Noise)

- An acoustic impact assessment of cumulative noise from the proposal, including noise from background/amplified music, TV and patron speech, be undertaken by a suitably qualified acoustic consultant.

The acoustic report should include recommendations for at least the following potential issues:

- (a) details of any measures that will be taken to minimise noise from outdoor areas such as rooftops, courtyards, balconies or designated smoking areas;
- (b) details of all noise and vibration attenuation measures related to the use and operation of the premises, specifically accumulated television and amplified/live music internally; and
- (c) any other measures that will be undertaken to ensure that amenity impacts that may arise from the operation of the premises are addressed.

Clarification of Patron Numbers

- Further clarification of the total number of allowable patrons at the venue as well as the maximum inside and out (Note: The Plan of Management (POM) was inconsistent with the Statement of Environmental Effects (SEE). The POM specifies 900 patrons (internally) and 168 (externally) totalling 1068 patrons, when compared to the SEE that specifies 732 (internally) and 168 (externally) totalling 900 patrons).

Waste

- A waste management plan that outlines the procedures for minimising and managing waste that is generated by the premises.

Plans

- An updated set of floor plans that reflect the current layout, including positioning of the DJ, booth rooms and brewery.
22. The applicant responded to the request on 10 December 2021 requesting an extension until 21 January 2022 to provide the requested information due to the delay in obtaining an acoustic consultant and the forthcoming holiday break. On 20 January 2022, the applicant sought an additional week's extension to submit the requested information. The additional information was received on 25 February 2022.
 23. On 7 January 2022, the applicant was advised that Part Lot 115 in DP 1147008 (21 Lime Street - containing the outdoor seating area) is burdened and benefited by many easements and encumbrances. The applicant was asked to provide certification from a registered surveyor or lawyer that the outdoor seating doesn't contravene the terms of any easement, restriction or covenant burdening Lot 115. This certification was provided on 10 February 2022.
 24. On 10 March 2022, the applicant was asked to clarify the relationship between the subject application and D/2021/909 for alterations to the King Street Wharf Promenade and public domain works, that is currently under assessment. A response was received on 23 March 2022 indicating that D/2021/909 does not contain any work to the retail tenancies. Within the outdoor area, the existing steel structure will remain and the existing glass awning is proposed to be replaced with an extended glass awning. The applicant advises that the proposed extended awning that is part of D/2021/909 will have no impact on the acoustic recommendations for The Sporting Globe under D/2021/1171.

Proposed Development

25. The application seeks consent for the following:
 - Change of use from a restaurant with ancillary microbrewery, and outdoor seating, to a pub with ancillary microbrewery, and outdoor seating.
 - Proposed trading hours are: 24 hours per day, Monday - Sunday inclusive for the internal pub; 7.00am - 12.00 midnight, Monday - Sunday inclusive for the microbrewery; and base outdoor trading hours between 8.00am - 12.00 midnight Monday - Sunday inclusive with extended outdoor trading hours on a trial basis until 2.00am the following day, Monday - Sunday inclusive.
 - A patron capacity of 900 patrons for the venue consisting of 732 internal and 168 in the outdoor seating area.
26. The application seeks to consolidate the relevant three existing approvals under a single development consent for use as a pub with ancillary microbrewery, and outdoor seating. The proposal is to continue the existing internal trading hours (currently under

DA 203-06-02), the outdoor seating area trading hours (currently under D/2010/964/B) and use of the micro-brewery (currently under D/2013/841).

27. The change of use from a restaurant to a pub is to facilitate a more bar like operation and to permit sports betting. No electronic gaming machines are to be provided and packaged liquor will not be sold for consumption off the premises.
28. Live entertainment will be provided by performers located in the south-eastern corner of the function room and background music is channelled throughout the internal areas of the premises. No live entertainment will be provided in the outdoor area.
29. The principal attraction of the business is that it allows patrons to watch live sports from around the world, either on screens located within their booth seating area, or on larger screens serving the common areas within the premises.
30. The premises is to operate under a new/updated Plan of Management.
31. The application seeks a patron capacity of 900 patrons for the venue consisting of 732 internal and 168 in the outdoor seating area. The previous consents do not specify an internal capacity for the existing restaurant. Under the current National Construction Code, the facilities of the restaurant can accommodate 900 persons. D/2010/964/B is the approval for outdoor seating consisting of 42 tables and 168 chairs.
32. There is no work proposed.
33. A part survey drawing and the current floor plan of the proposed development are provided below.

