

**Item 4.****Development Application: 114-120 Castlereagh Street, Sydney - D/2022/555****File No.:** D/2022/555**Summary**

<b>Date of Submission:</b>	9 June 2022
<b>Applicant:</b>	City Tattersalls Club
<b>Owner:</b>	Tap IV Castlereagh Trust Pty Ltd
<b>Planning Consultant:</b>	Urban Vision
<b>Cost of Works:</b>	Nil
<b>Zoning:</b>	B8 Metropolitan Centre - The proposed use as a registered club is permitted with consent.
<b>Proposal Summary:</b>	<p>Consent is sought for change of use of a tenancy within the existing building to a Registered Club. No building works are proposed. The premises will be operated by City Tattersalls Club.</p> <p>The existing tenancy is located at ground, first floor, and basement levels, and has previously been operating as the St James Hotel.</p> <p>Proposed operating hours are between 9.00am and 6.00am the following day, Monday to Sunday inclusive.</p> <p>Proposed premises capacity is 100 on the basement level, 150 on the ground floor and 200 on the first floor for a total of 450 persons across the three levels that make up the subject site.</p> <p>The proposal was notified for three weeks between 22 June and 13 July 2022. Three submissions were received, all of which were objections received from residents at 141-143 Elizabeth Street who have balconies located near the rear of the subject site.</p>

The proposed change of use and operational details are generally consistent with the relevant provisions in the Sydney LEP 2012 and Sydney DCP 2012, and the Plan of Management is acceptable. The proposal is in accordance with the B8 Metropolitan Centre zone objectives and does not impact upon any heritage item. The proposal is also in accordance with the Late Night Trading provisions, with the hours between 9.00am and 12 midnight permitted on a permanent basis, and the hours between 12 midnight and 6.00am permitted on a trial basis. Various conditions relating to the operation of the premises are recommended to safeguard the amenity of the area.

The Minister's Local Planning Panel Direction identifies development for the purposes of new licensed premises that will require a club licence under the Registered Clubs Act 1976 as a 'sensitive development', and therefore the application is required to be reported to the Local Planning Panel for determination.

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

**Development Controls:**

- (i) Environmental Planning and Assessment Act 1979
- (ii) Sydney Local Environmental Plan 2012
- (iii) Sydney Development Control Plan 2012
- (iv) SEPP (Biodiversity and Conservation) 2021

**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/2022/555 subject to the conditions set out in Attachment A to the subject report.

**Reasons for Recommendation**

The application is recommended for approval for the following reasons:

- (A) The proposal is consistent with the objectives of the B8 Metropolitan Centre zone contained within the Sydney Local Environmental Plan 2012.
- (B) Subject to conditions, the proposal is consistent with the relevant late night trading provisions in section 3.15 of the Sydney Development Control Plan 2012.
- (C) Issues raised in submissions have been considered and where appropriate have been addressed in the recommended conditions of consent.
- (D) Based upon the material available to the Panel at the time of determining this application, the Panel is satisfied that the proposal is in the public interest because it is consistent with the objectives of the B8 Metropolitan zone and the development standards detailed in the Sydney Local Environmental Plan 2012 and Sydney Development Control Plan 2012.

## Background

### The Site and Surrounding Development

1. The site has a legal description of Lot 1 DP 772736 and Lot 1 DP 178530, and is known as 114-120 Castlereagh Street, Sydney. It is irregular in shape with area of approximately 519sqm. It has a primary street frontage of 16 metres to Castlereagh Street and a secondary street frontage of 6.5 metres to Elizabeth Street.
2. The subject tenancy is contained predominantly within the western half of the site that fronts Castlereagh Street. The existing tenancy is located at ground, first floor, and basement levels, and has previously been operating as the St James Hotel. There is no access to the subject tenancy via Elizabeth Street. However, there is a portion of the first floor which extends to Elizabeth Street. This area is proposed to be used as an office/administrative space ancillary to the use as a registered club.
3. The site contains an eight storey commercial building with a hotel use (existing) on the basement, ground and first floors, and office uses located on the upper levels.
4. The surrounding area is characterised by a mixture of land uses, primarily being commercial including retail and office uses, as well as residential and hotel uses. Directly to the north of the site, 83-87 Market Street and 135-137C Elizabeth Street are mid-rise commercial buildings including ground floor retail with predominantly office uses on the upper levels. Directly to the east, 141-143 Elizabeth Street is a residential tower with dwellings that have balconies near the rear of the subject site. Directly to the south, 122 Castlereagh Street is a multi-storey commercial building including ground floor retail with business and other commercial uses on the upper levels. The subject site fronts Castlereagh Street to the west, with a multi-storey mixed use development currently under construction across the street at 65-77 Market Street.
5. The site is not a heritage item and is not located within a heritage conservation area.
6. The site is located within the Central Sydney locality and the College Street and Hyde Park special character area. The site is not identified as being subject to flooding.
7. Site visits were carried out on 23 June and 28 July 2022. Photos of the site and surrounds are provided below.

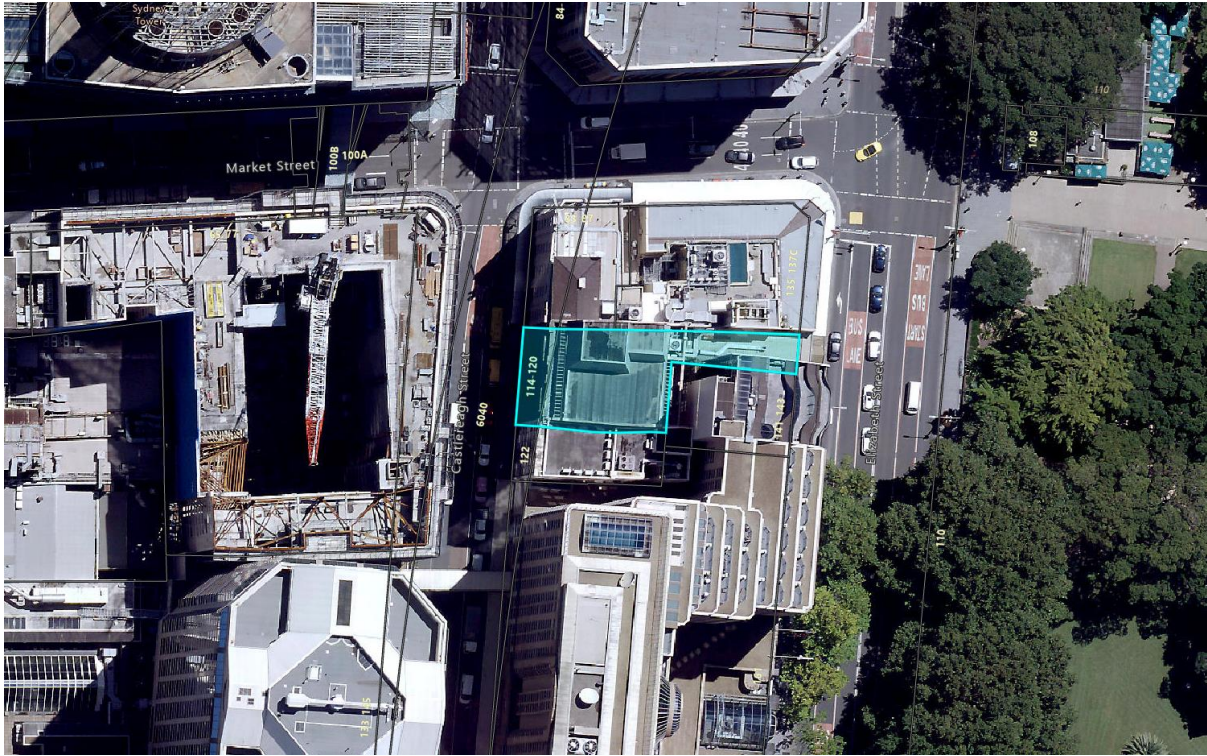


Figure 1: Aerial view of site and surrounds



Figure 2: Subject site context from Castlereagh Street- subject site in red with 122 Castlereagh Street directly to the right and 83-87 Market Street directly to the left





**Figure 3:** Portion of level one of the subject site which extends to Elizabeth Street shown with 141-143 Elizabeth Street directly to the left and 135-137C Elizabeth Street directly to the right



**Figure 4:** Ground floor view of subject site from Castlereagh Street





Figure 5: View of building lift access via Castlereagh Street

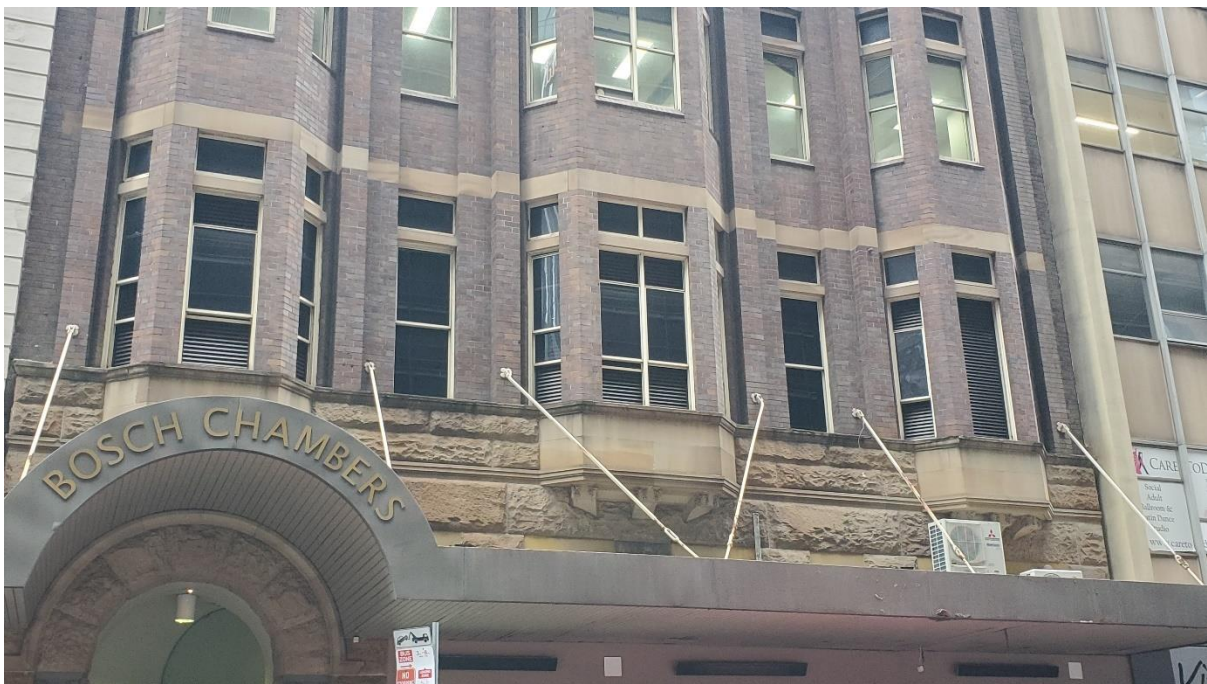


Figure 6: Exterior of Level one alfresco gaming area viewed from Castlereagh Street



Figure 7: External view of site entrance fronting Castlereagh Street

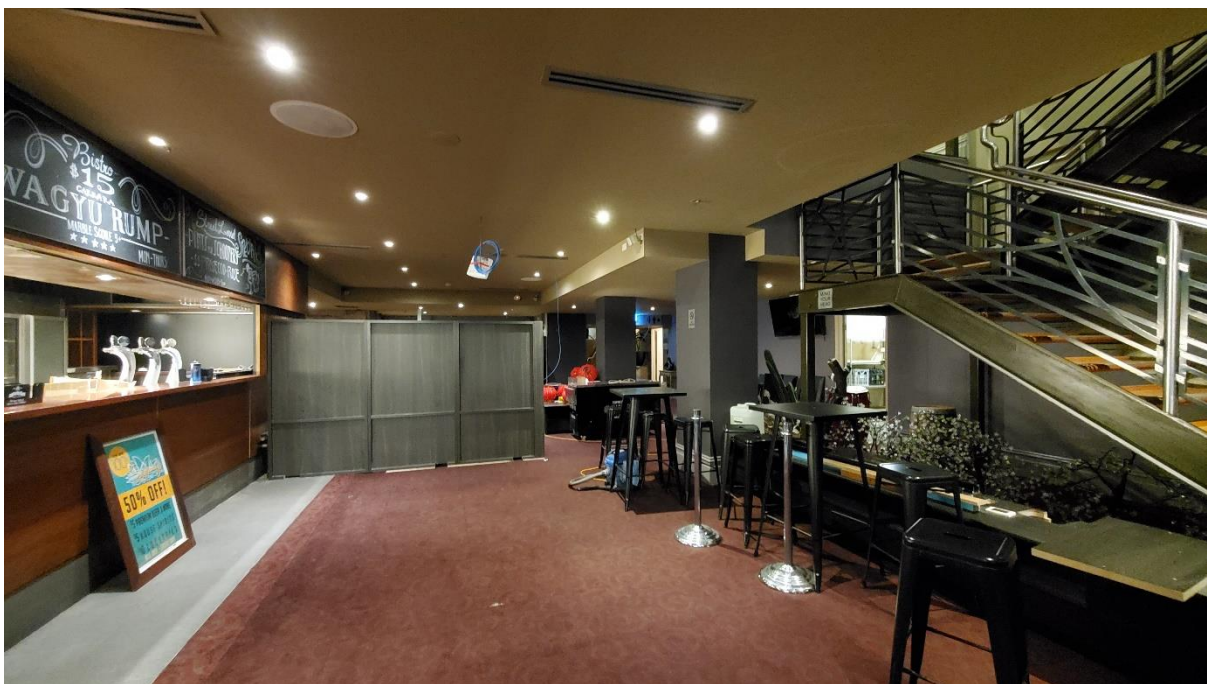


Figure 8: View of basement level with staircase to ground floor on the right





Figure 9: View of basement level with staircase to external entry point on the right