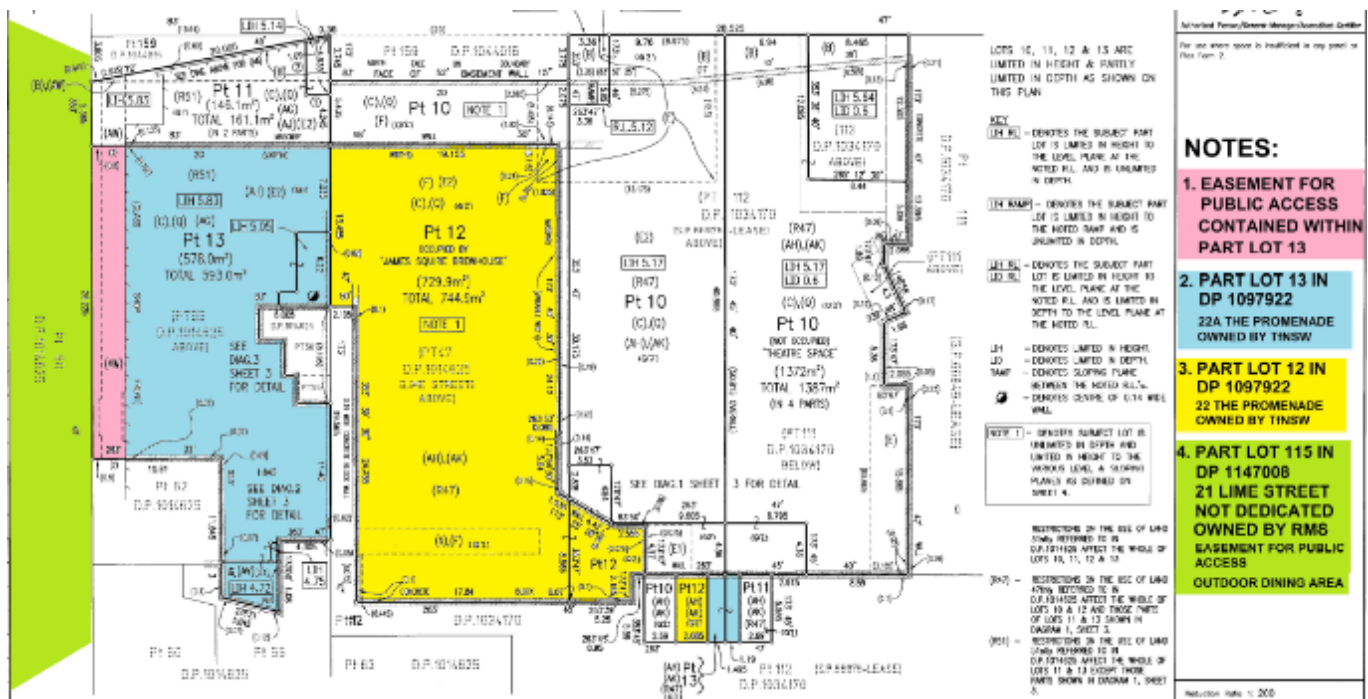


Figure 22: Internal area of premises highlighted in blue and yellow; easement for public access highlighted in pink; and outdoor area to west of building highlighted in green (Strike Bowling currently occupies the corridor to north and the internal space to the east identified as Lots 10 and 11)

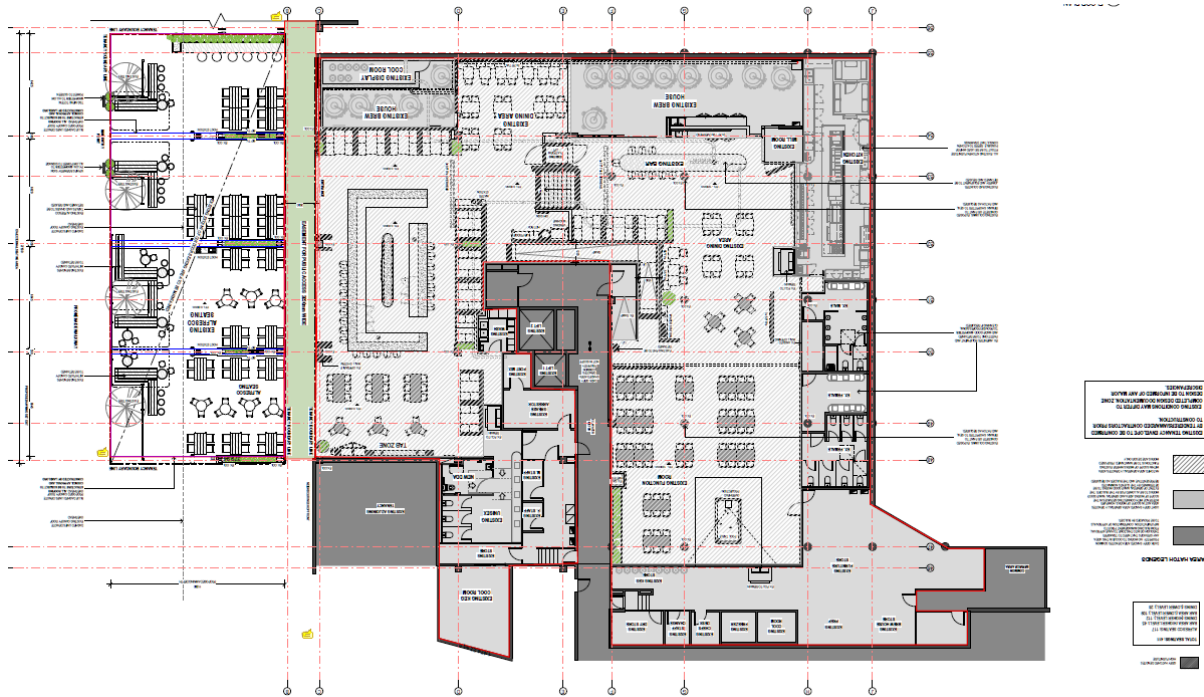


Figure 23: Current floor plan of The Sporting Globe (rotated 180 degrees, so that north is pointing up). The reference to a proposed canopy roof over the outdoor seating area on the plan refers to separate development application D/2021/909 that is concurrently under assessment.

Assessment

34. 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

35. Commencing on 1 March, the 45 existing State Environmental Planning Policies (SEPPs) were consolidated into 11 policies. While the existing SEPPs have been consolidated, no policy changes have been made. The SEPP consolidation does not change the legal effect of the SEPPs being repealed and section 30A of the Interpretation Act 1987 applied to the transferred provisions. The consolidation of the SEPPs has not changed the provisions that apply to the proposed development.

State Environmental Planning Policy (Biodiversity and Conservation) 2021 - Chapter 10 Sydney Harbour Catchment

36. The site is located within the designated hydrological catchment of Sydney Harbour and is subject to the provisions of the above SEPP. The SEPP requires the Sydney Harbour Catchment Planning Principles to be considered in the carrying out of development within the catchment.
37. The site is within the Sydney Harbour Catchment and eventually drains into the Harbour. The site is also located within the Foreshores Waterways Area. It is

considered that the proposal is of a minor impact that will not intensify the use of the building. Therefore, the application is not required to be referred for comments to the Foreshores Committee.

Compliance Table – matters for consideration		
Development Control	Compliance	Comment
10.19 Biodiversity, ecology and environment protection	Yes	There is no work proposed. The development will not impact on its surroundings.
10.20 Public access to and use of foreshores and waterways	Yes	There is no work proposed. The development will not impact on public access to the foreshore and waterway.
10.21 Maintenance of a working harbour	Yes	There is no work proposed. The development will not impact on existing maritime activities.
10.22 Interrelationship of waterway and foreshore uses	Yes	The proposal will not change the existing relationships between the waterway and foreshore uses.
10.23 Foreshore and waterways scenic quality	Yes	There will be no impact on the scenic quality of the foreshore and waterway as no work is proposed.
10.24 Maintenance, protection and enhancement of views	Yes	The proposal will have no impact on existing views as no work is proposed.

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 – Chapter 3 Darling Harbour

38. The site is subject to the provisions of Chapter 3 of the above SEPP.
39. The development provides tourist, recreational and entertainment facilities within the area which is consistent with object 3.2(1)(b) of the SEPP.

Liquor Act 2007

40. Following approval of the development application, the applicant intends to apply to Liquor & Gaming NSW to obtain a new hotel licence to permit sports betting and operate as a bar, and will surrender the current on-premises licence with primary service authorisation when the hotel licence is granted. The change will reduce the need to have full meals available for consumption at all times the premises is trading. While meals will continue to be available at all recognised meal times, at other times, the range of food available may be limited to that which is required by Section 17(4) of

the Liquor Act, 'of a nature consistent with the responsible sale, supply and service of alcohol'.

Local Environmental Plans

Sydney Local Environmental Plan 2012

41. 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 internal component of the site is zoned B8 - Metropolitan Centre under Sydney Local Environmental Plan 2012. The proposed use is defined as a food and drinks premises, being a pub with ancillary micro-brewery. The use is permissible with consent in this zone. The outdoor seating is located in the RE1 Public Recreation. Outdoor seating is permissible with consent in this zone. The proposal generally meets the objectives of the zones.

Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	A maximum building height of 15m is permitted. No change is proposed to the existing building height as no works are proposed.
4.4 Floor space ratio	Yes	A maximum floor space ratio of 4:1 is permitted. No change is proposed to the existing floor space as no works are proposed.

Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.20 Standards that cannot be used to refuse consent - playing and performing music	Yes	Live entertainment will be provided by performers located in the south-eastern corner of the function room which is located at the rear of the premises below ground level with no external openings. Background music is channelled

Provision	Compliance	Comment
		<p>throughout the internal areas of the premises. No live entertainment will be provided in the outdoor area.</p> <p>The applicant has submitted an acoustic report which finds that the proposal complies with specific noise criteria subject to the implementation of acoustic treatment and noise mitigation measures including:</p> <ul style="list-style-type: none"> • All live band performances must occur in the function area. • Duets (acoustic guitar and singer) and DJs can perform in the bar area and must be connected to the in-house noise limiter. • A noise limiter is to be installed to ensure live bands and DJs do not exceed 95 dB(A) at 1 metre from the speakers. All amplified equipment must be connected to the limiter. • Background music systems must be connected to the noise limiter and must not exceed 80 dB(A) at 1m from the speakers. <p>Council's Health Officer finds the proposal acceptable subject to compliance with the relevant performance parameters contained in the acoustic report as well as noise related conditions of consent.</p>

Development Control Plans

Sydney Development Control Plan 2012

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

Section 3 – General Provisions

Provision	Compliance	Comment
3.5 Urban Ecology	Yes	The proposed change of use does not involve the removal of any trees and will

Provision	Compliance	Comment
		not have an adverse impact on the local urban ecology.
3.11 Transport and Parking	Yes	No parking is proposed in the application. The site is serviced by a range of public transport with bus, ferry, train, and light rail services within walking distance of the site.
3.12 Accessible Design	Yes	The premises provides equitable access as there is level access from The Promenade, with a platform lift and a ramp provided adjacent the internal stairs to enable equitable access to the lower level rear portion of the premises. An accessible toilet is provided within the premises.
3.13 Social and Environmental Responsibilities	Yes	The proposed development provides adequate passive surveillance. A Plan of Management has been submitted which adequately addresses security and management processes to minimise criminal activity. The continued use of the outdoor seating in association with a pub will continue opportunities for passive surveillance of The Promenade area.
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.
3.15 Late Night Trading Management	Yes, subject to conditions	<p>The premises is located in a Late Night Management Area and the use is defined as a Category A - High Impact premises.</p> <p>The proposed trading hours are 24 hours per day, Monday - Sunday inclusive for the internal pub; 7.00am - 12.00 midnight, Monday - Sunday inclusive for the micro-brewery; and base outdoor trading hours between 8.00am - 12.00 midnight Monday - Sunday inclusive with extended outdoor trading hours on a trial basis until 2.00am the following day, Monday - Sunday inclusive.</p>