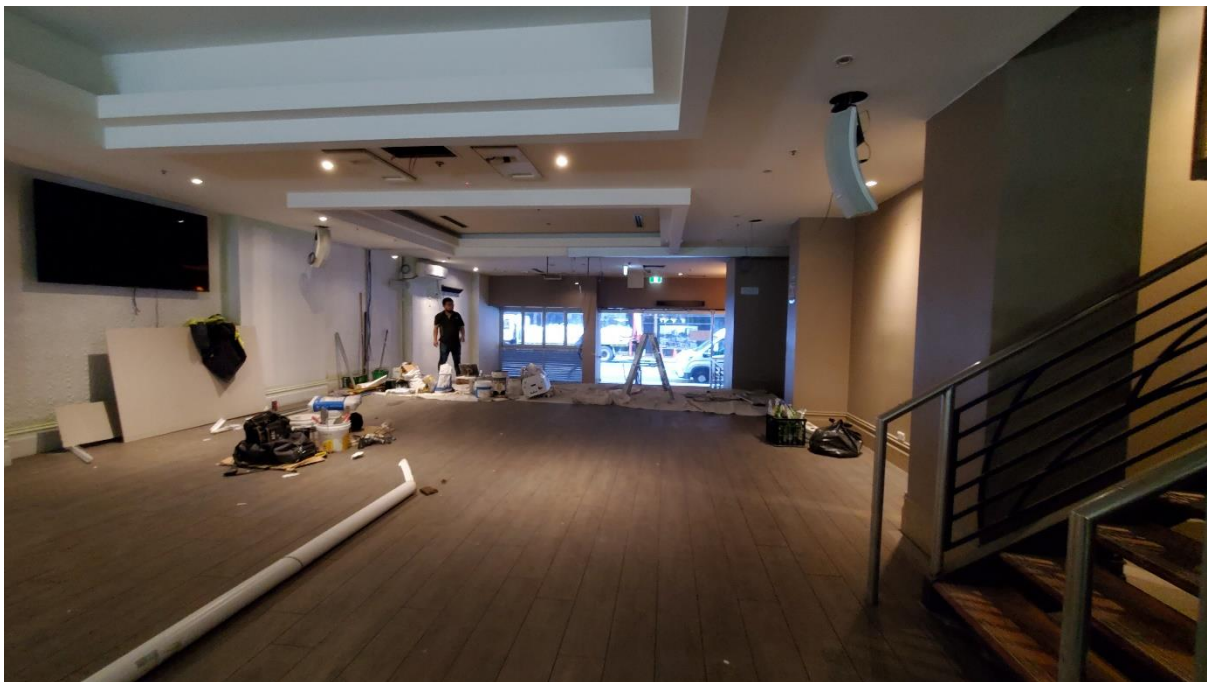


Figure 10: View of entry to ground floor level with staircase to first floor on the right



Figure 11: View of ground floor bar

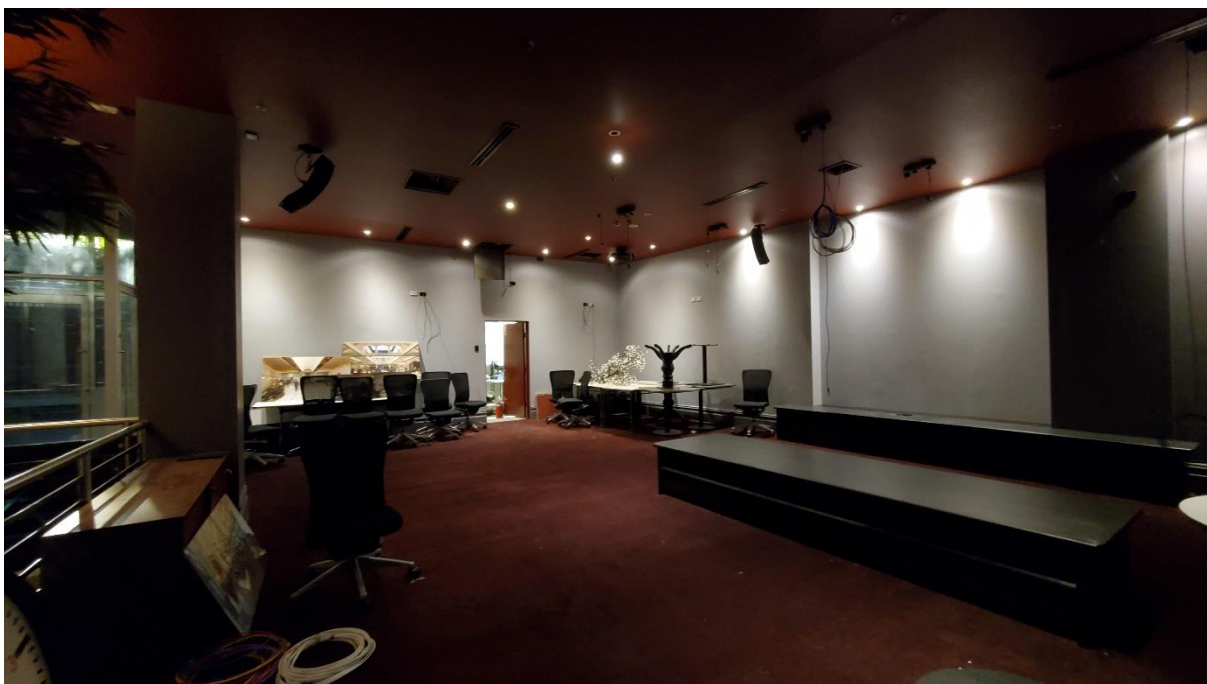
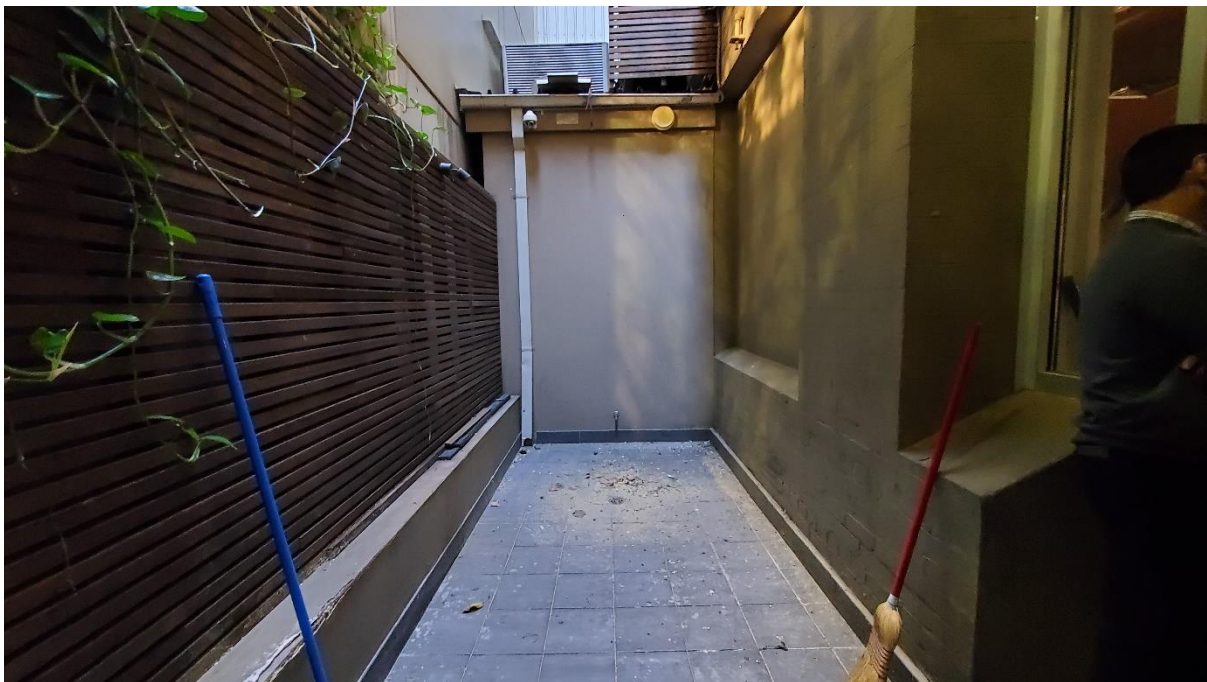