Provision	Compliance	Comment
		The proposed patron capacity is 900 patrons for the venue consisting of 732 internal and 168 in the outdoor seating area. See discussion section of this report.
3.16 Signage and Advertising	N/A	No signage is proposed.

Section 4 – Development Types

4.2 Residential Flat, Commercial and Mixed Use Developments

Provision	Compliance	Comment
4.2.3.11 Acoustic Privacy	Yes	An acoustic report has been submitted. Council's Health Officer finds the proposal acceptable subject to compliance with the relevant performance parameters contained in the acoustic report as well as noise related conditions of consent. See discussion section of this report.
4.2.6 Waste and recycling Management	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.

Discussion

Use and Noise Impacts

43. The proposed use as a pub with ancillary micro-brewery is an appropriate use within the King Street Wharf precinct subject to appropriate management to minimise impact on surrounding uses. An amended Plan of Management has been submitted which includes management measures addressing general amenity, noise controls, and a complaints and incident register.
44. Council Officers requested that the applicant submit an acoustic impact assessment of cumulative noise from the proposal, including noise from background/amplified music, television use and patron speech.
45. An acoustic report has been submitted which considers both noise from patrons and also from internal sources including background and live music within the premises. The report finds that the noise emissions from the proposal have the potential to

comply with required noise criteria subject to implementation of the following recommendations:

Indoor Area

- All live band performances must occur in the function area.
- Duets (acoustic guitar and singer) and DJs can perform in the bar area and must be connected to the in-house noise limiter.
- A noise limiter is to be installed to ensure live bands and DJs do not exceed 95 dB(A) at 1 metre from the speakers. All amplified equipment must be connected to the limiter.
- Background music systems must be connected to the noise limiter and must not exceed 80 dB(A) at 1 metre from the speakers.
- The north-west and south-west bank of bi-folding doors at the front of the premises must be closed after midnight to minimise excessive noise from the indoor area.

Outdoor Area

- The outdoor area must operate as per approved DA consent D/2012/964/B. (should reference D/2010/964/B)
- All care must be taken to minimise the noise from moving tables and chairs between midnight and 7.00am.
- No background music is to be played in this area between midnight and 7.00am.

46. Council's Health Officer finds the submitted information satisfactory.

47. The application seeks a patron capacity of 900 patrons for the venue consisting of 732 internal and 168 in the outdoor seating area. The previous consents do not specify an internal capacity for the existing restaurant. Under the current National Construction Code, the facilities of the premises can accommodate 900 persons. D/2010/964/B is the approval for outdoor seating consisting of 42 tables and 168 chairs. On this basis, it is considered that the proposal does not involve an increase in patron capacity. Food service will continue to be available, and no change is proposed to the layout of the premises. The change of use from a restaurant to a pub is to facilitate a more bar like operation and to permit sports betting.

48. Given the above, it is considered that the premises will be able to operate without causing unacceptable impacts on the amenity of its surroundings. A condition is recommended requiring the premises to operate in accordance with the recommendations of the acoustic report as well as the City's standard 'Noise - Entertainment' condition.

Hours of Operation and Liquor Licence Type

49. The proposed use as a pub is classified as a Category A - High Impact Premises under section 3.15 of Sydney Development Control (DCP) 2012. The site is located within a Late Night Management Area under the DCP.

50. Section 3.15.4(6) of the DCP specifies that extended trading hours beyond base hours may be permitted in 2 hour increments at the initial application stage if Council can determine that the premises will be well managed, including compliance with an approved Plan of Management. The applicant has submitted an amended Plan of Management with this application. The amended Plan of Management has been reviewed by the City's Licensed Premises Unit which advises that the submitted Plan of Management is satisfactory.
51. Section 3.15.4(8) of the DCP specifies that premises seeking extended trading hours may be permitted up to two additional operating hours per trial period.

Internal Pub Hours of Operation

52. In proposing a change of use from a restaurant which is a Category B - Low Impact Premises to a pub which is a Category A - High Impact Premises as defined in section 3.15 of the DCP (and the subsequent intention of the applicant to apply for a hotel liquor licence instead of the current on-premises liquor licence with a Primary Service Authorisation), it is recognised that a higher impact use is proposed. However, the application indicates that it does not seek to alter the currently approved hours of operation of any part of the business or to alter, appreciably the past and current mode of operation of the business, but seeks to clarify the patron capacity, and that the main changes will be the introduction of a TAB agency and Keno. Table 3.7 in section 3.15 of the DCP specifies more limited base trading internal hours for a Category A - High Impact premises than it does for a Category B - Low Impact premises. It is noted that the restaurant component of development consent DA 203-06-2002 (which is the space occupied by the subject use) was approved with permanent 24 hour operation/7 days per week. In accordance with table 3.7, appropriate internal base pub hours of operation are considered to be 6.00am-12.00 midnight Monday-Sunday inclusive. The extended internal pub hours between 12.00 midnight and 6.00am are recommended for a 1 year trial period, rather than on a permanent basis as is currently the case, reflecting the change to a Category A premises, the existing approved hours of operation and the satisfactory Plan of Management and Acoustic report that have been submitted.

Micro-brewery Hours of Operation

53. The approved and proposed hours of operation of the micro-brewery are between 7.00am-12.00 midnight Monday-Sunday inclusive. Given that there is no change proposed to the operation of the micro-brewery and that the proposed hours are within the base permitted indoor hours of operation for both a Category A - High Impact and Category B - Low Impact premises located in a Late Night Management Area, the proposed hours are considered acceptable.

Outdoor Trading Hours of Operation

54. Outdoor trading hours between 8.00am - 2.00am (base hours between 8.00am - 12.00 midnight) Monday to Sunday the following day inclusive are sought until 2025 similar to that currently approved under D/2010/964/B.
55. Table 3.7 in section 3.15 of the DCP specifies more limited base and extended trading external hours for a Category A - High Impact premises than it does for a Category B - Low Impact premises. It is noted that the difference in permitted base and extended hours for outdoor seating between a Category A and Category B premises vary in the morning hours. The recommended base outdoor trading hours for a Category A

premises located in a Late Night Management Area are between 10.00am - 10.00pm with extended trading permissible between 9.00am - 1.00am the following day.

56. It is considered that base outdoor trading hours between 10.00am - 10.00pm Monday - Sunday inclusive (rather than until 12.00 midnight as is currently permitted), with a 1 year trial of the outdoor hours between 8.00am-10.00am; and 10.00pm-2.00am the following day Monday-Sunday inclusive are appropriate. Commencing trial outdoor trading from 8.00am rather than the 9.00am specified by the DCP is considered acceptable given this time of day is most likely for the provision of breakfast. Allowing late extended outdoor trading from 10.00pm until 2.00am the following day is considered reasonable for a 1 year trial given the external trading hours of nearby comparable premises.
57. Condition (4) Easement for the Public Access of D/2010/964/B for the outdoor seating area allows the operator to restrict access to the easement at certain times. The condition states:

(4) EASEMENT FOR THE PUBLIC ACCESS

- (a) The existing 2m wide "Easement for the Public Access" which traverses the full length of the tenancy shall continue to provide daily and unrestricted public access on a 24 hours 7 day per week basis.
- (b) Notwithstanding (a) above, the operator may restrict access (only after 6.00 p.m.) to the "Easement for the Public Access" on Thursdays to Saturdays, inclusive and on days of major events for a trial period expiring on ~~22 July 2015~~ ~~14 October 2015~~ **10 December 2025**. The operator shall inform Council in writing of the date upon which these extended hours commenced and of any interruption to the continual operation of these hours.

(Amended 14 October 2015 – D/2010/964/A)

(Amended on 10 December 2020 under Section 4.55(2) application – D/2010/964/B)

58. It is not clear where the condition, in particular part (b) originated. Paragraph 10 of the submitted amended Plan of Management for the current application refers to the applicant's exclusive use of this easement at certain times in accordance with condition (4)(b) of D/2010/964/B. Council's Surveyor advises that condition (4)(b) of D/2010/964/B can be considered to be authorised by virtue of clause 46.6 of the Section 88B instrument which states:

"The Grantee and Authorised Users may not exercise their rights under this easement during any period in which the Grantee agrees with the Grantor to restrict access over the site of this easement".

59. Therefore, an "Easement for Public Access" condition with similar wording to condition 4 of D/2010/964/B is included in the recommended conditions of consent.
60. The following table summarises the existing, proposed, DCP, and recommended hours of operation for each component of the premises.

Component	Existing approved hours of operation	Proposed hours of operation	SDCP 2012 hours of operation - Category A - Late Night Management Area	Recommended hours
Restaurant or Pub (internal)	<p>DA 203-06-02</p> <p>(Multi-use theatre/cinema function space- Category B)</p> <p>Restaurant component permanent 24 hour trading/7 days</p>	<p>(Pub-Category A)</p> <p>24 hour trading/7 days</p>	<p>(Pub-Category A, Late Night Management Area)</p> <p>Indoor: base; 6.00am-12.00 midnight; extended; 24 hours (in 2 hour increments)</p>	<p>Base; 6.00am-12.00 midnight Monday-Sunday</p> <p>Extended; until 6.00am following day Monday-Sunday for 1 year trial</p>
4 Pines Microbrewery (internal)	<p>D/2013/841</p> <p>7.00am-12.00 midnight Monday-Sunday</p>	<p>7.00am-12.00 midnight Monday-Sunday</p>	<p>Indoor base hours for Category A are 6.00am-midnight; and for Category B are 6.00am-2.00am.</p>	<p>7.00am-12.00 midnight Monday-Sunday</p>
Outdoor Area	<p>(Restaurant - Category B)</p> <p>D/2010/964/B</p> <p>Base; 8.00am-12.00 midnight Monday-Sunday</p> <p>Extended; until 2.00am Monday - Sunday for 5 year trial until 10 December 2025</p> <p>(also allows use of the 2m wide easement for public access after 6.00 pm Thursday-Saturday and for major events until 10 December 2025)</p>	<p>(Pub-Category A)</p> <p>Base:8.00am-12.00 midnight, daily</p> <p>Extended: until 2.00am daily (until 2025)</p>	<p>(Pub-Category A)</p> <p>Base; 10.00am-10.00pm</p> <p>Extended; 9.00am-1.00am (in 2 hour increments)</p>	<p>Base; 10.00am-10.00pm Monday-Sunday</p> <p>Extended; 8.00am-10.00am; and 10.00pm-2.00am the following day Monday-Sunday for 1 year trial</p> <p>(also allow use of the 2m wide easement for public access after 6.00 pm Thursday-Saturday and for major events for 1 year trial)</p>