Figure 12: View of first floor main room





**Figure 13:** View of entry to first floor terrace

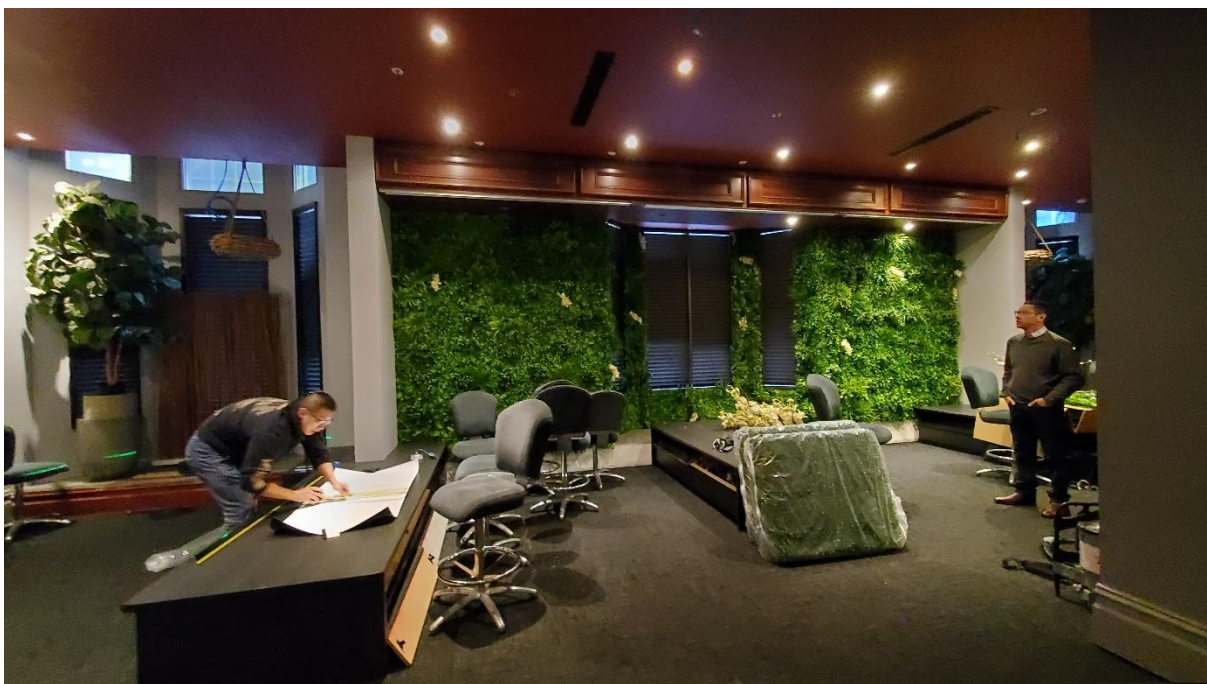


**Figure 14:** View of first floor terrace at the rear





**Figure 15:** Vertical view from outdoor terrace with rear of residential tower behind green wall



**Figure 16:** View of first floor alfresco gaming area

## History Relevant to the Development Application

### Development Applications

8. The following applications are relevant to the subject site:

- **CDC No. 210849/3** – Development consent was granted on 27 July 2022 for fitout works to the basement level, ground floor and first floor of the site. The subject application is the corresponding proposal for the use of the subject site. The construction works approved by this Complying Development Certificate are currently underway, as can be seen in several of the site photos above.
- **D/2005/2234** – Development consent was granted on 31 March 2006 for use of the ground and first floor levels of the Castlereagh Street building and the interconnected first floor level of the Elizabeth Street building for hotel purposes (St James Hotel) to match previous approval for basement level, involving the fit out of these areas and the installation of a new shopfront. This approval permitted trading between 8am and 12 midnight daily, with 12 midnight to 2am being approved for a one year trial period. The consent has been modified as follows:
  - **D/2005/2234/A** – A section 96(2) modification was granted on 31 May 2006 which renewed the trial period for extended hours by one year and permitted the enclosure of half of the light court at the rear of the site on the first floor. This created the first floor terrace that currently exists on the site.
- **D/2007/92** – Development consent was granted on 29 March 2007 for continued trading hours for the St. James Hotel from 5am to 5am for the Basement level, for a trial period of five years and continued trading hours for Ground and First levels from 8am to 2am for a trial period of one year. The consent has been modified as follows:
  - **D/2007/92/A** – A section 96(2) modification was granted on 4 September 2007 for renewal of the trial period for 24-hour operation on the ground and first floor for a further one year.
  - **D/2007/92/B** – A section 96(2) modification was granted on 19 November 2008 for renewal of the trial period for 24-hour operation on the ground and first floor for a further two years.
  - **D/2007/92/C** – A section 96(2) modification was granted on 19 October 2010 for renewal of the trial period for 24-hour operation on the ground and first floor for a further five years.
  - **D/2007/92/D** – A section 96(2) modification was granted on 4 May 2012 for renewal of the trial period for 24-hour operation on the basement level for a further five years.
  - **D/2007/92/E** – A section 96(2) modification was granted on 2 May 2017 for renewal of the trial period for 24-hour operation on the basement level, ground floor and first level for a further five years, expiring on 2 May 2022.

9. The following applications are also relevant to the proposal:
- **D/2021/203** - Development consent was granted on 11 November 2021 for the redevelopment of the nearby City Tattersall's Club, comprising construction of a new mixed use development with hotel, residential and club land uses in a podium and tower, including demolition of the building at 196 Pitt Street, alterations and additions to the heritage buildings at 194 and 198-204 Pitt Street, excavation for 5 basement levels and service vehicle access to Pitt Street.

It is intended that the City Tattersalls Club will occupy the podium floors when construction is complete. The subject application (D/2022/555) has been lodged as the City Tattersalls Club intends to relocate some of its facilities to the subject premises at 114-120 Castlereagh Street while the redevelopment is under construction.

### Compliance Action

10. The operator is a new tenant and therefore has no compliance history on the subject site.
11. A search of the compliance history of the City Tattersalls site at 196-204 Pitt Street found no operational issues or customer complaints relating to operation of the club.
12. A search of the compliance history of the previous operator of the subject site (St James Hotel) found three customer complaints relating to the operation of the premises in the past five years with two being in June 2021 and one in November 2017.
13. The most recent complaint was made on 25 June 2021 and was related to noise. This matter was scheduled to be investigated, however, the ongoing Covid-19 lockdowns during this time meant that the case was eventually closed with a note that the customer can submit another case after the lockdown has been lifted. No further complaint was made.
14. The complaints made on 20 June 2021 and 27 November 2017 were also related to noise caused by the operation of St James Hotel. The 2021 complaint raised concern about amplified music/bass emanating from the hotel, particularly on weekends. Upon investigation it was found the noise level was not deemed to be offensive in nature. The 2017 complaint raised concern about noise caused by the use of the outdoor first level rear terrace. This issue was also raised by the objectors of the subject application and has been addressed during the assessment of the application. See below for further discussion.

### Proposed Development

15. The application seeks consent for a change of use from the existing hotel use to a registered club use. Proposed operating hours are between 9.00am and 6.00am the following day, Monday to Sunday inclusive. The club will trade under the name 'St James by City Tatts'.
16. The proposed premises capacity is 100 on the basement level, 150 on the ground floor and 200 on the first floor for a total of 450 persons across the three levels that make up the subject site



17. No physical works are proposed under this development application. However, architectural drawings relating to the ancillary fitout were provided with this development application. The applicant has received approval for fitout works via Complying Development Certificate No: 210849/3.
18. On the basement level, there will be a bar and small dining area, gaming areas and also back-of-house areas including kitchen, office, storage, and a keg room.
19. On the ground floor, the majority of the area will be used as a lounge associated with a bar and dining area. A small gaming area will be located in the northeast of the site. At the ground floor frontage to Castlereagh Street, there are two entrances with one being to the ground floor and one being to the basement level. The applicant has confirmed that patrons will be required to provide ID and sign into the club upon entry via either entrance. Figure 7 above shows these entrances.
20. The first floor will be used for gaming. There will be a general gaming area in the middle and an Alfresco gaming area next to the existing openable windows facing Castlereagh Street. The term 'alfresco' refers to this area being located near the windows and that it is sectioned off from the general gaming area. The windows fronting Castlereagh Street have louvres (refer to Figure 6) which will ensure that the gaming area is not visible from the public domain.
21. The area at the rear facing Elizabeth Street will be used as an office and Board room for the administration of the club. The outdoor terrace on the first floor which rears to the atrium between the 114-120 Castlereagh Street and the residential tower at 141-143 Elizabeth Street is proposed to be accessible to patrons daily until 9pm and smoking will not be permitted on the terrace.
22. The applicant has noted that the 'existing smoking' space on the ground floor shown on the plans will not be used for smoking.
23. The proposed internal layouts for the basement level, ground floor and first level as approved under CDC are shown below.



Figure 17: Basement level floorplan

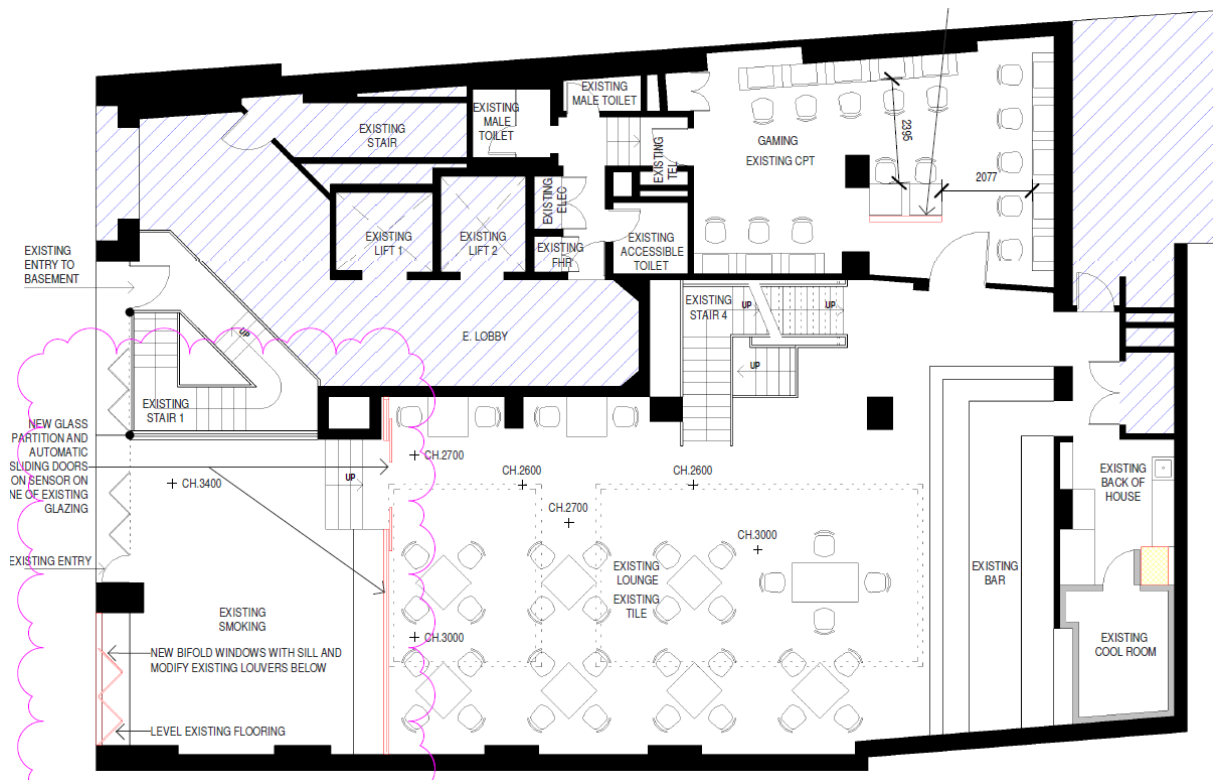


Figure 18: Ground level plan



**Figure 19:** First floor plan with the top being an annex that extends to the Elizabeth Street frontage

### Amendments

24. On 4 August 2022, Council officers requested that the applicant provide an amended Plan of Management to reflect the acoustic and operational matters which had been addressed in prior correspondence.
25. Additionally, updated floor plans and location plan were requested that accurately reflect the approved internal layout and location of the site. The required documentation was provided by the applicant on the same day.



## Assessment

26. 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 Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

27. 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.
28. 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 SEPP are not applicable to the proposed development.

## Local Environmental Plans

### Sydney Local Environmental Plan 2012

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

#### Part 2 Permitted or prohibited development

Provision	Compliance	Comment
2.3 Zone objectives and Land Use Table	Yes	The site is located in the B8 Metropolitan Centre zone. The proposed development is defined as a registered club and is permissible with consent in the zone. The proposal generally meets the objectives of the zone.  A Registered Club means a club that holds a club licence under the Liquor Act 2007.

#### Part 4 Principal development standards

Provision	Compliance	Comment
4.3 Height of buildings	Yes	The proposal will have no impact on the height of the building.

Provision	Compliance	Comment
4.4 Floor space ratio	Yes	The proposal will have no impact on the floor space ratio of the building.

#### Part 5 Miscellaneous provisions

Provision	Compliance	Comment
5.10 Heritage conservation	N/A	The site is not identified as being a local or state heritage item and will not have any impact upon any nearby heritage items.
5.20 Standards that cannot be used to refuse consent - playing and performing music	Yes	It is not proposed to refuse consent due to any of the grounds relating to playing and performing music detailed clause 5.20 of the LEP.

### Development Control Plans

#### Sydney Development Control Plan 2012

30. 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

31. The site is located within the Central Sydney locality and the College Street and Hyde Park special character area. The proposal is in keeping with the unique character and the design principles of the area.
32. The proposed use is consistent with the unique character of the locality and is compatible with the existing development in the area. The proposal also encourages active frontages by promoting the use of the site as a registered club with an open frontage to the street.

#### Section 3 – General Provisions

Provision	Compliance	Comment
3.2.3 Active frontages	Yes	The subject site has a primary frontage to Castlereagh Street. The proposal has an active open frontage to the street. The proposed operation will not adversely impact upon on the pedestrian orientated nature of the footpath along Castlereagh Street.  No physical works are proposed or approved under this application.