Surrender of consents/Deferred Commencement Consent

61. The application seeks to consolidate the relevant three existing approvals under a single development consent for use as a pub with ancillary microbrewery, and outdoor seating. The proposal is to continue the existing internal trading hours (currently under DA 203-06-02), the outdoor seating area trading hours (currently under D/2010/964/B) and use of the microbrewery (currently under D/2013/841).
62. In order to facilitate the consolidation of the operational aspects of the premises into a single development consent, appropriate deferred commencement consent conditions have been recommended for the surrender of the existing relevant development consents referenced above.

Consultation**Internal Referrals**

63. The application was discussed with Council's:
 - Building Services Unit;
 - Environmental Health Unit;
 - Licensed Premises Unit;
 - Safe City Unit; and
 - Surveyor.
64. The above advised that the proposal is acceptable subject to conditions. Where appropriate, these conditions are included in the Notice of Determination.

External Referrals**NSW Police**

65. The application was referred to NSW Police for comment.
66. No response was received.

Advertising and Notification

67. In accordance with the City of Sydney Community Participation Plan 2020, the proposed development was notified and advertised for a period of 21 days between 18 October 2021 and 9 November 2021. A total of 1095 properties were notified and 31 objections were received.
68. Thirty of these objections are from the residential buildings to the east (rear) of the site on the other side of Lime Street known as 23 Shelley Street, and 29-35 Shelley Street. The location of one further objector is unknown. Additional information submitted during the assessment of the application did not require the application to be re-

notified and re-advertised as the additional information did not result in significant additional environmental impacts. The submissions raised the following issues:

Intensification of Use/Hours of Operation/Residential Amenity

- (a) **Issue:** The change of use from a restaurant to a pub will substantially intensify the use of the premises in a predominantly residential area that is incompatible with a pub, particularly a pub operating 24/7 for the entire year. The restaurant has ancillary alcohol service whilst the pub will focus almost exclusively on the service of alcohol to patrons and intensify its use.
- (b) **Issue:** The difference between a microbrewery and a "pub with microbrewery" is very significant. There are enough "bar like operations" in King Street Wharf and its close environs without the need to expand the use and opening hours of existing venues.
- (c) **Issue:** A greater number of patrons attracted to the premises if it operates as a pub will be intoxicated which will impact on residential amenity.
- (d) **Issue:** The Statement of Environmental Effects indicates that there is an existing approval for 24 hour trading of the premises under DA 203-06-02. However, DA 203-06-02 restricts the existing restaurant to operate between 8.00am and 1.00am, 7 days a week, with 24 hour trading allowed for a 2 year trial period between Thursday to Saturday and for a maximum of 8 days in any calendar year during this trial period. DA 203-06-02 makes clear that at the end of the 2 year trial period, the hours of operation of the restaurant revert to 8.00am - 1.00am, 7 days a week. This shows that the current proposal is for a substantial intensification of use involving the operation of a pub 24 hours per day, 7 days per week.
- (e) **Issue:** The permitted trading hours of the premises should be restricted to between midday and midnight.
- (f) **Issue:** The proposed 5 year trial of external trading until 2.00am when sound travels, with up to 168 patrons plus staff seems excessive when no acoustic assessment has been provided. The 2:00am close for external patrons and 24-hour trading should be trialled for just one year with a full consultative review with the business and community before granting an extension year by year.
- (g) **Issue:** Darling Harbour, King Street Wharf and Barangaroo are a family friendly area of the city with great entertainment and great dining areas. We don't need bars open all day and all night that will attract drunks and possibly violent behaviour.
- (h) **Issue:** Whilst King Street Wharf is a late night tourism and entertainment area, it is also home to more than 400 apartments (approximately 600-1000 residents), a residential hotel called "The Adina" on its eastern border and a similar or greater number of residents live on the western border where water will ensure that noise will travel. The area is already very noisy and the number of drunks untenable.
- (i) **Issue:** Putting in a sports/betting facility would further lower the tone of what we would like to see around our residential area and would impact on the quality of residents' life with further bad behaviour appearing on our streets.

Response: The proposed pub is classified as a Category A - High Impact Premises located in a Late Night Management Area under section 3.15 of Sydney Development Control Plan (DCP) 2012. The restaurant component of development consent DA 203-06-2002 was approved with permanent 24 hour operation/7 days per week.

As discussed in this report, it is considered that the proposal does not involve an increase in patron capacity.

As also discussed above, the recommended base hours of operation for the internal pub use are those specified in the DCP for a Category A - High Impact Premises located in a Late Night Management Area. These are base hours between 6.00am and 12.00 midnight Monday to Sunday. The extended internal pub hours between 12.00 midnight and 6.00am are recommended for a 1 year trial period, rather than on a permanent basis as requested and is currently the case. This more restrictive approach is recommended to address resident concerns and provide the applicant an opportunity to demonstrate the ability to further manage the premises appropriately. The recommended approach is appropriate to address the change to a Category A premises, the existing approved hours of operation and the satisfactory Plan of Management and Acoustic report that have been submitted.