Provision	Compliance	Comment
3.11 Transport and Parking	No, but acceptable	<p>The DCP provides on-site bike parking rates relating to employee and customer/visitor bicycle parking. There are no rates specifically for a registered club, however the most similar use is a pub.</p> <p>The proposal does not include any bicycle parking. The provision of no bicycle parking and ancillary facilities is acceptable in this instance. This is because the proposal is for use as a registered club which is a similar use to the previously approved hotel use. No bicycle parking conditions were applied under the last approval (D/2005/2234/A) for physical works to the subject site.</p> <p>No building works are proposed under this consent and compliance with the control would likely require unreasonable modifications to be made to the internal layout of the building.</p>
3.12 Accessible design	Yes	<p>The proposal does not include any physical works to the building. Access to all floors of the tenancy will be possible via the lift which is accessible from Castlereagh Street. Figure 5 shows that there are no steps between the street and the lift entrance.</p>
3.14 Waste	Yes	<p>Conditions are recommended to ensure that:</p> <ul style="list-style-type: none"> <li>- The amenity of the area is not impacted due to waste collection.</li> <li>- The use complies with the relevant provisions of the City of Sydney Guidelines for Waste Management in New Development.</li> <li>- There is a contract with a licensed contractor for the removal of all waste.</li> </ul>

Provision	Compliance	Comment
3.15 Late Night Trading Management	Yes	The proposed operational details are generally compliant with the Late Night Trading provisions. The application is supported by an appropriate Plan of Management (prepared by City Tattersalls Group and dated June 2022). Council's Licensed Premises Unit supports the proposal.  Refer to the 'Hours of Operation' section below for further discussion.
3.16 Signage and advertising	N/A	No signage is proposed under this application. A condition of consent is recommended stating that a separate development application must be lodged for the erection of any additional signage.

### Section 5 – Specific Areas

Provision	Compliance	Comment
5.1 Central Sydney	N/A	The proposal does not include any physical works and will therefore have no impact on the form of the existing building on the site.

### Discussion

#### Hours of Operation

33. The premises is located in the Late Night Management Area and the use is defined as a category A premises under Section 3.15 of the Sydney DCP 2012.
34. The proposed trading hours are between 9.00am and 6.00am the following day. The proposed premises capacity is 100 on the basement level, 150 on the ground floor and 200 on the first floor for a total of 450 persons across the three levels that make up the subject tenancy.
35. Under section 3.15.4 of the DCP, indoor trading between 6.00am and 12 midnight is permitted on a permanent basis, while extended trading hours between 12 midnight and 6am may be permitted on a trial basis. Therefore, the proposed hours between 9.00am and 12 midnight, Monday to Sunday inclusive can be approved on a permanent basis.



36. Generally, provision 3.15.4(8) in the DCP requires that a trial period may only extend the operating hours by two hours. However, in this instance the proposed extended hours between 12 midnight and 6.00am, Monday to Sunday inclusive are recommended to be approved in full for a one year trial period. This is because the premises has previously operated 24 hours, Monday to Sunday for several years as a pub and the subject proposal will result in a reduction in the hours of operation. Should any significant amenity issues arise due to the premises operating between 12 midnight and 6am, the one year trial period will allow for Council to review the suitability of these hours and reduce them if necessary.
37. The proposed operating hours will result in a reduction in the hours of operation from what was previously approved for the previous operator (St James Hotel). 24 hour operation will be reduced to 21 hours per day, including a reduction in the approved total persons permitted on the site from 648 to 450. Additionally, the operational details outlined in the approved plan of management demonstrate a de-intensification of the use in relation to acoustics when compared to the previous operator.
38. Base outdoor hours are between 10.00am and 10.00pm as noted in the DCP. The first floor terrace at the rear will be permitted to operate on a permanent basis between 9.00am and 9.00pm, Monday to Sunday. The hour between 9.00am and 10.00am is generally considered to be outside the permitted base hours for outdoor areas. However, in this instance it is considered acceptable to permit permanent trading during this time because the increased impact on the area is negligible, subject to conditions and compliance with the approved plan of management.
39. Conditions of consent have been recommended to ensure the premises operates in accordance with the above hours and trial period. A condition has also been recommended to restrict patron access to the first floor terrace after 9.00pm which is reflected in the plan of management and conditions of consent. This is to protect the amenity of residents at 141-143 Elizabeth Street, Sydney. This matter is discussed further in the Discussion section below.
40. Upon review with Council's Licensed Premises Unit, the proposed premises capacity is acceptable, subject to conditions. The Plan of Management is acceptable because it adequately addresses security, patron management and neighbourhood amenity.

#### **First floor terrace**

41. Concern was raised by neighbouring residents over how the outdoor terrace located on the eastern side of the first floor would operate. Submissions stated that some residents of the adjoining residential tower at 141-143 Elizabeth Street had experienced a loss of amenity in the past due to the odour of cigarette smoke and noise caused by patrons while using the terrace. Photos of the terrace can be seen in Figures 13, 14 and 15 above.
42. It is noted that these amenity issues occurred while the previous tenant occupied the subject site. The use of the terrace was discussed with the applicant who agreed to it not being used after 9.00pm in order to help protect the amenity of the neighbouring residents. This is considered to be a favourable outcome because any external noise caused by patrons will be restricted to a reasonable hour. Further, this restriction will mean that after 9pm internal noise will not spill into the atrium by the frequent opening and closing of the terrace door.

43. Conditions are recommended that the use of the terrace by patrons will be restricted daily after 9.00pm. Effectively, this will mean that patrons may only access the terrace between 9.00am and 9.00pm each day. Further, smoking will not be permitted in the terrace in order to protect the amenity of the adjoining residential tower. These controls have been reflected in the submitted Plan of Management. Figure 20 below shows an excerpt of the proposed plan, including an annotation which references the corresponding Condition in the recommended conditions of consent.