The DCP's recommended base outdoor trading hours for a Category A premises located in a Late Night Management Area are between 10.00am - 10.00pm with extended trading permissible between 9.00am - 1.00am the following day. The recommended hours of operation for the outdoor area of the pub are base hours between 10.00am and 10.00pm Monday to Sunday, with a 1 year trial period of trading between 8.00am and 2.00am the following day Monday - Sunday. Trial outdoor trading from 8.00am is unlikely to cause disturbance as it is expected to be food service at this time. Trial outdoor trading for one year until 2.00am is similar to nearby premises.

A Plan of Management has been submitted which includes appropriate measures to address patron behaviour.

An acoustic report has been submitted which considers both noise from patrons and also from internal sources including background and live music within the premises. The report finds that the noise emissions from the proposal have the potential to comply with required noise criteria subject to implementation of the recommendations. A condition of consent requires compliance with the performance parameters contained within the acoustic report.

It is noted that the subject tenancy faces west, away from the location of the residential buildings to the east across Lime Street. Further, the building in which the subject tenancy is located and associated awning shields the residential buildings to the east from the tenancy use.

It is difficult to control the behaviour of people once they have left the Late Night Management Area in which the subject premises is located. The application was referred to the NSW Police for comment. A comment has not been received.

Noise

- (j) **Issue:** The 24 hour pub trading (in a predominantly residential area) will attract people that will get drunk and make noise at all hours in the early morning,

waking us up and impacting our mental health and ability to be productive members of society. The residential apartments a block away at Barangaroo appear to be better managed and quiet after midnight, such that those residents' rights to a decent night sleep are protected.

- (k) **Issue:** We already have to deal with vibrating music until late in the night, often with the inability to use our verandahs and having to close our windows to attenuate the noise and vibration.
- (l) **Issue:** The proposed pub is within throwing distance of another pub - The Cargo Bar and should not be allowed.
- (m) **Issue:** A sports bar is a noisier venue, particularly when significant games are on.
- (n) **Issue:** An acoustic and vibration assessment has not been provided to determine any required acoustic works required to the premises to control intrusive noise impacts for King Street Wharf residents in adherence with NSW Noise Policy for Industry 2017.
- (o) **Issue:** There is no mention in the proposal that doors and windows facing Lime Street would be double glazed and closed after say 11.00pm.

Response: An acoustic report has been submitted which considers both noise from patrons and also from internal sources including amplified background and live music within the premises. The report finds that the noise emissions from the proposal have the potential to comply with required noise criteria subject to implementation of the recommendations. A condition of consent requires compliance with the performance parameters contained within the acoustic report. These include that the north-west and south-west bank of bi-folding doors at the front of the premises must be closed after midnight to minimise noise from the indoor area. Other conditions of consent address the requirements for noise limiters for sound amplification equipment.

The subject tenancy does not have any doors or windows facing Lime Street. Patron entry and exit is to/from the west facing The Promenade and the water. The site is located in a Late Night Management Area designated for this type of use.

It is noted that the subject tenancy faces west, away from the location of the residential buildings to the east across Lime Street. Further, the building in which the subject tenancy is located and associated awning shields the residential buildings to the east from the tenancy use.

The number of development consents for pub use in a given area is not capped by any Planning or Liquor Licensing requirements.

Management

- (p) **Issue:** There is constant noise and anti-social behaviour such as urination and vomiting in our doorways from patrons of nearby facilities. The residents of these blocks get no response when they contact the City Rangers, Police, or the individual establishments. This is going to get worse with the addition of this 'pub' operating 24/7 with many more patrons.

- (q) **Issue:** Any large promoted televised sporting event will attract the 900 patron capacity. The applicant has failed to do any type of cumulative assessment in this regard, particularly concerning the commercial/ residential interface; and the high likelihood that patrons and residents cross paths in the early hours of the morning, placing residents at higher risk of alcohol related harm. Security guards should be required when specific thresholds are met; eg. 500 patrons on-site, whenever the venue is hosting a televised sporting event.
- (r) **Issue:** The premises is too small to cater for 900 patrons internally 24/7.

Response: The assessment report for DA 203-06-2022 for the restaurant considered a capacity of 900 persons and conditioned that consent accordingly. The site is located in a Late Night Management Area designated for this type of use. A condition of consent specifies that security guards are to be provided at the premises on Friday nights, Saturday nights, special event nights or a night preceding a public holiday from 9.00pm at a minimum ratio of 1 security staff member to 100 patrons or part thereof which is the industry standard and is considered sufficient. It also requires at least two security staff to be provided on any special event days or when the expected patron numbers will be more than 100 persons.

As discussed in this report, it is considered that the proposal does not involve an increase in patron capacity. Food service will continue to be available, and no change is proposed to the layout of the premises. The change of use from a restaurant to a pub is to permit sports betting. There is considered to be little change to the existing operation of the premises as a result of the current proposal.

The application was referred to the NSW Police for comment. A comment has not been received.