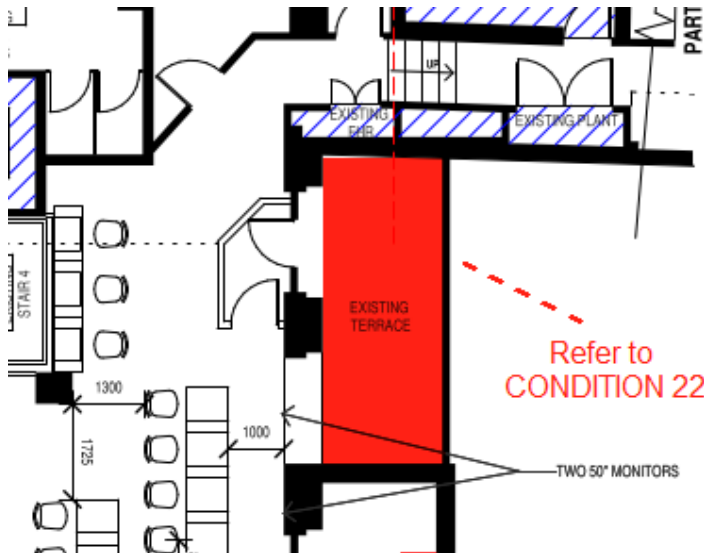


Figure 20: Excerpt of first floor plan showing terrace with annotation

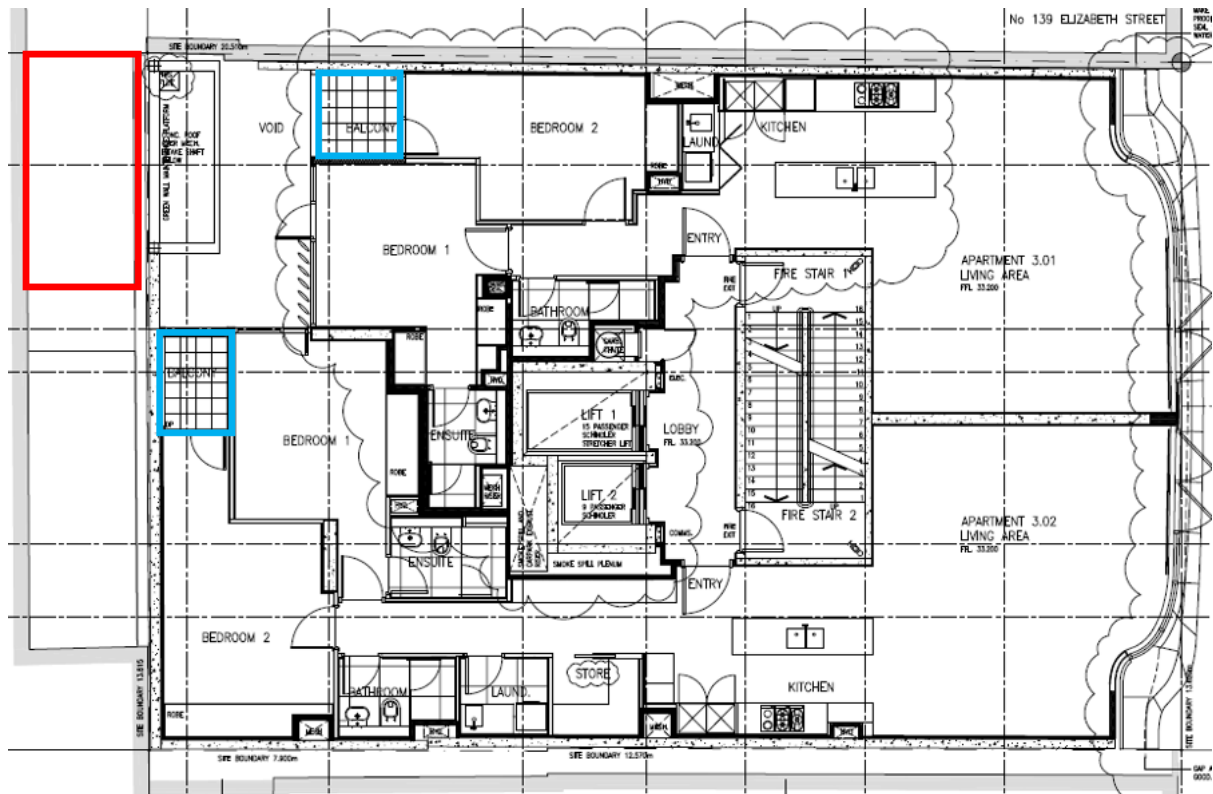
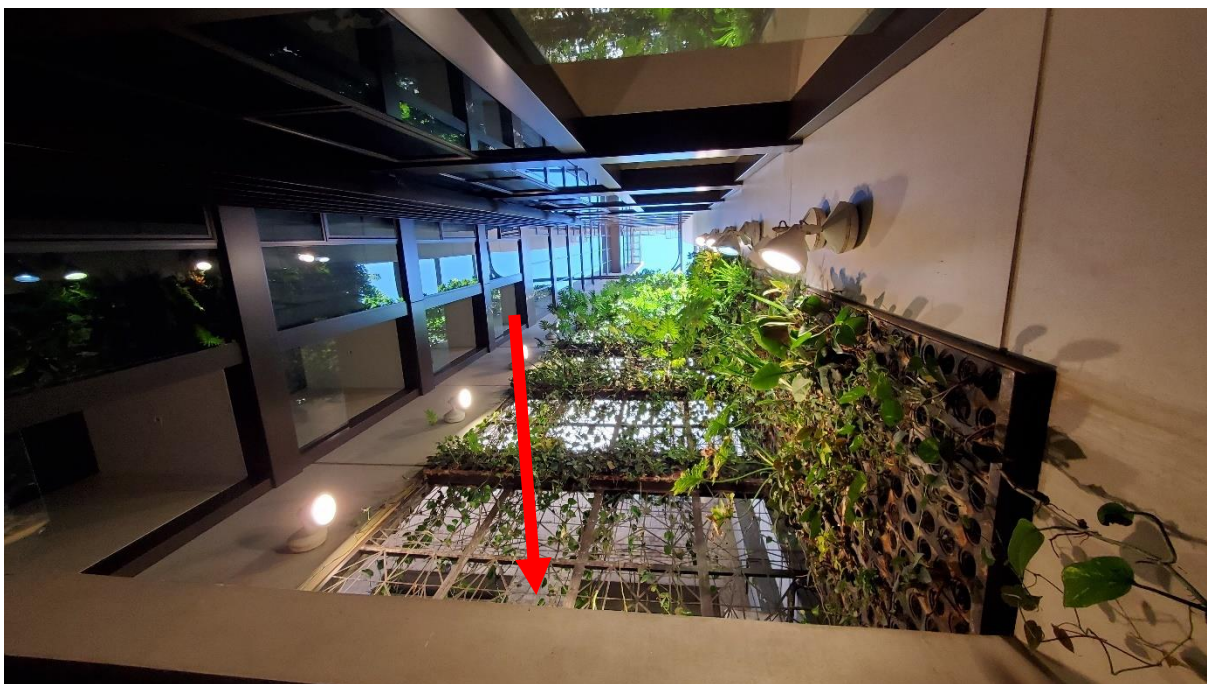


Figure 21: Floor plan of level three of 141-143 Elizabeth Street showing the rear outdoor terrace located on the first floor of the subject site in red (indicative only) and typical balcony locations in blue