Rubbish/Other mess

- (s) **Issue:** A rubbish management policy is required to manage rubbish from patrons in the vicinity of the outdoor areas of the premises after 10.00pm each day.
- (t) **Issue:** Intoxicated patrons of the pub create a mess in the vicinity which is already cleaned up by the nearby residential strata staff at our cost every Sunday and Monday morning. Any development consent should be conditioned to require the operator of the premises to promptly clean up all outdoor areas in the vicinity of the premises that are affected by their patrons.
- (u) **Issue:** Council have taken away the garbage bins in Lime Street that used to contain some of the rubbish and not replaced them.

Response:

The submitted Plan of Management includes the requirement for the licensee to ensure that the immediate vicinity of the premises is kept clean and tidy. A condition of consent requires the use to be operated in accordance with this Plan of Management.

The site is located in a Late Night Management Area designated for this type of use.

The removal of street garbage bins is a separate matter outside the scope of this planning assessment.

Anti-social Behaviour

- (v) **Issue:** There will be an increase in anti-social behaviour and intoxicated patrons caused by the operation of the pub on a 24/7 basis. Drunks will be more likely to sleep near our building and be unruly and noisy.
- (w) **Issue:** If this bar is open 24 hours, the noise outside the 24 hour convenience shop under my window shop will be worse throughout the night.
- (x) **Issue:** The harbour cruise boats bring passengers to The Promenade, many of which have had a lot to drink. This is a bad mix as the cruise boats often come in close to midnight.
- (y) **Issue:** The ability for residents to enjoy their community is at risk given the proposed combination of 24/7 trading and the large number of external patrons.

Response: The recommended extended hours of operation of the premises have been limited to a 1 year trial to assess the impact of the use on its surroundings. The submitted Plan of Management includes a range of management measures addressing patron behaviour. The site is located in a Late Night Management Area, and it is difficult to control the behaviour of people on public streets.

The proposal retains the existing operating hours and is not considered to involve an increase in patron capacity. There is considered to be little change to the existing operation of the premises as a result of the current proposal. Therefore, the proposal is not expected to increase anti-social behaviour in the area.

Transport

- (z) **Issue:** The DA mentions “Premises staff will be instructed to provide patrons with public transport information” – the problem is, is that there are no public transport options after midnight from this precinct. The only way out is on foot (passing around our buildings), or taxi/rideshare or private buses hired by groups of patrons (that all use Lime Street as a pick-up location causing disturbance). Taxis tend to drive by with their lights off, speeding up when any obviously drunk/drug affected patrons approach. We frequently witness patrons actually throwing themselves on the bonnet of moving taxis. The taxis/rideshare vehicles will not pick up drunk/drug affected patrons and this just gives rise to greater noise issues. The lack of public transport options for patrons of the premises after midnight demonstrates why it is not appropriate, or in the public interest to permit a pub to operate from the premises 24 hours per day, 7 days per week. Due to the traffic and noise problem, the precinct is already overcrowded with patrons.

Response: The submitted Plan of Management specifies that if requested, staff are to provide patrons with public transport information. A condition of consent

also requires staff to advise patrons about arrangements for booking a taxi to depart the premises.

It is outside the scope of this planning assessment to address general transport availability around Sydney Harbour. The recommended hours of operation for the premises are guided by those contained in Sydney DCP 2012 for a Category A premises located in a Late Night Management Area.

Other

- (aa) **Issue:** The DA does not appear to be in compliance with the Environmental Planning and Assessment Act 1979 No 203.

Response: Council's assessment of the application and supporting documentation notes the proposal is consistent with the relevant objects contained at clause 1.3 of the EPA Act.

- (bb) **Issue:** In the long term, a 24 hour bar will impact the value of our properties and the ability to find / retain tenants.

Response: This is not a matter for consideration as part of this planning assessment.

- (cc) **Issue:** I cannot imagine that the Police would be very enamoured of this application as pre-Covid-19 (and in the future) they were involved in late night/early hours call-outs for anti-social behaviour involving screaming, loud noise and blaring sirens.

Response: NSW Police were invited to comment on the proposal and have not provided a response.

Financial Contributions

Levy under Section 61 of the City of Sydney Act 1988

69. 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.

Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012

70. As the development is development for purposes other than residential accommodation that will result in the creation of less than 60 square metres of gross floor area, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

Relevant Legislation

71. Environmental Planning and Assessment Act 1979.
72. State Environmental Planning Policy (Biodiversity and Conservation) 2021.
73. State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021.

- 74. Liquor Act 2007.
- 75. Sydney Local Environmental Plan 2012.

Conclusion

- 76. The application proposes a change of use from a restaurant with ancillary microbrewery, and outdoor seating, to a pub with ancillary microbrewery, and outdoor seating.
- 77. 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 from the DCP controls have been assessed as acceptable.
- 78. The premises is of a scale suitable to the B8-Metropolitan Centre and RE1-Public Recreation zones and Late Night Management Area, and subject to conditions will not cause adverse impacts on the amenity of the surrounding area.
- 79. The applicant has adequately addressed operational and security measures in the submitted Plan of Management. The applicant has adequately addressed noise impacts in the submitted Noise Impact Assessment. The development is therefore in the public interest and is recommended for deferred commencement approval subject to conditions.
- 80. In order to facilitate the consolidation of the operational aspects of the premises into a single development consent, appropriate deferred commencement consent conditions have been recommended for the surrender of the existing relevant development consents pursuant to section 4.16(3) of the Environmental Planning and Assessment Act.

ANDREW THOMAS

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