**Figure 22:** Internal view of level one resident balcony with the subject site terrace directly behind wall

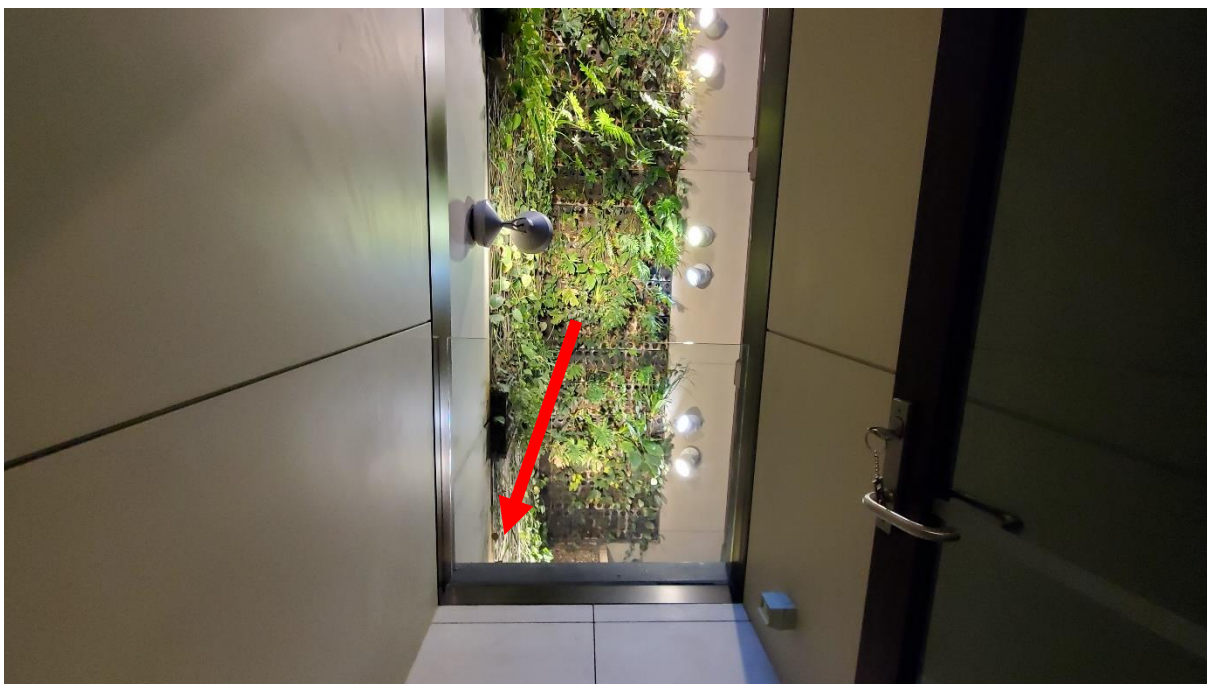


**Figure 23:** Vertical view of atrium from level one resident balcony with terrace behind green wall





**Figure 24:** View of atrium from level three resident balcony with terrace behind green wall to the left



**Figure 25:** View of level three resident balcony with terrace behind green wall down to the left



**Figure 26:** View of atrium from level three resident bedroom with terrace behind green

#### **Acoustic amenity**

44. An acoustic report was not provided with the subject application. However, upon discussions with Council's Environmental Health Unit, it was determined that in addition to the standard noise conditions, the acoustic controls outlined in the plan of management are satisfactory to protect the acoustic amenity of the area.
45. Key controls in the plan of management include:
  - (a) No amplified noise is to be heard from outside the Club.
  - (b) Security will ensure the quiet and orderly entry and egress of patrons.
  - (c) The Club and licensee shall consider the amenity of neighbours and shall take all reasonable measures to ensure the conduct of the business does not impact adversely on the surrounding areas.
  - (d) All noise complaints are to be recorded and brought to the attention of club management immediately so noise controls can be checked that they are working correctly.
  - (e) Management is instructed to monitor the surrounding areas for noise relating to the Club or its patrons and will act immediately if a reduction in noise is required. Compliance with the plan of management will be conditioned.

46. Mandated compliance with the plan of management allows Council to investigate any acoustic issues created by the venue that are not resolved by the operator. In addition to the above acoustic controls, conditions have been recommended to safeguard the amenity of the area. These include:
- (a) Condition 8 'Hours of Operation - Sensitive Uses' - this condition recommends a one year trial period for extended hours of operation. This will require a further application to extend the trial period, which will enable Council to review the performance of the operator when considering whether to grant a further trial period. Should any acoustic issues arise from the operation of the premises after midnight, this will be considered in the assessment of any application to renew the trial period.
  - (b) Condition 8 'First Floor Terrace' - this condition restricts patron access to the existing first floor terrace after 9.00pm, protecting the acoustic amenity of the adjoining property during sensitive times.
  - (c) Condition 10 'No Spruiking Noise' - this condition will ensure that any spruiking generated within the premises must not be audible on any adjacent property with a shared boundary.
  - (d) Condition 11 'No Music or Speakers Outside' - this condition will ensure that no noise amplification equipment must be installed, and no music is to be played in any outdoor areas.
  - (e) Condition 16 'Noise from Glass Removal' - this condition will ensure that the removal of glass from the premises does not impact on the acoustic amenity of the area.
  - (f) Condition 22 'Noise - Entertainment' - this condition mandates that noise levels from the use as a registered club do not exceed the relevant acoustic criteria.
  - (g) Condition 23 'Noise - Commercial Plan/Industrial Development' - this condition mandates that noise from commercial plant must not exceed an acceptable background noise level.

## Consultation

### Internal Referrals

47. The application was discussed with the relevant internal specialists, as detailed below.
- (a) The **Building Services Unit** was consulted and noted that no referral was required for the proposal, and that the proposed change of use is unlikely to require any upgrade to the building. For this reason, the proposal is supportable subject to the standard building conditions.
  - (b) The proposal was referred to the **Environmental Health Unit** who noted that the operation of the premises is likely to be of low impact to the area and the proposal is supported, subject to conditions. It was determined that an acoustic report was not necessary because the plan of management suitably addresses acoustic amenity. Acoustic conditions were recommended to safeguard the acoustic amenity of the area and to ensure the premises operates in accordance with the approved Plan of Management.



- (c) The proposal was referred to the **Licensed Premises Unit** who noted that the proposal is supported, subject to recommended conditions. The proposed capacity for the three floors is acceptable and is a decrease from what was previously approved. Further, the proposed hours are acceptable as they are a reduction to the previously approved hours and due to the location of the site in a late night management area. The proposed plan of management is supported and a condition is recommended to ensure the premises operates in accordance.
- (d) The proposal was referred to the **Safe City Unit** who raised no concerns with the proposal due to its location and the operational details outlined in the plan of management.
- (e) The proposal was referred to the **Waste Management Unit** who noted that the plan of management details acceptable waste management practices. The Unit requested that the applicant provide additional information on the number of bins and bin location. The applicant provided included this information in the amended plan of management.

## External Referrals

### NSW Police

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

## Advertising and Notification

- 50. In accordance with the City of Sydney Community Participation Plan 2020, the proposed development was notified for a period of 21 days between 22 June 2022 and 13 July 2022. A total of 66 properties were notified and three submissions were received.
- 51. Site visits to two objector residences were conducted, and site photos can be seen below.
- 52. The submissions raised the following issues:
  - (a) **Issue:** Odour from cigarette smoke from the rear first floor terrace  
**Response:** It is noted that the use of the terrace as a smoking area has caused amenity issues in the past. A condition is recommended mandating that no smoking is permitted at the terrace.
  - (b) **Issue:** Noise from the rear first floor terrace  
**Response:** A condition has been recommended that restricts patron access to the terrace to between 9.00am and 9.00pm each day. This will ensure that nearby residents are not impacted by noise from the terrace during sensitive hours. The other acoustic conditions detailed above will also control the level of noise created by the use of the terrace during its operational hours.

- (c) **Issue:** Noise from the use of the premises

**Response:** The acoustic controls outlined in the plan of management are suitable and conditions are recommended to ensure compliance with these controls. The recommended conditions of consent for commercial premises will also protect the acoustic amenity of the adjoining residential buildings.

## **Financial Contributions**

### **Levy under Section 7.12 of the Environmental Planning and Assessment Regulation 2000**

53. The cost of the development is below \$250,000. The development is therefore not subject to a levy under the Central Sydney Development Contributions Plan 2020.

### **Contribution under Section 7.13 of the Sydney Local Environmental Plan 2012**

54. As the development is for purposes other than residential accommodation that will result in no additional gross floor area, the development is excluded and is not subject to a Section 7.13 affordable housing contribution.

## **Relevant Legislation**

55. Environmental Planning and Assessment Act 1979.

## **Conclusion**

56. The development application seeks consent for a change of use of the basement, ground and first floors of 114-120 Castlereagh Street from a pub to a registered club.
57. Subject to conditions, the proposal is generally consistent with the objectives of the Sydney Local Environmental Plan 2012 and the relevant provisions of the Sydney Development Control Plan 2012.
58. The proposed use is appropriate for given the zoning of the site and its location within the Late Night Management area.
59. The extended hours are acceptable, subject to a one year trial period and acoustic conditions have been recommended, to safeguard the amenity of the area.
60. The proposal is in the public interest and is recommended for approval, subject to conditions of consent.

**ANDREW THOMAS**

Executive Manager Planning and Development

Callum Byrnes-Krickl, Planner